

## Guidance Notes: RELEVANT LEGISLATION, STRATEGIES AND PLANS

*If you are unsure about anything within these notes then please contact the Flood Risk Management (FRM) team using the details at the end of this document.*

The Local Flood Risk Management Strategy ('the strategy') has been developed with regard to all current legislation and guidance relating to flood risk management in Derbyshire. This Guidance Note has been created to summarise the current key legislation, reports, strategies, studies and plans available which relate to flood risk management.

### Current Key Legislation

#### *Flood and Water Management Act 2010*

The strategic legislation for the management of flooding in England and Wales is the Flood & Water Management Act, 2010 (FWMA), enacted following recommendations from The Pitt Review (The Pitt Review: Lessons learned from the 2007 floods). The FWMA gained royal assent on the 8th April 2010 and clarified roles for flood risk management, designating upper tier county councils and unitary authorities as Lead Local Flood Authorities (LLFA). The FWMA gives the LLFAs a coordinating role for the management of local flood risk (surface water, ordinary watercourses and groundwater). The aim of the FWMA was to empower LLFAs to facilitate a holistic approach to flood risk management at a local level.

The preparation of the strategy is just one of the duties placed upon the County Council under Section 9 of the FWMA. Other key duties of the FWMA relevant to the County Council:

SECTION	CONTENT	DERBYSHIRE COUNTY COUNCIL'S ROLE
13	Cooperation and arrangements	The County Council must co-operate and where necessary share information with other relevant authorities (and vice versa) in the exercise of their flood risk management functions.
19	Local authorities: Investigations	On becoming aware of a flood event which meets local criteria, the County Council must investigate which risk management authorities have relevant flood risk management functions and whether those functions have been exercised in response to the flood. It must publish the investigation.
21	Lead Local Flood	The County Council must establish and maintain a register and record of structures or features which, in the

	Authorities: Duty to maintain a Register	opinion of the County Council are likely to have a significant effect on a flood risk in its area, and record information about each including ownership and condition details.
<b>Schedule 1</b>	Risk Management: Designation of Features	The County Council (or the Environment Agency or District/Borough Council) may designate any structure or feature that it deems to affect flood risk. Upon designation by the County Council, a person may not alter, remove or replace a designated feature without the consent of the County Council.
<b>Schedule 2</b>	Risk Management: Amendments of other Acts	The County Council have general powers for flood risk management works and consenting powers under the Land Drainage Act 1991.
<b>Schedule 3</b>	Risk Management: Sustainable Drainage	Should Schedule 3 ever become enacted, the County Council may become the SuDS (Sustainable Drainage Systems) Approving Body (SAB) responsible for approving, adopting and maintaining any drainage systems that serve more than one property.

### *Land Drainage Act 1991*

The Land Drainage Act (LDA, 1991) outlines the duties and powers to manage land drainage for a number of bodies including the Environment Agency, Internal Drainage Boards, local authorities, navigation authorities and riparian landowners. The FWMA amended parts of the LDA to integrate the role of the LLFA. The key sections of the LDA that have been amended include:

SECTION	DCC'S ROLE
<b>14a</b>	The County Council have permissive powers to undertake works to mitigate flood risk from ordinary watercourses.
<b>23</b>	The County Council are the consenting authority for works within or in close proximity to an ordinary watercourse.
<b>24</b>	The County Council have permissive powers to serve notice if an obstruction is erected, raised or altered without consent under Section 23.
<b>25</b>	The County Council have permissive powers to serve notice on a riparian landowner to ensure a watercourse maintains the free passage of flow.

### *Water Framework Directive*

The Water Framework Directive (WFD) is a piece of European Legislation put in place to improve and integrate water quality management across Europe. It came into force in December 2000 and was transposed into UK law in 2003. European

Member States must aim to reach 'good' chemical and ecological status in inland and coastal waters by 2015. The WFD is implemented through River Basin Management Plans (RBMPs). These plans identify a series of mitigation measures required to be implemented to improve the ecology of water bodies by a specific deadline. Flood risk management activities have a big role to play in helping to meet the requirements of the WFD therefore any flood risk management functions must take into account the requirements of the WFD.

### Other Important Legislation

The following table summarises other important legislation relevant to flood risk management prior to the FWMA which are assigned to a number of organisations.

