



Flood Risk Management (FRM) - Information note to support engagement with flood risk communities

This information note is designed for use by organisations working with flood risk communities providing summary of the FRM legislation and roles and responsibilities. This note does not intend to be exhaustive and may need augmented with other information depending on the community and communication requirements.

Introduction:

Flooding is a real and present danger with 47%¹ of all weather related disasters across the planet due to flooding alone.

While it is essential to have emergency arrangements in place to respond to flooding and to be able to help the victims of flooding recover, it is equally important to be proactive and to take steps to reduce the risk of flooding. Changes to our climate with more frequent and severe weather events and rising sea levels over the coming decades is predicted to increase this risk and require even greater effort to reduce the risk flooding presents.

Scottish Ministers, Local Authorities, Scottish Environment Protection Agency (SEPA) and Scottish Water have a statutory obligation to progress flood risk management under the [Flood Risk Management \(Scotland\) Act 2009](#) (the 2009 Act). This act provides the framework within which flood risk management decisions are taken.

In summary, when undertaking their functions, these organisations must:

- act with a view to reducing overall flood risk;
- act with a view to achieving the objectives set out in the flood risk management plans;
- have regard to the social, environmental and economic impact of carrying out those functions.

These actions are designed to deliver effective and sustainable flood risk management in Scotland and thereby reduce the number of properties at risk of flooding. In addition to reducing the direct impact on people, addressing flood risk is also crucial to ensuring Scotland's continued economic success and well-being.

It should be noted however that individuals have the primary responsibility for protecting themselves and their properties from flooding.

¹ <https://www.un.org/sustainabledevelopment/blog/2015/11/un-report-finds-90-per-cent-of-disasters-are-weather-related/>

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Legislation

The 2009 Act introduced a more sustainable and modern approach to flood risk management, suited to the needs of the 21st century and addressing the increasing threat posed by climate change. It also creates a more joined-up and coordinated process to manage flood risk at a national and local level.

The Scottish Government set out [five outcomes](#) it intends to see delivered through the 2009 Act:

- A reduction in the number of people, homes and properties at risk of flooding through the investment of public funds in actions to protect the most vulnerable and those areas at greatest risk of flooding
- Rural and urban landscapes with space to store and slow down the progress of floods
- Integrated drainage that decreases burdens on sewer systems while also delivering reduced flood risk and improved water environment
- A well-informed public who understand flood risk and adopt actions to protect themselves, their property or their businesses
- Flood management actions that will stand the test of time and be adaptable to future changes in the climate.

Flood Risk Management Strategies (FRMS)

Under the provisions of the 2009 Act, Scotland developed its first [Flood Risk Management Strategies](#), (FRMS) published in December 2015, and the first [Local Flood Risk Management Plans](#) (LFRMP) were published by local authorities in June 2016. These are for a six-year period and the second cycle of strategies are being developed for 2022-2008.

For the purposes of the strategies, Scotland was separated into 14 Local Plan Districts (LPDs), based on river catchments rather than administrative and institutional boundaries, meaning LPDs can encompass more than one local authority area. A FRMS has been produced for each LPD and, taken together; they set the national direction for future flood risk management and coordinate the efforts of the delivery partners. A lead local authority has been identified for each LPD, responsible for the coordination and publication of the LFRMP

Local Flood Risk Management Plans

The LFRMP take each strategy document and translates it into a local delivery plan. The plans provide detail on how and when the actions set out in the strategy will be delivered locally, providing additional details on the cost and benefits, funding and delivery timetable for actions.

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The plans have been developed to manage and reduce flood risk across Scotland. They will be updated every six years, the first planning cycle covering the period 2016 to 2022. The range of actions available in this first cycle to reduce flood risk across Scotland can be summarised as:

FRM Actions					
Flood protection works	Natural flood management	New flood warning	Community flood action Groups	Property level protection	Site protection plans
Flood protection study	Natural flood management study	Maintain flood warnings	Awareness raising	Surface water plans/studies	Emergency plans/response
Maintain flood protection schemes	Strategic mapping/modelling	Flood forecasting	Self help	Maintenance	Planning policies

Drawing on this list, a bespoke package of actions is identified for priority areas at risk of flooding, formally identified as Potentially Vulnerable Areas (see below). The package will vary from area to area according to risk, need and resources for each area over the first six-year cycle to 2021.

