

Report to	Scrutiny Committee for Economy, Transport and Environment
Date	17 March 2014
Report By	Director of Communities, Economy and Transport
Title of Report	The Impact of recent severe weather on the County Highway Network and progress on delivering the East Sussex Local Flood Risk Management Strategy.
Purpose of Report	To advise Scrutiny Committee on: <ul style="list-style-type: none"> - the issues arising from the recent extreme weather conditions on the county's highway network, and - progress made to date on implementing the East Sussex Local Flood Risk Management Strategy.

RECOMMENDATIONS: The Scrutiny Committee is recommended to consider

- (1) the Highways Service's management of the impact of the recent severe weather;**
- (2) the progress that has been made on the implementation of the Local Flood Risk Management Strategy; and**
- (3) the operation of the liaison between the Flood Risk Management Team and the Highway Authority.**

1. Financial Appraisal

1.1 The cost of damage to the highway network from flooding, tidal surges and storm conditions is, thus far, in the order of £1,100,000. This figure is explained in further detail in Appendix 2 to this report. An application for financial support in recovering from the floods has been submitted to the government.

2. Supporting Information

2.1 The winter of 2013/14 has been the wettest on record for both the country and the county. Initial assessments by the Environment Agency indicate that rainfall in January in East Sussex was approximately 160% of the Southern England average for that month and 65% more than the UK January average. At the time of writing of this report the figures for February had not been assessed.

2.2 The winter was characterised not only by heavy rainfall but also storm conditions and tidal surges, the combination of which has caused widespread damage to transport networks (both road and rail) and flood and coastal erosion defences.

2.3 Examples of disruption in the County include:

- the closure of the Hastings to London rail line due to landslips at Wadhurst and Battle;
- the Port of Newhaven has reported spending three times the average on dredging to keep the river mouth open;
- more than 3 metres of erosion took place at Birling Gap between 2 - 4 January 2014;
- Newhaven Harbour railway station and the rail line between Newhaven and Lewes closed for 3 days; and,
- Thousands of homes across Kent, Sussex and Surrey were left without power and trains services were suspended after the 14 February storm swept across the south east region..

2.4 The Highway Authority, the Flood Risk Management Team (FRMT) and our flood risk management partners have had significantly increased workloads as they deal with the challenges presented by this extreme weather.

2.5 These workloads have slowed progress on implementing aspects of the Local Flood Risk Management Strategy, although less than 6 months have elapsed since its launch in November 2013. However, Appendix 5 sets out progress thus far on key work streams.

3. Comments/Appraisal

3.1 Damage across the County's highway network is detailed within Appendices 1 – 4 of this report. However, the cost of dealing with immediate repairs stands at £1.1m as of February, but the full cost of the damage to the network is estimated as being £3.2m. This will form the basis of an application to the Department for Transport for funding under its Severe Weather Recovery Scheme.

3.2 Substantial investment has been made to ensure that the highway network is safe and that the impacts of flooding and fallen trees are addressed as swiftly as possible bearing in mind that problems have affected the full extent of our highway network. Appendix 1 provides more detail on actions to tackle flooding and damage to the highway. Extra highways maintenance gangs have been deployed across the county to clear drainage gullies and ditches, and the number of jetters used to cleanse drains has been increased.

3.3 Looking forward, the Highway Authority is developing a Drainage Strategy to address routine and preventive maintenance on our network and will be establishing a specialist drainage team.

3.4 The development of the Drainage Strategy will require assistance from the FRMT. This will include data derived from the Surface Water Management Plans and local projects which have been commissioned by the team. Such data assists the Highway Authority in understanding where potential problems may arise and helps inform the development of its asset database. Similarly, advice and technical support from the Highway Authority contributes to the FRMT's local projects and risk assessments.

3.5 The Flood Risk Management Team's work on the regulation of ordinary watercourses is often closely related to the work of the Asset Management and the Network Management Teams in the Highways Authority. Whilst the boundary between the FRMT and the Highway Authority on drainage issues can, on occasion, be blurred, the teams cooperate and quickly identify whether a case is a highway or land drainage matter. Appendix 6 provides more detail on the nature and extent of this liaison.

4 Conclusion

4.1 The recent extreme weather has had a significant adverse impact on the county's highway network and the Highway Authority has expended considerable effort and resources in ensuring that the network is safe to use.

4.2 As a consequence of the above average rainfall, progress on the delivery of the Flood Risk Management Strategy has slowed.

4.3 Looking forward the Highway Authority and the Flood Risk Management Team will continue to cooperate and share information in order to identify surface water flooding issues affecting, or arising from, the highway, and to progress surface water risk management projects on the ground.

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Director of Communities, Economy and Transport

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Local Member:

BACKGROUND DOCUMENTS:

None

Appendix 1 Highway Authority Response to the Recent Extreme Weather

Introduction

- 1.1 The table below summarises the cost of the damage to our network to date:

Damage Type	Cost
Fallen/Damaged Trees	£220,000
Newhaven Swing Bridge	£35,000
Drainage/Flooding Response	£220,000
Pothole/Urgent Response (2hrs & 5 Days)	£550,000
Total	£1,100,000

Please refer to Appendix 2 for further breakdown of spend.

The impact of the recent and on-going severe weather to the roads

- 1.2 The severe storms the County has sustained over the last four months have taken their toll on the road network. We have seen over 250 fallen trees, over 300 instances of flooding resulting in over 2000 potholes that required immediate urgent attention; twice that of this time last year. Damage was also sustained to the Swing Bridge in Newhaven and the Bulverhythe Cycleway in Hastings due to tidal surges. The total cost spent to date addressing the immediate issues from these storms is £1.1m. Please refer to Appendix 3 for details of the volumes of urgent defect repairs over this period.
- 1.3 We are still in the middle of assessing the damage caused by these storms, but our estimates to date are that between £3.0m and £4.0m of damage has been caused to our carriageway network. Much of this damage can be attributed to flooding from adjacent land and ditches/grips that have fallen into disrepair as the frequency of ditching has been reduced over the years to a three year activity.