LEGISLATION	IMPLICATIONS FOR FLOOD RISK MANAGEMENT
Flood Risk Regulations 2009	The EU Floods Directive was transposed into UK law through the Flood Risk Regulations (2009). The main requirement for Derbyshire was to produce a Preliminary Flood Risk Assessment (PFRA) by 22 <sup>nd</sup> June 2011. The PFRA must be updated every 6 years.
EU Floods Directive 2007	The EU Floods Directive was brought about as a result of the devastating floods across Europe in the late 1990's and 2000's. This directive was introduced to help reduce the adverse consequences of flooding across Europe.
The Reservoir Act 1975	The Environment Agency is responsible for approximately 2000 reservoirs in England and Wales and enforces the Reservoirs Act 1975. Ultimately this responsibility for safe management remains with the reservoir owners but the Environment Agency enforce that responsibility. The Environment Agency also maintains a register of all large, raised reservoirs and the information it contains is available to the public.
<b>Other important legislation related to flood risk management</b>	
Water Act 2014	The purpose of the Water Act is to reform the water industry to increase the resilience of water supplies to natural hazards and also bring forward measures to address insurance issues.
Localism Act 2011	The Localism Act makes provisions about the functions and procedures of local authorities.
The Climate Change Act 2008	The Climate Change Act has given the Government powers to require public bodies and statutory organisations to report on how they are adapting to climate change.
The Civil Contingencies Act 2004	The Civil Contingencies Act aims to deliver a single framework for civil protection in the UK and sets out the actions that need to be taken in the event of a flood and other emergencies.
EU Strategic Environmental Assessment	The Strategic Environmental Assessment Directive requires an 'assessment of the effects of certain plans and programmes on the environment', including public consultation, which must be taken

Directive 2001	into account by decision-makers. A Strategic Environmental Assessment was produced alongside Derbyshire's Local Flood Risk Management Strategy.
The Countryside & Rights of Way Act 2000	The Act provides for public access on foot to certain types of land, amends the law relating to public rights of way, increases measures for the management and protection for Sites of Special Scientific Interest, strengthens wildlife enforcement legislation, and provides for better management of Areas of Outstanding Natural Beauty.
EU Habitats Directive 1992	The Habitats Directive aims to conserve fauna, flora and natural habitats of EU importance. The Directive requires the establishment of a network of protected Special Areas of Conservation and Special Protection Areas across Europe.
The Town and Country Planning Act 1990	The Town and Country Planning Act established that planning permission was required for land development. Local Authorities as Local Planning Authorities have powers to approve/refuse development.
The Wildlife and Countryside Act 1981	The Wildlife and Countryside Act 1981 is the primary legislation which protects animals, plants, and certain habitats in the UK
EU Environmental Impact Assessment Directive 1985	Projects that can be considered as having significant effects on the environment require a mandatory Environmental Impact Assessment (EIA).
The Ancient Monuments & Archaeological Areas Act 1979	Ancient Monuments are protected under this Act. Scheduled monument consent is required for anything that may physically affect a scheduled monument.

### Flood Risk Management Related Strategies and Policies

A range of other non-legislative local and national documents, strategies and policies have been published that also inform or relate to work that the County Council's FRM team undertakes. Many of these are strategies (produced by external agencies) relate to flood risk management whereas others are produced by various sections of the County Council that contribute to the overall service delivery of the Council.

The table below summarises a number of key strategies/policies of which relate to flood risk management.

STRATEGY /POLICY	CONTENT	SOURCE
The National Flood and Coastal Risk	The National strategy was produced to help to encourage effective flood risk management at a national level. Derbyshire's local strategy must align with the objectives of	<a href="#">Link</a>

Management Strategy	the national strategy.	
Planning Practice Guidance Flood Risk and Coastal Change 2014	Advises on how planning can take account of the risks associated with flooding and coastal change in plan-making and the application process.	<a href="#">Link</a>
National Planning Policy Framework 2012	A simplified framework for national planning policy published in March 2012, consolidating planning policy statements and guidance.	<a href="#">Link</a>
Future Water – The Government’s water strategy for England 2008	Future Water sets out the vision for the water sector up to 2030.	<a href="#">Link</a>
Making Space for Water 2004	A document which sets out how the Government are to implement a holistic approach to flood risk management over a 20 year period.	<a href="#">Link</a>
Catchment Abstraction Management Strategies (Lower Trent, Derwent, River Dove)	The EA manages water resources principally through the water resource abstraction licensing system. To aid water resource management the EA assess water resource availability at a regional and local (catchment) level. Based on its understanding of abstraction of water for public supply, the needs of the environment and other uses the EA have produced Catchment Abstraction Management Strategies (CAMS) to inform future licensing decisions.	<a href="#">Link</a>

### Flood Risk Management Related Plans

A wide range of flood risk management related plans have been produced by RMAs and other relevant stakeholders, which set out how the organisation are going to manage various aspects of flood risk. Below is a sample of the plans available, but the list is not exhaustive and others are available.

PLAN	SUMMARY	SOURCE
Catchment Flood Management Plans (CFMPs)	The EA have produced CFMPs which give a strategic overview of the overall flood risk for each river catchment in England and Wales and recommend ways of managing those risks.	<a href="#">Link</a> <a href="#">Link</a>
Derbyshire	A Level 1 study has been completed which assess and	Please

