

**MANAGING THE REQUIREMENTS OF
THE FLOOD & WATER MANAGEMENT ACT 2010**

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Topics Covered :

Some of the challenges associated with
Duty to investigate floods, recording assets, setting up a Register of Assets
designating structures and principal changes to legislation

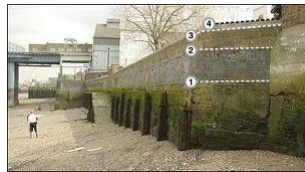
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The Surface Water Risk Problem....

<http://www.youtube.com/watch?v=LpYsyteNa8>

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Can you spot the “Odd One Out?”



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ANSWER : ?



?

Well, actually the correct answer is none of them!

Sir Michael Pitt clearly has links to the new Act through his Pitt Review and subsequent report to government and interestingly enough, talk of the flood Act was around as early as 1879 when improvements on the River Thames were formally recognised and enshrined into legislation.....the picture shows several of the staged raising of the walls over the years and serve as a timely reminder of the challenges we face today!

So what about our Mystery Character?
How is he linked in to todays presentation?

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A Man of Great Vision – Donald Rumsfeld!

“There are known knowns; there are things we know we know.
We also know there are known unknowns; that is to say we
know there are some things we do not know.
But there are also unknown unknowns – the ones we don't know
we don't know.”

Former United States Secretary of Defense Donald Rumsfeld –
United Nations Conference on Iraq Crisis – 2002

He didn't know it then, but he unknowingly knew then about the
unknown unknowns of the Flood and Water Management Act!

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The “Known Knowns”

The Flood and Water Management Act is here and now -

- There are numerous New Duties and obligations for LLFA's to address
- It has been borne from previous and serious flooding events here in the UK
- Flooding is widely recognised as a key risk (Civil Contingencies Act - risk registers)
- Climate Change is likely to increase both frequency and seriousness of flooding
- Economic impacts recognised to UK plc - a need to act now
- Floods can be complex requiring co-ordinated efforts of many
- Previous confusion and blame culture in the aftermath of flooding
- Floods are dangerous and can kill!

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The “Known Unknowns”

- Climate Change - driving a need to be able to “adapt”
- Understanding of flood risk has improved - but not comprehensive!
- To an extent, Floods can be unpredictable...limited information and modelling
- Development of probabilistic forecasting tools and technology is progressive
- Flash Flooding can happen anywhere - local “features” not mapped in full
- Until the flood happens, we tend not to focus our attentions on it
- Extreme Floods are rare - but with potentially devastating impacts
- Our assets can and do deteriorate without appropriate inspection and maintenance

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The “Unknown Unknowns”

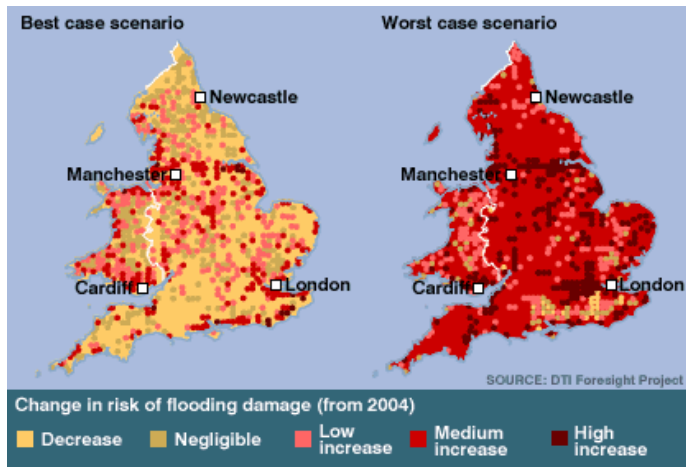
- Future National Government priorities
- Impacts from other Global and International “events”
- Unforeseen risks
- Extreme “Low probability - High Consequence” Natural Disasters can and will happen (those currently considered as managed , low to medium risk perhaps)
- Accept uncertainty about future funding and competing priorities
- Evolution – finding new ways of managing the risks

Donald Rumsfeld’s words were quite visionary indeed and certainly, hold true in the dynamic world of Flood Risk Management!

He clearly knew he knew what knows and unknowns he was talking about!

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Climate Change



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Timely Reminders - Towyn North Wales 1990



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Duty to Investigate and Maintain a Register and Record

Relevant parts of the Act :

- Sections 18 to 19 - Reporting and investigating floods and erosion
 - Covered by Commencement Order 1 July 2011 (England only) and Commencement Order 3 April 2011
- Section 21 - Duty to maintain a register of structures or features
 - Covered by Commencement Order 3 April 2011

**Subject to overview and scrutiny
Public actively involved in ensuring
authorities perform**

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Duty to Investigate and Maintain a Register and Record

“Section 19(1) – On becoming aware of a flood in its area, a lead local flood authority must, to the extent that it considers necessary or appropriate, investigate:- “

“Section 21 – Lead local authorities : duty to maintain a register”

Purpose : To ensure greater co-ordination of information and avoid situations where bodies do not accept responsibility, the lead local flood authority will :