Our response to date

- 1.4 During the peak storm events we have had both County and Contractor staff working day and night to remove fallen trees, alleviate flooding and carrying out emergency repairs. Over the last four months we have steadily increased our resources to 40 gangs addressing potholes, floods and ditch/grip clearance. These include dedicated grips and gully gangs to clear gully tops of debris and cut damaged grips to take water off the highway. We have also increased the number of jettors responding to drainage and flooding issues.
- 1.5 We have also gathered evidence of the damage sustained to date and submitted a bid to the DfT Severe Weather Recovery Scheme for damage sustained to our network. Please refer to Appendix 4 for a summary of the damage assessment issued to the Department for Transport.

Our forward plan

- 1.6 As part of our asset management approach to managing the highway service, we are currently developing a clear drainage strategy addressing a holistic approach to routine and preventative maintenance. This includes having a plan to collect a comprehensive inventory of our drainage asset and establishing a specialist drainage team for resolution of all drainage issues
- 1.7 We already have a full gully inventory with an understanding of their condition enabling a targeted approach to gully cleansing. We plan to collect a complete ditch and grip inventory through next financial year. Using this knowledge we plan to overlay information we have about flooding hotspots from Customers, Highway Stewards, Engineers and our Flood Risk Management Team; to prioritise preventative works. Then there is the much harder task of developing a longer term plan to collect our piped network and soakaways.

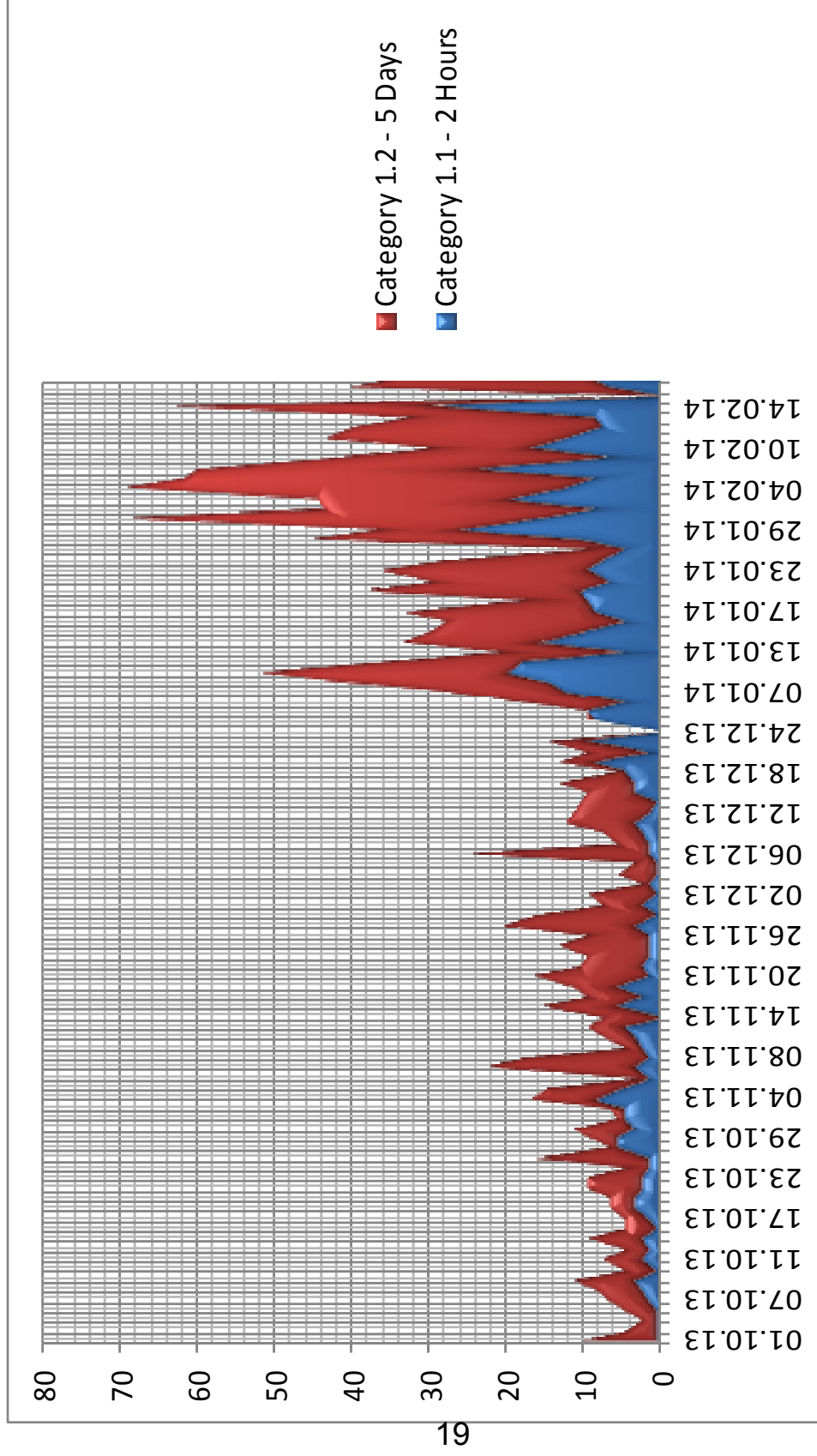
Commentary

- 1.8 The recent storms have had a major impact on our roads and drainage systems. We may not have sustained the levels of immediate impact as seen in other authorities around the country; but the extent of the long-term damage is significant and is yet to be fully realised
- 1.9 The financial impact has had both an immediate effect of £1.1m and a longer-term impact of at least £3.0m - £4.0m based on the information we have at this time. The impact of this means we are re-assessing our priorities for carriageway investment in light of the evidence materialising from the storm damage, to ensure we are addressing the right roads with the money available.
- 1.10 A greater emphasis will be placed on drainage within the surfacing programmes; ensuring drainage systems are fully operational prior to resurfacing. Cuts to budgets introduced through previous management have meant that programmes of ditching, grips and gully maintenance have been reduced to such an extent that they have fallen into a state of disrepair. Estimates of £3m have been identified to redress this issue with an on-going annual maintenance budget of approximately £1.5m, an increase of £1.0m to keep on top of the issues. The exact cost and extent of ditching / grip maintenance is being determined through a detailed condition survey.

