LOCAL FLOOD RISK MANAGEMENT STRATEGY 2022 – 2028

Appendix 1 Legislative and policy context

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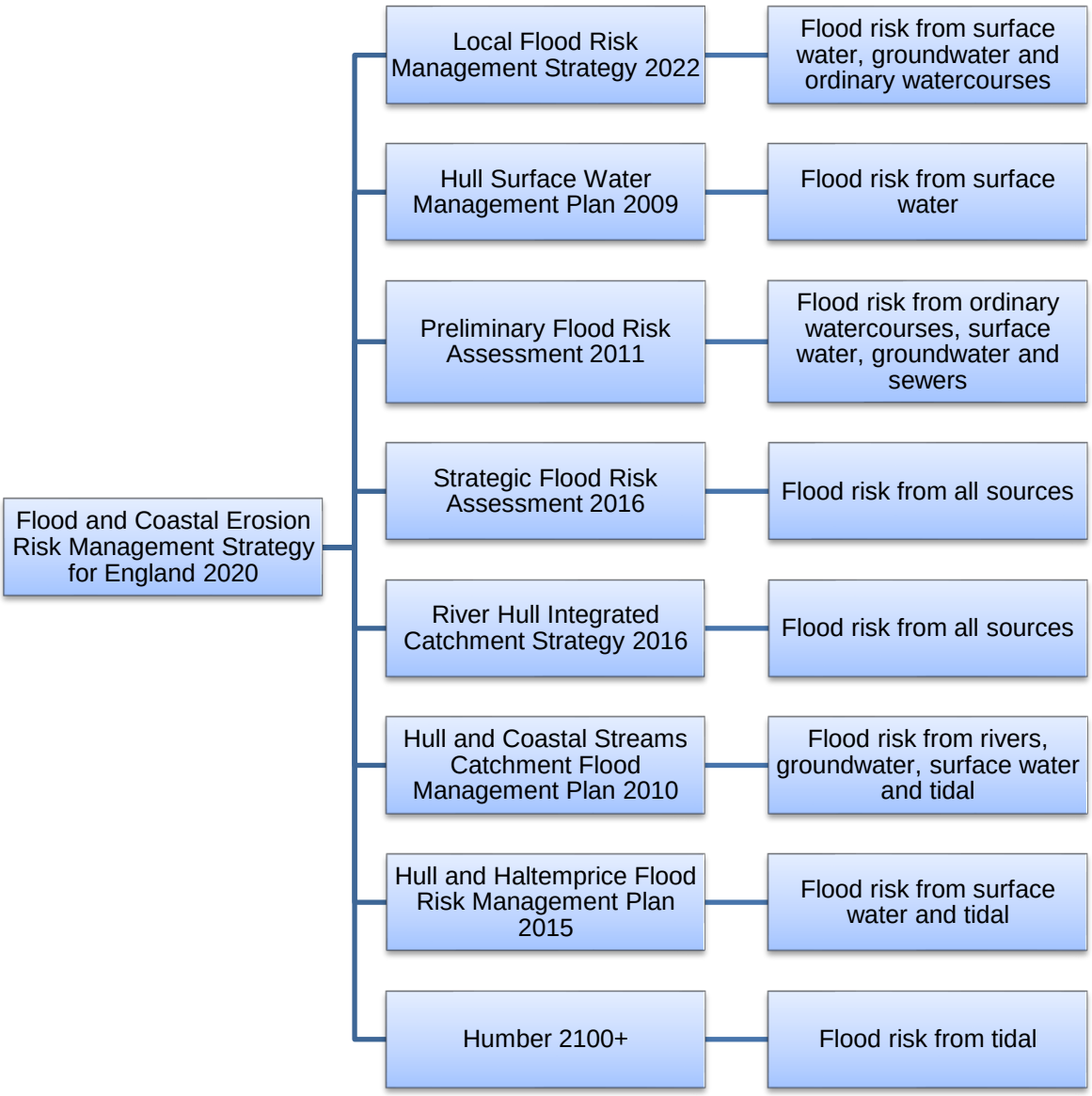
Contents

Overview

Throughout the 20th century, legislation and policy has developed as the relationships and interactions between the human and natural environment have become better understood. As the population of England has increased and land used for development has expanded, legislation was introduced to improve the way water is used as a natural resource and the way in which the water environment is managed.

Past flood events have shaped legislation on how England approaches flood risk management, with more emphasis being put on the increasing flood risk associated with climate change. This means addressing how flood risk needs to be managed now and in the future, taking into account effects of climate change, such as sea level rise and increased frequency and intensity of rainfall events. Following the nationwide flooding in England in 2007, it became clear that risk management authorities were not prepared or equipped to deal with flood events. Therefore, since 2007, UK legislation has focused on identifying responsibilities specifically for flood risk management.