Adequate funding is clearly key to the successful and effective delivery of the measures set out in each of the plans. To this end, in July 2016, Scottish Government [announced grant funding](#) totalling £420million over ten years to support the plans, with the Scottish Ministers and the Convention Of Scottish Local Authorities (COSLA) agreeing that, from 2016/17 onwards, the future funding of flood protection work should reflect the priorities set out in the FRMS and the more detailed LFRMPs.

Potentially Vulnerable Areas: (PVAs)

[PVAs](#) are areas where the potential impact of flooding is sufficient to justify action under LFRMP; these actions may include further assessment and appraisal of flood risk. Selection was based on catchment units that passed a threshold above which the total impact of floods in each area is considered nationally significant. A total of 243 PVAs have been identified across Scotland. They contain 92% of the total number of properties at risk within Scotland. It's important to note that flooding does and has occurred outside PVAs.

Duties and Responsibilities:

A full description of responsibilities under the 2009 Act is given [here](#) but, in summary they are:

SEPA:

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- SEPA is Scotland's national flood forecasting and flood warning authority. It delivers [Floodline](#), which provides live flooding information and advice on how to prepare for or cope with the impacts of flooding.
- SEPA is also the strategic flood risk authority and produced Scotland's first ever [Flood Risk Management Strategies](#).
- SEPA has a duty to provide flood risk advice to land use planning in Scotland when requested. But it is essential to note that the local authority is the planning authority, not SEPA.

Local Authority:

Under the Flood Risk Management (Scotland) Act 2009, a local authority has a duty to:

- Assess the relevant bodies of water (other than canals) in its area for the purpose of ascertaining whether the condition of any such body of water gives rise to risk of flooding of land within or out with its area
- Where a body of water gives rise to such a risk, and the authority considers that clearance and repair of works would substantially reduce the risk, prepare a schedule of those clearance and repair works
- Prepare maps of relevant bodies of water and sustainable urban drainage systems within their local area. These maps must be reviewed from time to time and be available for public inspection.
- In certain circumstances, and in default of proper action by riparian owners, to maintain watercourses where such action would substantially reduce the likelihood of flooding.

The duty to maintain a watercourse does not apply however where a failure to maintain the watercourse, would result in flooding of land in the same ownership as the watercourse.

Where the risk of flooding affects a significant number of properties, the local authority has powers to promote a formal flood prevention scheme. These works are normally extensive and require a statutory order promoted by the authority. This process can be a lengthy one and requires wide ranging public consultation.

Scottish Water:

[Scottish Water](#) is responsible for dealing with the immediate impact of flooding from sewers and is under a duty to assess the flood risk from sewerage systems.

Common Law & Property Owners:

Individuals have the primary responsibility for protecting themselves and their properties from flooding.

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The legal responsibilities for property owners is not straightforward and must reference to Scots Law.

Generally, property owners are responsible for safeguarding and insuring their land or property against all natural hazards including flooding. This includes taking steps to reduce the risk of flooding, provided these actions do not increase the risk of flooding to other properties, e.g. through actions such as dumping rubbish or building of structures or obstructions which alter the flow or form of the watercourse. The 'Riparian doctrine' is also recognised in Scots Law where owners have the primary responsibility for maintaining their element of a watercourse from bank to centreline.

Remember, where liability can be clearly proven, owners and others can be held responsible for increasing the risk of flooding to their neighbours.

Other Supporting Organisations:

The [Scottish Flood Forum](#) (SFF) is the only organisation dedicated to supporting Scottish communities and individuals who have flooded or at risk of flooding. It seeks to help communities and individuals understand the risks and consequences of flooding in their area supporting them to recover after a flood event and become more resilient. The SFF provides grassroots community development support to community resilience groups in flood risk areas across the country.

Key messages:

- The Flood Risk Management Act (Scotland) 2009 has resulted in a focused and coordinated work to deliver flood risk management in Scotland
- Statutory bodies are working together and building partnerships to develop and deliver Flood Risk Management Plans.
- Under Scots Law, property owners are responsible for safeguarding and insuring their land or property against all-natural hazards including flooding. This includes taking steps to reduce the risk of flooding, provided these actions do not increase the risk of flooding to other properties.

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