Appendix 2 – Highway Costs associated with storm damage

		Cost Incurred
Storm - Tree Damage Sunday 27 th / Monday 28 th October / January and February	The October storm brought down over 100 highway trees and led to extensive localised flooding on the highway. The costs incurred are for tree surgeons.	£70,000 <i>Already declared in Q3 forecast</i>
Storm Tidal Surge –Newhaven Swing Bridge 6 th December	The storm surge of 6 th December inundated the opening mechanism and electrical controls beneath the Newhaven swing bridge rendering the bridge inoperable for 10 days. The costs incurred are for the repairs.	£35,000
December/ Christmas Storms - Tree Damage 21 st December – 16 th February	The storms during Christmas weeks brought down over 250 highway trees and extensive localised flooding on the highway. The costs incurred are largely the cost of tree surgeon sub-contractors who worked through the night and day to clear trees and re-open roads. This far exceeds the annual tree maintenance budget of £100,000	£150,000
December/ Christmas Storms - Flooding 21 st December - 6 th January	Additional resources deployed to deal with localised highway flooding and blocked gullies.	£100,000
Pothole Response 13 th January	The New Year has seen a marked increase in the number of potholes caused by the recent wet weather. As a consequence additional resources have been brought in and the number of maintenance gangs increased from 14 to 20. Additional costs: £210,000 (mid Jan to end Feb) - £330,000 (mid Jan to end March). Increase to 40 gangs Feb to end of March – increase costs to £525k.	£525,000
Drainage Response	Four additional drainage gangs are required to clear gullies and dig grips through the remainder of the winter to remove water from roads. Early decision required	£120,000
Total		£1,100,000
Note	The cost of damage to the public highway following the recent storms and the wettest December since 1993 is estimated to be approximately £3.0m. There has been significant water damage to road edges and verges as well as water damage to the road surface.	

Appendix 3 – Volume of Urgent defect repairs from October 2013 to February 2014



Appendix 4 – Assessment of damage sustained to our carriageway network as submitted to the DfT Severe Weather Recovery Scheme

**Summary Sheet*

Steward Area	Drainage	Carriageway	Total	A&B Roads
1	£169,000.00	£551,239.00	£720,239.00	£281,151.50
2	£3,000.00	£38,726.50	£41,726.50	£32,740.50
3	£31,500.00	£155,666.00	£187,166.00	£40,298.00
4	£0.00	£60,444.00	£60,444.00	£44,384.00
5 & 6	£1,800.00	£624,444.50	£626,244.50	£591,037.50
7	£6,300.00	£179,593.70	£185,893.70	£19,708.70
8	£900.00	£257,153.00	£258,053.00	£43,604.00
9	£1,800.00	£131,209.50	£133,009.50	£15,980.00
10	£4,500.00	£198,069.50	£202,569.50	£100,139.50
11	£4,500.00	£113,429.00	£117,929.00	£60,604.00
12	£1,800.00	£666,015.00	£667,815.00	£205,272.00
Total	£225,100.00	£2,975,989.70	£3,201,089.70	£1,434,919.70

Area	Length	Length
1 A	24998.20	29739.88
2 A	0.00	997.00
3 A	8682.00	10165.56
4 A	2028.00	4513.53
5 & 6 A	11323.22	5185.00
7 A	14504.79	11624.00
8 A	4636.84	6462.00
9 A	4132.00	1036.00
10 A	13703.00	11564.03
11 A	11635.00	12077.40
12 A	8067.00	20675.99
103710.05	m	114040.39

0.0006214 Conversion Factor

64.445425 Miles **70.8647** Miles

A&B Affected Length **135.31012** Miles

Appendix 5 Progress following the adoption of the East Sussex Local Risk Management Strategy

1. Roles and Responsibilities

Introduction

1.1 Over this winter we have seen record rainfall levels and tidal surges across the country. This has been the result of a series of powerful low pressure systems coming from the Atlantic and hitting the UK.

1.2 The reporting of this has been widespread on national and local media and Members will be well aware of the impact this cycle of weather has had on the country.

1.3 As a consequence, the ability to progress the Local Flood Risk Management Strategy's (LFRMS) Delivery Plan has been reduced as we and our Risk Management Authority Partners deal with the challenges that the extreme weather of the past three months has brought.

1.4 Therefore, this annex will focus on the key strategic issues affecting service delivery and provide updates on key areas.

Background

1.5 The Flood Risk Management Team was established in response to the Flood and Water Management Act 2010 (FWMA) which designated the County Council as a Lead Local Flood Authority (LLFA).

1.6 The Flood and Water Management Act was part of the government's response to the Pitt Review of the summer 2007 floods. The Pitt Review provided in excess of 100 recommendations to improve the way in which the UK prepares for, responds to and recovers from flooding events.

1.7 A key finding of the Pitt Review was the fragmented approach to managing localised flood risk (surface water, ordinary watercourses and ground water), it became evident as the review was conducted that responsibilities were dispersed amongst a variety of organisations and often there was ignorance of these responsibilities amongst those who held them and the public in general.

1.8 The FWMA and allied legislation confers a range of duties and powers on the County Council to manage localised flood risk. The detail of the County Council's role is described in section 4 of the Technical Appendices to the East Sussex Local Flood Risk Management Strategy.

1.9 However, they can be summarised as being;

- A duty to prepare a strategy
- A duty to investigate incidents (where necessary)
- A duty to maintain a register of assets which are considered to significantly affect flood risk
- A duty to act as a Drainage Approval Body (yet to be commenced)
- Powers to undertake works to manage localised flood risk
- Powers to formally designate features which have a flood risk role
- Powers of determination and enforcement on works affecting the cross section of an ordinary water course.
- Powers to request information

1.10 The LLFA's role is not directly dealing with flooding incidents or maintaining assets such as highway or private drainage systems. Its role is primarily strategic and involves

giving leadership to bodies with powers and duties to ensure co-ordination of flood risk action and respond to flooding events.

1.11 There are two notable exceptions to this strategic role, the Drainage Approval Body and our powers under the Land Drainage Act; these will be discussed later in this report.