The diagram below highlights strategies aimed at directly managing flood risk in Hull and the type of flood risk that is addressed in each strategy.



The issues of flood risk and resilience is not something to consider alone as one issue. The management of water needs to align with other objectives and aims of communities and other RMAs.

Further information on the policy context of flood risk management for local authorities in England can be found here.

National Legislation

There are 4 pieces of legislation that set out the national approach to flood risk management in England:

- The Pitt Review 2008
- Flood Risk Regulations 2009
- The Flood and Water Management Act 2010
- National Planning Policy Framework 2012

The Pitt Review 2008:

- Sir Michael Pitt was tasked by the UK government to carry out an independent review and provide recommendations of lessons learnt from the flooding emergency the UK experienced in 2007.
- The Pitt Review identified where change was needed in the pre-existing approach to flood risk management and this information was used to shape the Flood and Water Management Act 2010.
- There were 92 recommendations from the Pitt Review and they included how risk management authorities can be more proactive in preparing for future flood events as well as improving the response during flood events.

EU Floods Directive 2007 & Flood Risk Regulations 2009:

- The Flood Risk Regulations 2009 states that the EU Flood Directive 2007 was to be law in England and Wales.
- The Flood Risk Regulations 2009 aims to deliver a consistent approach to flood risk management from all sources of flooding across Europe.
- The Flood Risk Regulations 2009 identify three requirements that must be met on a six-year cycle period:
  - LLFAs must produce preliminary flood risk assessments of their river basin(s) to identify areas at significant flood risk;
  - in areas identified at significant risk, flood hazard and flood risk maps should be created to calculate potential water depths for at least a 1% annual exceedance probability event;
  - RMAs must produce a flood risk management plan for areas at significant flood risk.

The Flood and Water Management Act 2010:

- The Flood and Water Management Act 2010 aims to improve flood risk management in England by setting out specific roles and responsibilities for risk management authorities.
- The Act states that the Environment Agency have a strategic overview role for all sources of flood risk.
- Other risk management authorities are identified and have a responsibility to manage the risk of flooding from specific sources, including the introduction of LLFAs for managing local flood risk.

National Planning Policy Framework 2012 (updated 2021):

- The National Planning Policy Framework (NPPF) was published by the Department for Communities and Local Government (DCLG). It sets out the government policy on sustainable development that takes into account economic, social and environmental planning policies, climate change and flood risk.
- The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). However, it is accepted that it is not always possible to do this, for example in Hull where 98% of the city lies below the high tide mark.
- The NPPF sets out how to approach decisions about development in high flood risk areas and reduce the risk of flooding as much as is reasonably possible. Strategic policies should be informed by a strategic flood risk assessment and should manage flood risk from all sources.
- Local Plans must contain policies for local sustainable development and be supported by Strategic Flood Risk Assessments to develop policies on managing local flood risk from all sources.
- Local Plans are required to apply a sequential, risk-based approach when determining the location of development so that areas at high flood risk are avoided where possible. This will be informed by the SFRA. Local Plans must:

- apply the Sequential Test
- if necessary, apply the Exception Test
- safeguard land from development that is required for current and future flood management
- Use opportunities offered by new developments to reduce the causes and impacts of flooding where climate change is expected to increase flood risk. Take opportunities to help the relocation of developments, including housing, to more sustainable locations in the cases where existing development may not be sustainable long-term.

Most of Hull is located within flood zone 3, so the sequential test must be applied to most locations in Hull.

- Local planning authorities have a responsibility to make sure that new areas of development do not increase flood risk to other areas. Where developments can only be built in an area at high risk of flooding, planning authorities can take steps to ensure development is suitable for the local risks of flooding, for example:
  - planning applications must be supported by a flood risk assessment
  - evidence that the Sequential Test and, if necessary, the Exception Test, has/have been applied
  - plans to show how the development will be appropriately flood resilient and resistant to local sources of flood risk
  - the incorporation of nature-based solutions, including sustainable drainage systems

There is currently no legal requirement within existing Building Regulations for new developments to be built with Property Flood Resilience (PFR) measures. However, flood risk assessments (in line with Flood Risk Standing Advice) outlining how new developments will be flood proof is required for all new developments. It is more expensive to retrofit a property or building with PFR than it is to include in the initial designs before construction. The UK Government works with the British Standards Institution (BSI) to provide a good standard of flood resilience measures but uptake on PFR products on existing property is nationally low.