Strategic Flood Risk Assessment (SFRA) for Minerals and Waste	maps the different levels and types of flood risk to proposed minerals and waste sites within Derbyshire. The Level 1 SFRA for Minerals and Waste is yet to be published.	contact the FRM team
Derbyshire Preliminary Flood Risk Assessment (PFRA)	The PFRA provides a high level overview of existing and potential flood risk from local sources. The report was prepared to meet the requirements of the Flood Risk Regulations and is required to be updated every 6 years.	<a href="#">Link</a>
Strategic Environmental Assessment (SEA)	An SEA has been produced in conjunction with the local strategy to ensure that potential environmental impacts of the strategy have been assessed.	DCC website
Derbyshire County Council Climate Change Adaptation Plan	This document sets out DCC's corporate strategy for adaptation to the impacts of climate change in the future. The strategy takes into account climate change and how it could affect local flood risk management.	<a href="#">Link</a>
Derbyshire County Council Local Transport Plan	DCC's Local Transport Plan sets out the council's transport vision and strategy up to 2026. Included is DCC's plan to make the transport network in Derbyshire more resilient to climate change.	<a href="#">Link</a>
LPA Core Strategies & Local Plans	Produced by each of the Local planning Authorities (LPAs) at the District/Borough level, the Core Strategy details how each District/Borough's towns, villages and countryside will change in the coming years.  The Local Plans contain local policies on development and planning issues. They also allocate specific sites for potential development. Development and planning decisions made by the LPA are assessed against the requirements of the Core Strategy.	Published on each local District or Borough Council website
Derbyshire County Council Development and Infrastructure Plan	The Derbyshire Infrastructure Plan sets out our communities' current and future needs and spending priorities for infrastructure and service delivery to support development.	<a href="#">Link</a>
Derbyshire's Highways Network	The Highway Network Management Plan is a technical document which specifies the maintenance and repair	<a href="#">Link</a>

Management Plan	standards for managing Derbyshire's Highway network.	
Highway Infrastructure Asset Management Plan	DCC's Transport Asset Management Plan is a strategic plan to ensure the optimal allocation of resources for the management, operation, preservation and enhancement of the Highway infrastructure.  It is currently being revised to form the Highway Infrastructure Asset Management Plan. The revised plan is yet to be published.	
Derbyshire County Council Waste Plan	The DCC Waste Plan guides waste related development in Derbyshire until 2030 and the principles used to decide planning applications over this period.	<a href="#">Link</a>
Derbyshire County Council Minerals Plan	The DCC Minerals Plan guides mineral related development within Derbyshire until 2030 by setting out where it is acceptable for quarrying and mining activities to take place.	<a href="#">Link</a>
Derbyshire County Council Emergency Business Continuity Strategy and Flood Action Plan	These are a set of multi-agency contingency plans that are intended to inform and guide those managing the response to a flood emergency.	(Flood Action Plan): <a href="#">Link</a>  (Business Strategy): <a href="#">Link</a>
Derbyshire County Council Economy, Transport and Environment Department Service Plan	The annual Service Plan outlines how the work of the Economy, Transport and Environment Department will contribute to the achievement of the Council Plan.	<a href="#">Link</a>
Surface Water Management Plan for Derby City	Derby City Council have produced a Surface Water Management Plan for the City of Derby.	<a href="#">Link</a>
River Basin Management Plans	The River Basin Management Plans describe each river basin district in England and Wales, the pressures they face and the actions that will need to be taken to address those pressures. They have been prepared under the umbrella of the WFD and are updated every six years by the Environment Agency.	<a href="#">Link</a>
Derbyshire's Council Plan	The Derbyshire's Council Plan sets out how Derbyshire County Council will provide a service for the residents of	<a href="#">Link</a>

Derbyshire.

## District/Borough Council Strategic Flood Risk Assessments & Water Cycle Studies

SFRAs were produced as a requirement of previous planning guidance for flood risk management with the key aim that they should map and better understand the current flood risk to the administrative area from various sources. This information was used to inform local strategies/plans and policies relating to sustainability and development. Below is a list of the latest SFRAs produced by or on behalf of the District/Borough Councils for Derbyshire.

Most District and Borough Councils have produced or commissioned water cycle studies to predict the impact of the expected growth in housing on the water cycle, to inform the local development framework and to highlight any problems that may need addressing to achieve sustainable growth. The table also provides a link to the District/Borough Council webpage where their Water Cycle Study is available.

Amber Valley Strategic Flood Risk Assessment and Water Cycle Study	<a href="#">Link</a>
Erewash Strategic Flood Risk Assessment and Water Cycle Study	<a href="#">Link</a>
South Derbyshire Flood Risk Assessment and Water Cycle Study	<a href="#">Link</a>
Derbyshire Dales Strategic Flood Risk Assessment	<a href="#">Link</a>
Chesterfield Borough, Bolsover District and North East Derbyshire District Strategic Flood Risk Assessment and Water Cycle Study	<a href="#">Link</a>
High Peak Strategic Flood Risk Assessment	<a href="#">Link</a>
Peak District Strategic Flood Risk Assessment	<a href="#">Link</a>

**Derbyshire County Council**  
 Flood Risk Management Team  
 Economy, Transport and Environment  
 County Hall, Matlock, Derbyshire, DE4 3AG  
 Call Derbyshire: (01629) 533190  
 Email: [flood.team@derbyshire.gov.uk](mailto:flood.team@derbyshire.gov.uk)