1.12 The County does not act in isolation; the FWMA identifies the following bodies within East Sussex as Risk Management Authorities:

- ESCC as Lead Local Flood Authority and the Highway Authority
- Lewes District Council
- Rother District Council
- Wealden District Council
- Eastbourne Borough Council
- Hastings Borough council
- The Environment Agency
- Romney Marshes Area Internal Drainage Board
- Upper Medway Internal Drainage Board
- Southern Water

1.13 As Risk Management Authorities these bodies are under a duty to:

- Act consistently with the national and local flood risk management strategies (the latter prepared by ESCC)
- Be subject to the Scrutiny process of the Lead Local Flood Authority (ESCC)
- Cooperate with other RMAs
- Contribute towards the achievement of sustainable development.

1.14 It should be recognised at the outset that the Flood and Water Management Act was drafted with a Unitary Authority structure in mind. Whilst the Act designates all upper tier authorities as Lead Local Flood Authorities, difficulties are encountered when applying the requirements of the legislation in a two tier setting.

The Flood Risk Management Team

1.15 County Council's Flood Risk Management team was created as a response to the new statutory requirements and has a core of four officers:

- Team Manager
- Principal Drainage Officer
- Flood Risk Management Officer
- Flood and Coastal Officer (temporary)

2 The Local Flood Risk Management Strategy

Background

2.1 The Flood and Water Management Act conferred a number of duties upon the County Council amongst which the development and adoption of a Local Flood Risk Management Strategy (LFRMS) is one.

2.2 The development of the LFRMS was overseen by a senior officer group (the East Sussex Flood Partnership) representing the RMAs operating in East Sussex (East Sussex County Council, the Environment Agency, Southern Water, the Internal Drainage Boards, the Districts and Boroughs and, the South Downs National Park Authority as an interested party).

2.3 Whilst the focus of the LFRMS should be on local flood risk (as its name suggests) there was agreement within the ESFP that it should look to coordinating all flood risk. The Strategy represents the first step towards achieving this ambitious objective, but makes it clear that plans and strategies governing main river and coastal flood risk are the responsibility of the Environment Agency and the coastal Districts and Boroughs.

2.4 The Strategy, its delivery plan and technical appendices are available in the Members' Room and can be viewed on the County Council's website under the Planning and Environment page

November launch of the Local Flood Risk Management Strategy and joint working conference

2.5 Following adoption of the LFRMS by Cabinet in July 2013, it was launched at a half day conference on exploring opportunities for joint working in November 2013. The event was attended by 41 delegates, which included East Sussex elected Members and officers from the County Council, Boroughs and Districts. Senior representatives from the following organisations also attended, including the Environment Agency, East Sussex Strategic Partnership, the South Downs National Park Authority, the Romney Marshes Area Internal Drainage Board and Southern Water.

Key points:

2.6 A facilitated discussion session on the need and opportunities for joint working with East Sussex local authorities took place as part of the conference proceedings, the following points were raised as part of that session:

- A recognition that across the county there is a paucity of technical capacity and engineering experience, with it being acknowledged that this trend will continue, as the pool of existing technical and engineering expertise diminishes as officers approach retirement.
- A general agreement that partnership working was a good idea that could result in a number of efficiencies, with Districts and Boroughs having direct access to engineers. However, opposing views highlighted that consultants could be hired rather than spending on in-house staff. Even where partnership working was not considered to be necessary, there was agreement for possible joint agreement for bidding/funding projects.
- It was considered that the LLFA should provide local leadership rather than increasing technical expertise.
- For any East Sussex-wide partnership the consensus was that the responsibility for leading the partnership would be the responsibility of the LLFA to provide an overview and coordination.
- The structure of the partnership would need to have both a 'strategic' level which would provide the strategic direction (backed by directors and elected members), with a second tier acting as the 'delivery arm'.

- General consensus that the partnership should consider widening membership to bodies other than the local authorities. A benefit of this would be that the partnership may be able to absorb and benefit from some the EA staff's knowledge and skills.
- Clarity is required regarding governance and potential costs. The development of a model on how the partnership arrangement would look like and work is required, as part of an assessment of options.

Next steps:

2.7 It was agreed that officers would develop a joint working business model and case to present to Partners. The LLFA will also review the current structure of the East Sussex Flood Partnership with the view to exploring options to increase its effectiveness and the role of elected Members in it.

2.8 Whilst there has been widespread acceptance that joint work on flood risk is a worthy goal, significant obstacles such as the availability of resources remain.

2.9 The lack of a clear role for the Districts and Boroughs is of concern, and an issue which is flagged up in the East Sussex LFRMS. The absence of a statutory role in the face of significant public spending cuts has hastened the shedding of technically qualified staff at the District and Borough levels.

2.10 Although the Strategy launch was well received, work on developing a business case on options for joint working has been delayed by issues surrounding the proposed dissolution of the Internal Drainage Board and Internal Drainage Districts administered by the Environment Agency.

2.11 This has had impacts on possible funding mechanisms for a joint working approach, it has taken up staff time as the legal and practical implications of the Agency's proposals are fully explored and understood. Until such time as this issue is resolved our district and borough partners will not be able to progress any detailed joint working arrangement.

3 The Future of the Environment Agency Administered Internal Drainage Board in East Sussex

Background

3.1 An Internal Drainage Board (IDB) is an authority, empowered under the Land Drainage Act (1991) to manage water levels within defined Internal Drainage Districts (IDDs) for land drainage, flood risk management, irrigation and environmental benefit.

3.2 IDBs operate in water catchment areas and undertake routine maintenance of drainage channels, ordinary watercourses, pumping stations, and other critical water control infrastructure under permissive powers, though overall responsibility for maintenance remains with the riparian owner. Principal operations include weed cutting, de-silting, tree management, mowing of bank-side vegetation and structural inspection, repair and replacement of fixed water control assets.

3.3 There are five IDD in East Sussex two of which are managed by the Upper Medway and Romney Marshes IDBs, the remainder are managed by the Environment Agency as the IDB for the Ouse, Cuckmere and Pevensey Levels (see figure 1)

3.4 Both the Upper Medway and Romney Marshes IDBs are independent corporate bodies funded by levy raised on the local authorities and rates charged to local land owners. The Board is composed of local landowner representatives and local authority members.