National Policies

The National Flood and Coastal Erosion Risk Management Strategy for England (FCRM), 2020:

- The national FCRM strategy for England sets out the approach to flood and coastal erosion risk management that the Environment Agency will deliver and all RMAs should follow. The national FCRM strategy is underpinned by predictions of the impacts of climate change and the increasing risks of flooding. The strategy is characterised by three themes:

  1. Climate resilient places
  2. Today's growth and infrastructure resilient to tomorrow's climate
  3. A nation ready to respond and adapt to flooding and coastal change.

- The national FCRM strategy encourages people and communities to take responsibility for their own resilience to flooding and climate change. Recent climate predictions warn us that flooding will continue to worsen over the next 80 years and there is only so much that flood infrastructure can do on its own.
- It has been recognised that it is not possible to always prevent flooding from happening but what we can do is improve personal awareness and resilience by becoming proactive before a flood event happens to reduce the reactive response after a flood.
- This includes working with other RMAs to use innovative, catchment scale solutions to deal with increasing flood risk events. By encouraging a more proactive approach it is anticipated that people can recover much quicker and be less affected by flooding.

The 25 Year Environment Plan, 2019:

- The UK government published the 25 Year Environment Plan in 2019 and set out the vision for a greener future to improve the environment. Flood risk and resilience plays an important role in working towards long term environmental sustainability and resilience for England.

- The main parts of the 25 Year Environment Plan which are reflected in this strategy include:
    - Thriving plants and wildlife,
    - Reduce the risk of harm from environmental hazards,
    - Enhance the natural environment,
    - Mitigate & adapt to climate change.
- Hull is a heavily urbanised area that is still growing and developing. Hull has seen massive investment into regeneration in recent years and it is essential that we, as a council, work together and take this opportunity to encourage flood resilience measures, along with climate resilience and sustainability, into plans and designs to ensure longevity. Despite being an urbanised area there is potential to work more closely with nature and in return encourage nature to thrive in the city.

National guidance on sustainable flood and coastal erosion risk management, sharing data and duty to cooperate DEFRA, 2011:

- Promotes the betterment of ecosystems and recommends the use of natural flood risk management schemes alongside typical hard engineering schemes.
- Provides guidance on sustainable flood risk management now and for the future.

Flood and coastal resilience partnership funding policy DEFRA, 2013:

- Specifies the outcome measures that must be achieved to qualify for funding from Flood Defence Grant in Aid (FDGiA), for example the number of properties better protected from a new flood alleviation scheme.
- Identifies the rate of payment for each outcome measure.

Flood Reinsurance scheme, 2014:

- The Water Act 2014 led to the introduction of 'Flood Re', whereby any payments made by insurers in relation to flood claims will be paid for by a separate levy,

- Flood Re is only available on homes built before 1st January 2009.

Regional Policies and Strategies

Humber flood risk management strategy 2008:

- defines how flood risk from the Humber estuary is being managed across the Humber region;
- promotes the application of nature-based solutions to reduce flood risk and improve habitats along the Humber estuary;
- the Humber 2100+ is currently being drafted to address flood risk in the Humber region takes into account climate change up to the year 2100.

The Estuary Plan 2021:

- aims to alleviate the risk of flooding to communities and industries around the Humber;
- the Plan jointly manages and invests in the Humber Estuary's unique natural resources;
- it will facilitate new economic development, working with agencies and stakeholders, to manage trade-offs in a transparent way.

Humber Flood Risk Management Plan 2015 – 2021:

- identifies the risk of flooding from all sources and sets out how the risk will be managed in the Humber river region.
- provides guidance on how RMAs in the Humber region plan to address preparation, protection, recovery and review of flood risk.
- the next plan is being drafted for 2021 – 2027.

Local Policies and Strategies

Hull Local Plan 2016 – 2032:

- sets the long-term strategic plan for Kingston upon Hull and defines strategic priorities, which includes water management, open space and the natural environment and environmental quality;
- Policies 37 – 40 specifically address flood and water management.

Hull and East Yorkshire Catchment Based Approach Strategy 2017:

- the catchment partnership works to promote the betterment of water bodies in Hull and East Riding;
- the partnership is made up of several organisation and HCC is a key partner; the catchment partnership has funded and helped to deliver several flood alleviation schemes in Kingston upon Hull, including Hull's Aquagreens.

Hull Strategic Flood Risk Assessment 2016:

- required as HCCs in their role as LLFA and is written in line with NPPF;
- identifies flooding from all sources and explains site-specific flood risk issues associated with planning application linking to HCCs local plan.