3.5 Whilst the same funding arrangements apply to the Ouse, Cuckmere and Pevensey levels IDBs. The “Board” role is performed by the Environment Agency’s executive board, the highest decision making body within the EA.

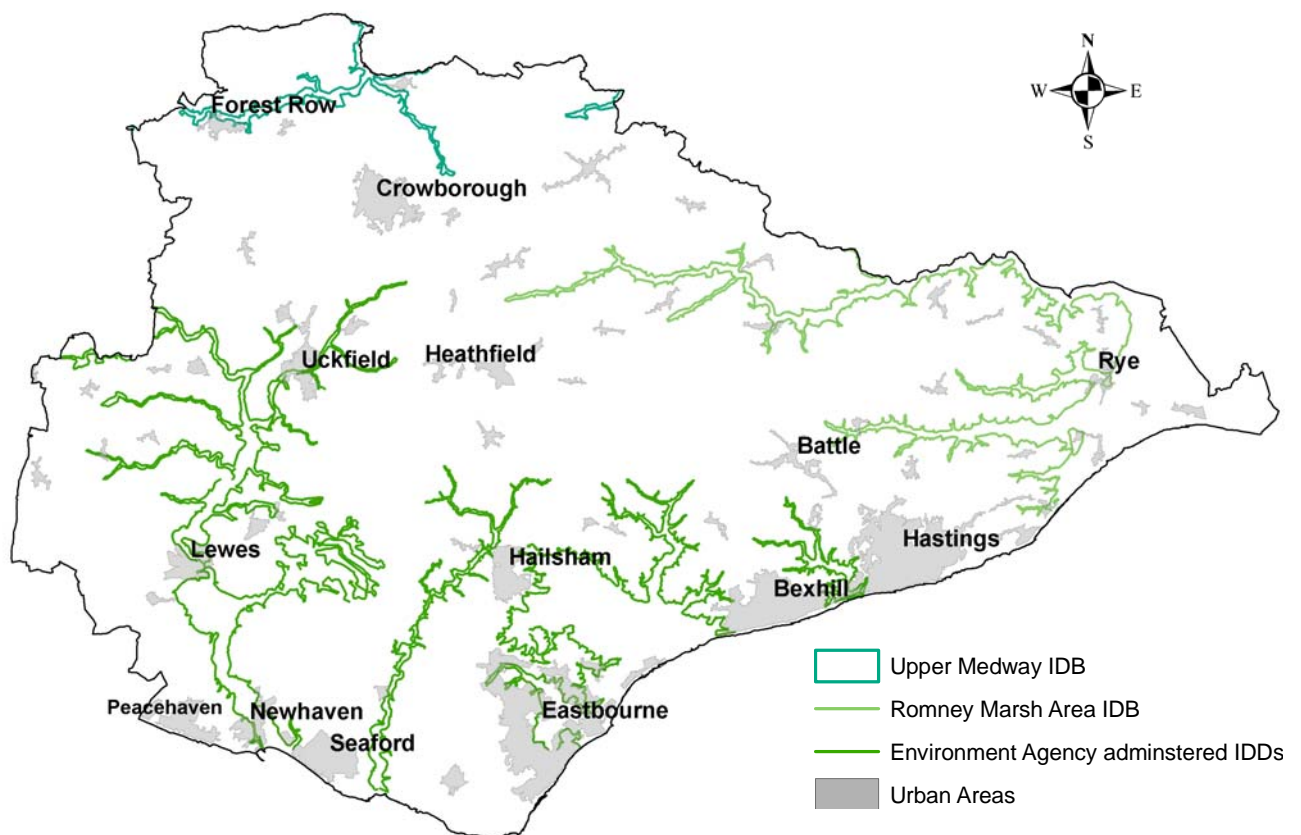


Figure 1. Internal Drainage Boards in East Sussex and Environment Agency administered Internal Drainage Districts. *Not to Scale*

3.6 The EA also manages IDD in West Sussex and Kent,

3.7 The EA has announced its decision to dissolve the IDB and IDDs it manages in the south east, and has sought to achieve consensus from all the contributing East and West Sussex local authorities on what should replace them.

3.8 Collectively, some £500k of district and borough levies is collected by the EA in East Sussex to fund the works in the IDDs.

3.9 The dissolution of the IDB was promoted by the EA as a potential saving to local authorities. This was seen by the officers of the districts to be an opportunity to redirect funds to a joint working initiative on local flood risk.

3.10 However, the Agency's advice conflicts with that of finance officers in ESCC and Wealden District Council. The levy paid by the districts and boroughs is recognised in the Relative Needs Formula and is in effect subsidised by central government. Without the levy being paid the RNF would be adjusted to reflect its removal and in practical terms no saving is made.

Key milestones

3.11 The EA is keen to divest itself of its IDB responsibilities in a swift and orderly manner, and considerable work has been undertaken by the EA and local authority officers in understanding the risks and benefits of dissolving the EA IDB and its districts.

3.12 However the Agency has stated that if a consensus is not reached with the local authorities on the preferred way forward by 31 March 2014, it may submit its own proposals to Defra. Unfortunately it has chosen not to share with us what that proposal might be.

3.13 Assuming that a replacement IDB of some form is proposed, a consultation will be held on the proposed new arrangements by Defra. An Inquiry will examine any objections lodged, and ultimately the Secretary of State for Environment Food and Rural Affairs will decide what arrangements should be put in place.

3.14 However, we have no indication of when these stages could take place or indeed how long it will last.

3.15 Consideration of the implications for the County Council is ongoing.

4 Regional Flood and Coastal Committees

Introduction

4.1 Although they are not a Risk Management Authority, Regional Flood and Coastal Committees (RFCCs) have been established to take forward much of the work previously carried out by Regional Flood Defence Committees (RFDCs), with an extended remit to include coastal erosion and local flooding. They play an important local role in guiding flood and coastal management activities within catchments and along the coast, advising on and approving programmes of work for their areas and continuing to raise local levies under existing arrangements to fund local priority projects and works.

4.2 RFCCs also provide for local democratic input through the majority membership of representatives from LLFAs. They also have a wider role in assisting the scrutiny of local authority risk assessments, maps and plans required by the Flood Risk Regulations. They have a key role in balancing local priorities and making sure that investment is co-ordinated at the catchment and shoreline scale and in promoting the consideration of climate change impacts in local decision making.

4.3 Councillor Claire Dowling represents ESCC on the Southern Regional Flood and Coastal Committee (which includes the County Councils of East Sussex, West Sussex, Kent and Hampshire; the Unitary Authorities of Brighton and Hove, Medway, Portsmouth and Southampton). The Flood Risk Management Team provides advice and support to her in this role.

Funding Bids

4.4 There are funding streams available to LLFAs and the other RMAs to help deliver localised flooding projects.

4.5 Flood Defence Grant in Aid (FDGiA) is a national fund administered by each Regional Flood and Coastal Committee in the country. This fund is available for coastal flooding and erosion, main river, and localised flooding projects and as a result is heavily oversubscribed. Bids for the 14/15 financial year had to achieve a 256% qualifying score.

4.6 The local levy is also administered by the RFCC and is supported by contributions from all upper tier authorities in an RFCC area. As with FDGiA the local levy is available for a variety of risk management schemes.

4.7 We have in the past successfully bid for funds to undertake assessments or improvements in the following locations

- Uckfield High Street – drainage improvements as part of the high street improvement works;
- Eastbourne Town Centre - drainage improvements as part of the high street improvement works;
- Bourne Stream, Eastbourne - condition survey and development of a management plan
- Nevill Estate, Lewes – addressing surface water issues linked to the surcharging of foul water drains;
- Meeching Valley, Lewes – survey and option development
- Broyleside, Ringmer – survey, option development and scheme delivery;
- Sandy Rock Lane, Crowhurst - survey and option development

4.8 However, we have been asked by government to submit proposals for projects for the six year period 15/16 – 21/22 in little over a month during a period of intense activity across the county. Traditionally bids would be developed during the spring and would be for the following financial year.

4.9 The timing of this request is such that in reality ESCC and its partners have had less than three weeks to prepare. The current submission date is 3 March 2014.

Key Issues

4.10 Securing funding through the RFCC is the primary means by which we can address surface water flooding problems on the ground.

4.11 However, the manner in which qualifying schemes are scored, means that surface schemes are immediately disadvantaged.

4.12 Although some moderation is employed when assessing bids, successful bids are judged against how many properties are removed from flood risk for every pound spent.

4.13 Often surface water problems occur because of poor maintenance, the inability of drainage systems to cope with intense rainfall or the because of the impact cumulative planning decisions in one area. Consequently, a surface water scheme will inevitably involve reconfiguring the urban environment which introduces very high costs, whilst not delivering the benefits that a coastal or main river scheme may.

4.14 Although, the score can be improved by contributions from partner organisations, the community or local businesses these are in reality hard to secure.

5 Surface Water Management Plans

Background

5.1 Surface Water Management Plans (SWMPs) are seen by government as the primary vehicle for the management of surface water flood risk. Recommendation 18 of the *Pitt Review* promoted their use in tackling surface water risk. This concept has been carried forward in the *Floods and Water Management Act 2010* and the *Flood Risk Regulations 2009* which requires local authorities to take a leadership role in local flood risk management in partnership with other stakeholders.

5.2 Our knowledge of drainage systems in the county is limited and the development of SWMPs mark the first step toward developing a comprehensive understanding of localised flood risk.

5.3 As part of ESCC's Local Flood Risk Management Strategy (LFRMS) and using information available to the County Council, local flood risk has been assessed across East Sussex. As part of the assessment, 14 local flooding hotspots have been identified, which will assist the Flood Risk Management team to target resources where they are needed most. As part of efforts to better understand the local flood risk in these 14 areas, SWMPs will be undertaken to aid the County Council in managing significant local flood risk issues.

Progress:

5.4 To date, two SWMPs have already been completed for the Hastings and Eastbourne areas. In the East Sussex Local Flood Risk Management Strategy's Delivery Plan, an objective is to complete a further seven SWMPs in 2013-14 for the following identified hotspots:

- Bexhill;
- Crowborough;
- Forest Row;
- Heathfield;
- Seaford;
- Peacehaven; and
- Newhaven.

5.5 The Lewes Town Inter Urban Drainage Strategy was published in 2008, and was the precursor to SWMPs.

5.6 With respect to the new SWMPs, we remain on target to complete them by the end of the financial year, which will complement the two already completed for the Hastings and Eastbourne areas.

Next Steps

5.7 The completion of the SWMPs will inform future work in understanding flood risk and identifying any strategic solutions to managing flood risk. These SWMPs will provide a focused assessment and identification of issues, and do so in greater detail than found in the Local Flood Risk Management Strategy. There is also scope to build upon these studies as part of further work to identify strategic measures and options for implementation to manage flood risk.

5.8 It must also be recognised that these SWMPs only provide a strategic assessment of flood risk from surface and ground water, identifying flood risk zones that may themselves require further study along with the identification of 'easy win' solutions for the less complex flooding problems.

5.9 From the identified flood problem areas/points and corresponding easy wins, the Highways Authority will be able to make use of the findings from the SWMP to implement (where appropriate) preventative maintenance measures or traditional drainage solutions.

Furthermore, the findings from the SWMPs will help inform and coordinate highways maintenance regimes/programmes, particularly to areas identified as having recurring highway flooding issues and potentially be of value to the Highway Authority's upcoming Drainage Strategy.

Key Issues:

5.10 East Sussex County Council has led on the production of the SWMPs, which have been undertaken in partnership with key local stakeholders.

5.11 However, the ownership of each SWMP and its associated actions should be the responsibility of the individual district authority. Its responsibility should be to coordinate the delivery of each SWMP action plan. Without this local leadership, there is the real risk that the Flood Risk Management Team does not have the resources to lead nine SWMP delivery partnerships.

5.12 Furthermore, it is unlikely that funds can be found to resource the further phases of the SWMPs (where deemed necessary).