River Hull Integrated Catchment Strategy 2015:

- joint strategy with East Riding of Yorkshire Council, Environment Agency, Yorkshire Water and Beverley and North Holderness Internal Drainage Board;
- strategic overview of flood risk and potential mitigation measures within the River Hull catchment.

Preliminary Flood Risk Assessment 2011:

- required by HCC as role as LLFA under Flood Risk Regulations 2009;
- an assessment of areas in Kingston upon Hull that are at significant risk of surface water flooding.

Hull and Coastal Streams Catchment Flood Management Plan 2010:

- strives to work together with partners across the River Hull catchment to reduce flood risk in Hull;
- improve public awareness and consider climate change in emergency response plans.

Hull Surface Water Management Plan 2009:

- a long-term strategy to manage the risk of surface water flooding in Kingston upon Hull;
- includes maps to show flood depths and extents to be used to identify potential locations for future surface water flood risk management schemes, including Aquagreens.

Hull Biodiversity Action Plan 2002:

- action plan on how estuarine, freshwater, grassland and garden habitats could be preserved and enhanced in Kingston upon Hull;
- provides recommendations for the local area that fit into regional and national plans.

Hull's Open Spaces Strategy 2016:

- protecting and improving Hull's open spaces now and in the future;
- looks to align all the benefits that open spaces can deliver such as health, amenity, biodiversity, flood risk and climate change adaption.

Hull carbon strategy 2030:

- sets out how Hull will become carbon neutral by 2030 based around eight key themes: power, heat, mobility, carbon sequestration, fair transition, jobs and skills, and innovation;
- explores how nature-based solutions can be used alongside sustainable development, which within Hull mostly includes the consideration of flood risk.

Hull's Economic Strategy 2021:

- this will provide a framework to ensure the city benefits from opportunities ahead, linking into Hull's Health and Wellbeing and Place Based Strategies and contributing to the Hull and East Yorkshire Local Enterprise Partnership.

Historic Legislation and Policies

Public Health Act 1936 - local authorities may carry out works to ensure the proper flow of a watercourse, ditch, pond etc if it becomes blocked or poses a threat to human health if it is in a foul state.

Reservoir Act 1975 - Owners and operators of dams and reservoirs must comply with safety standards to reduce the risk of flooding that could be caused by dam or reservoir failure. The Environment Agency is responsible for making sure this act is followed.

Land Drainage Act 1991 - Riparian owners of watercourses must ensure that water can flow through the section of watercourse they are responsible for. An owner of a watercourse must maintain the watercourse to allow the free flow of water.

Water Industry Act 1991 - This Act governs Yorkshire Water, as Hull's water and sewerage company, and determines that they must provide, improve and extend public sewers to effectively drain the area it serves.

Water Resources Act 1991 - Consolidates previous legislation on water management and introduces the Environment Agency as having a strategic overview role in all flood defences. This act was superseded by the Flood and Water Management Act 2010.

The EU Water Framework Directive 2000 - introduced into UK law in 2003 and aims to improve the ecological and biological status of water bodies.

Making Space for Water 2004 - an assessment of coastal and flood risk management measures used in the UK was carried out and identified the importance of land drainage in urban and rural environments, the need to monitor planning applications to ensure drainage is incorporated into design plans, and the need to improve the level of resilience in new buildings. This legislation also set out how the UK will implement

the EU Water Framework Directive requirements, which included the creation of river basin management plans.

Civil Contingences Act 2004 - this was the first piece of legislation that addressed the response to a flood event by ensuring emergency planning can be carried out by relevant authorities efficiently and effectively (not including surface water flooding as these are mostly unpredictable). This Act identifies category 1 and category 2 responders. Category 1 responders include local authorities, emergency services and health authorities and services. Category 2 responders include owners of critical infrastructure, such as gas, electricity and water services. Local resilience forums were set up to allow multiple agencies to work together.

Future Water 2008 - This policy outlines objectives, which are based on Making Space for Water 2004, for risk management authorities in the water industry. Specifically, this policy lead to the requirement of LLFAs to produce Surface Water Management Plans and for sustainable drainage requirements to be considered rather than authorities having the ability to automatically connect surface water drains to public sewers.

PPS25 Development and Flood Risk 2009: This policy was brought in to ensure an integrated approach to development which considers flood risk. For example, by producing Strategic Flood Risk Assessments and promoting SuDS.

The Drainage Strategy Framework 2013 - This was developed by the Environment Agency and Ofwat and aims to align and integrate local drainage systems and water and sewerage company's assets. It is anticipated that multi-agency planning can deliver a more effective approach to local flood risk management.