5.13 Lastly, it is difficult to envision how funding can be secured for alleviating flood risk for properties identified from the SWMPs. This is a symptom of how schemes are ranked under FDGiA, where comparatively, the gains achieved for addressing surface water flooding are very small compared to schemes addressing flooding from the river or sea. Thus they will always be out-ranked by schemes that protect more homes and property. Consequently it will be difficult to progress or implement options identified in the SWMPs to reduce/manage flood risk as funding will be difficult to secure, unless partnership funding is forthcoming.

6 Ordinary Watercourse Regulation

Background

6.1 Following a change in legislation that came into effect on the 6th April 2012, the ESCC Flood Risk Management Team took on a new responsibility for 'ordinary watercourse' regulation which consists of two elements:

- **The issuing of consents for works within ordinary watercourses which may obstruct or alter the flow of water within the channel.**
- **Enforcement action to rectify unlawful and potentially damaging work to an ordinary watercourse, including lack of maintenance.**

6.2 Definition of an 'ordinary watercourse' is any ditch, stream or channel which is not identified on the [Environment Agency Flood Map](#) as a 'Main River'.

6.3 Our enforcement and consenting role is limited to any ordinary watercourses which are outside Internal Drainage Districts. The responsibility for enforcement and consenting on ordinary watercourses within Internal Drainage Districts remains the responsibility of the relevant Internal Drainage Board. The Environment Agency retains its responsibility for enforcement and consenting on Main Rivers.

Processes

6.4 This consenting element involves pre-application discussions with applicants wishing to carry out works within an ordinary watercourse as well as review and sign-off of submitted applications. In many cases, a follow up site visit will be necessary to check that works have been undertaken in accordance with the consent granted.

6.5 The enforcement element involves responding to reports of unconsented works or unmaintained ordinary watercourses. This will most often require site meetings to assess the level of flood risk posed by the contravention as well as further desk based assessment. A negotiated approach is sought whenever possible to resolve matters before formal enforcement action is taken.

Progress since April 2012

6.6 Since April 2012, the Flood Risk Management Team has received approximately 150 enquires relating to both consenting and enforcement. There has been a notable increase in enquires in 2013/14 particularly since October 2013 as organisations and the general public become more aware of our new role. Although some enquiries may be relatively simple and quick to resolve, others require extensive correspondence with a wide variety of stakeholders and can take weeks or sometimes months to resolve.

How this role is resourced – partnership working

6.7 In order to fulfil our role for ordinary watercourse regulation, the ESCC Flood Risk Management Team currently works in partnership with officers from the Environment Agency to draw on their technical advice.

6.8 Due to the budget cuts facing the Environment Agency we are likely to see this resource withdrawn. Options are being explored to fill this gap, such as a service level agreement to continue the technical support currently provided.

6.9 Out of the two elements of ordinary watercourse regulation, enforcement requires the majority of resource due to the potential for protracted correspondence with both complainants and offenders.

6.10 The increasing number of enquiries and cases has presented a significant challenge. The officer resource required from the County Council and the Environment Agency is equivalent to one full time post. Once aspects of duplication are removed (for example ESCC and EA officers attending the same site visit) the level of work is estimated to be closer to 0.6 – 0.7 of a post.

Our co-ordination role

6.11 Although our regulation role is limited to ordinary watercourses outside Internal Drainage Districts, the Lead Local Flood Authority has a strategic role for the management of local flood risk.

6.12 As the Lead Local Flood Authority we aim to communicate clearly to the residents of East Sussex exactly who does what when it comes to flooding. From flood incident response carried out by the Environment Agency, the Highways Authority and District and Borough Councils to active maintenance of watercourses in low lying areas carried out by the Internal Drainage Boards. The different elements of flood risk management across the county are undertaken by a number of different organisations.

6.13 In the area of ordinary watercourse regulation this co-ordination role most often involves ensuring that enquiries are directed to the relevant authority while keeping track of the outcome of the enquiry.

Going forward

6.14 Understandably, residents are not always sure which team or even organisation to contact about flooding. In response to this lack of clarity, the Flood Risk Management Team is currently working together with the Highway Authority to formalise a process for directing, recording and reacting to flood risk incidents so that any reports of flooding are dealt with in the most efficient and clear manner.

6.15 The Flood Risk Management pages on the ESCC website are being redeveloped to provide an accessible resource for residents to access information about flood risk in their area. Information such as, who to report flooding to and how you can manage your own flood risk will be included.

6.16 In the area of ordinary watercourse regulation, the ESCC Flood Risk Management Team is working with the rest of CET to develop a common enforcement policy to ensure a consistent approach to enforcement across the department. Team specific procedures will of course be tailored to the relevant enforcement role. An enforcement policy will help us to communicate clearly the criteria which will determine our role in any particular case.

7 The Sustainable Drainage Approval Body

Background

6.2 East Sussex County Council will become a Sustainable Drainage Systems Approving Body (SAB) when Schedule 3 of the Flood and Water Management Act (FWMA) 2010 is implemented. As the SAB, the County Council will be required to:

- Determine drainage applications as part of new development where construction work has drainage implications, and
- Adopt and maintain those drainage systems it approves, if they serve more than one property.

7.2 This new requirement will apply to major development for the first three years, after which time it may be applied to smaller proposals.

7.3 LLFAs have been waiting for the commencement of this new responsibility since the enactment of the FWMA and we have witnessed a number of “false starts” over the years we have been working to wards an April 2014 commencement date, but the Government recently announced that this was unlikely.

7.4 This further delay is due to unresolved issues with secondary legislation. The commencement order will be laid before Parliament this April. The commencement date has yet to be confirmed, but is likely to be October 2014.

7.5 Draft National Standards for SuDS were circulated at the end of January 2014. However, there are unresolved issues concerning the long-term funding for the maintenance of adopted systems and the liabilities county council and unitary councils will be taking on. A consultation on the proposed mechanism for funding the maintenance of adopted SuDS is expected in March 2014.

7.6 Lack of clarity from the Government on the regulations and guidance which will govern the SAB role undermines the ability of officers to fully prepare for it, and to fully assess the risks that will be incurred by the County Council in the longer term.

What is ESCC doing to prepare for this role?

7.7 The Flood Risk Management Team has been preparing for this new role as best it can bearing in mind the uncertainty generated by Defra. Nevertheless, this includes:

- Understanding the anticipated volume of applications and overall responsibilities the County Council will be taking on
- Assessing the existing skills within the County Council that could be utilised in fulfilling the new role
- Engaging with districts and boroughs, together with Southern Water on working together to following implementation of the legislation
- Working with other South East 7 authorities to streamline preparations

7.8 We estimate that the team will determine between 120 and 200 drainage applications per year. We are examining staffing implications.

7.9 The Flood Risk Management Team partnered with the South East 7 Lead Local Flood Authorities (LLFA) to produce a SuDS guidance document. The guidance encourages the integration of SuDS into the development layout during the development process to ensure they offer multiple benefits such as water quality improvements and open space. This regional document will be presented to Cabinet in March, with the intention to adopt it as guidance under the Local Flood Risk Management Strategy. We are preparing East Sussex specific guidance to assist planners and developers with a view to this being finalised in April 2014.

7.10 Discussions with ICT Business Solutions are underway, required improvements systems and new systems will be developed to ensure ESCC can deliver the SAB role successfully.

Key Issues

7.11 The uncertainty associated with the introduction of this new role has proved to be difficult to manage and has been an obstacle to effective preparation. Even at this late stage we still do not know when this will take effect. It would appear that this new duty may be with us somewhere between June and October.

7.12 This presents problems for recruitment as staffing levels will be dependant upon income generated by fees, which are yet to be fixed.

7.13 Guidance, statutory instruments and the frameworks within which we will operate have been developed by a series of task and finish groups coordinated by Defra and comprising industry experts, developers, and local authorities. Despite this interdisciplinary approach we remained concerned that Defra is not addressing the true maintenance costs that LLFAs will have to fund and how that liability will grow over time.

7.14 Defra is now organising a high level workshop to address some of these issues.

8 Conclusions

8.1 Although the LLFA role was conferred upon the County Council in 2010 we still have a long way to go to understand how localised flood risk can be managed within the county. It is a complex area and relies on regular maintenance of often outdated drainage assets.

8.2 The legislation we work within is far from perfect and has failed in what Sir Michael Pitt wished to achieve: flood risk management roles and responsibilities remain fragmented and confusing to the general public.

8.3 However, the East Sussex Local Flood Risk Management Strategy is ESCC's first step in clarifying roles and coordinating the wide range of public and private bodies which have a role in managing flood risk.

8.4 However, it is evident that there is limited technical expertise at the district level and the absence of a clear role in legislation to encourage joint working, but at the November launch of the strategy there was an appetite to examine options expressed by the majority of delegates.

8.5 The future of the EA administered Internal Drainage Board in East Sussex does present a real challenge for us, as without it we lose the opportunity to create a funded independent locally accountable body which has powers and the resources to manage drainage in areas of drainage need in the county.

8.6 Without a resolution to this issue, it is difficult to develop business cases for joint working on local flood risk and coastal erosion.

8.7 The Flood Risk Management team is still managing uncertainty, the new SAB role is almost guaranteed to take effect in the next six months but until we know the detail of the regulatory framework it is difficult to gauge the resources needed to deliver this role.

8.8 Equally, the enforcement role of our Ordinary Watercourse Consenting is developing and as the public become more aware of this role our case load will increase.

8.9 Nevertheless, the FRM team work closely with the Highway Authority in identifying issues through our work on SWMPs, ordinary watercourse enforcement and as we develop our SuDS role. Recent events have brought the proposed staff cuts in the Environment Agency into the spotlight, and it is far from clear now how the Government will react to this. It should be recognised that the Agency provides support to the LLFA through information sharing, staff resource and general advice and to the local authorities in the form of advice on planning applications. Three months ago we believed that these would be greatly curtailed, and until government comes to a view on what is required of this aspect of the EA's role we can only operate on that assumption.

Appendix 6 - Liaison between the Flood Risk Management Team and the Highway Authority

Introduction

The interaction between the Flood Risk Management Team (FRMT) and the Highway Authority is a two way process involving both the exchange of information and data and the referral of cases which may require ordinary watercourse consent or enforcement action. The diagram below shows how the two services interact.

As the diagram illustrates, there is a close relationship between the activities of both service areas. This is unsurprising as the Highway Authority manages a large estate of drainage assets which play a key role in the management of surface water flood risk in our communities.

The FRTM liaises directly with the Asset Management Team (AMT) in the Highway Authority. The role of AMT in prioritising and commissioning works on the highway makes it the primary contact for flood risk management projects.

Key Work Streams

Appendix 4 of this report outlined progress to date on delivering the Flood Risk Management Strategy and some of the issues the team is dealing with. These work areas have a strong correlation with the work of the Highway Authority and the skills it possesses.

The following is a summary of the work undertaken and the role of both FRMT and AMT in their delivery.

Surface Water Management Plans (SWMPs) – as discussed in Appendix 4, SWMPs are critical to the understanding of the flood risk in the area the plan covers. AMT provides asset and incident information which can be fed into the development of the SWMP. The outputs of the SWMP, which will include the identification of flooding hotspots and potential actions to remedy flooding problems, will be shared with AMT. This information will assist in the development and review of the Team's Drainage Strategy, currently in development.

Local Projects – AMT assists in the prioritisation of key highway works which will assist in the delivery of the grant funded projects overseen by FRMT, such as the clearance of highway gulleys in preparation for drainage surveys commissioned by FRMT.

Ordinary Watercourse Consenting and Enforcement – the workload generated by this new responsibility relates to issues which have highway drainage implications. This requires liaison with the appropriate teams within the Highway Authority; AMT is involved to ensure that if remedial works on the highway are necessary these are programmed and prioritised, The Network Management Team will be involved where enforcement action is necessary to ensure that poorly maintained or blocked third party drainage assets receiving highway water are cleared.

Preparation for Drainage Approving Role – the Highway Authority is involved in our preparations for this new role. As section 7.13 of Appendix 4 noted, there is still a lack of clarity on how the maintenance of approved drainage systems will be paid for. However, officers of the highway Authority are involved in discussions on how we might use existing skills and knowledge in developing a drainage adoption process and manage assets in the long term.

Flood Risk Management and Highway Authority team structure and relationships