- Investigate flooding incidents in its area (where appropriate or necessary) to identify which authorities have relevant flood risk management functions
- Establish what “they” have done or intend to do
- Publish and make available results from investigations and notify relevant authorities
- Establish and Maintain a register of “structures or features” which they consider to have a significant effect on flood risk in their area
- Records ownership details and state of repair
- Register to be made available for inspection and Secretary of State /Minister in Wales will be able to make regulations about content of register and Record

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Building on the Success of Existing Arrangements

The Act underpins some of the existing arrangements for managing flood risk
(for example - Civil Contingencies Act – Community Risk Registers & Custodians of Risk)

Risk Management – Role of the Local Resilience Forums (LRF's)

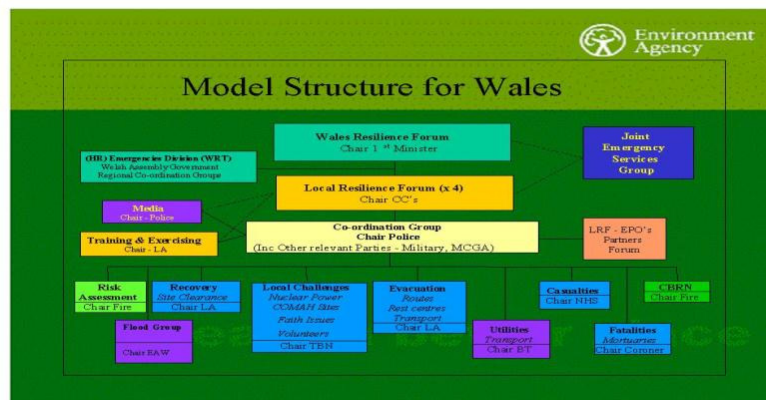
- Severe Weather and Flood Groups

Category 1 & 2 Responders (“Blue Light” services and Utilities etc.)

- Incident Response and Recovery planning initiatives in key risk areas
- Local Partnership Working within four Police Authority Boundaries in Wales
- Deciding “locally” what is appropriate, necessary, and of significance in terms of managing flood risks
- Lots of examples of good practice, raising awareness and partnership working

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Model LRF Structures - Managing Risks



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Minimum Legal Requirements

Summary legal characteristics of the Register and Record

	Register	Record
a.	Must be made available for inspection at all reasonable times.	Up to the LLFA to decide if they wish to make it available for inspection
b.	Must contain a list of structures or features which in the opinion of the authority, are likely to have a significant effect on a flood risk in its area.	For each structure or feature listed on the register, the record must contain information about its ownership and state of repair.
c.	s.21 (2) of the Act allows for further regulations to be made about the content of the register and record. There is currently no plan to provide such regulations therefore their content should be decided on by the LLFA depending on what information will be useful to them	
d.	There is no legal requirement to have a separate register and record although as indicated above, only the register needs to be made available for public inspection.	

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Recording Structures and Features



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Designation of Features

Understanding how flood mechanisms work

- Thinking about what features we need to record
- Third Party assets
- Powers of Control



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Schedule 1 :Risk Management- Designation of Structures & Features (including third party)

- Powers to designate structures and features that affect flooding or coastal erosion.
- Intended to overcome risk of person damaging or removing a structure or feature on private land which is relied on for flood or coastal defence
- Once designated, the owner must seek permission/consent from the authority to alter, remove or replace it
- Authority may be required to issue “enforcement notice” setting out the actions required to restore a feature.
- Individuals will have A RIGHT OF APPEAL against a designation notice, refusal of consent, any conditions imposed on a consent or enforcement notice.
- Likely to affect all manner of things such as...
- E.g. - weirs ,walls, earth banks, culverts , sluices, other raised structures , highway features, coastal frontages, slipways, gates, pumping stations ,Mrs Jones Boundary wall & raised patio and flower borders

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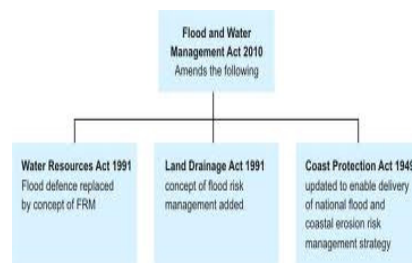
View from the Floor....

Discussion and information sharing opportunity–

- Where are you now?
- Do you have a Register and Record capability?
- What are your immediate next steps?
- What further information or further guidance would be helpful?
- Skills building and resources – what skills and resources will you need to discharge new duties?

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Legislative Changes



Schedule 2 Details the changes and impacts on existing legislation

- Coastal erosion risk management authorities are Coast Protection Authorities and the Environment Agency
- Works subject to and consistent with, *national flood and coastal erosion risk management strategies* (for England and Wales)

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Land Drainage Act - Principal changes

- Concurrent powers of EA are repealed - emphasis now on LLFA's and IDB's
- Works in accordance with local flood risk management strategy for area
- Manages risk from surface runoff, groundwater ordinary watercourses including lakes, ponds and other areas of water
- Emphasis on maintaining, operating, improving, monitoring, investigating, alteration and removal of works
- Section 23 (LDA) - powers of control for culverts (other structures) likely to affect the flow of an ordinary watercourse
- Consenting arrangements and associated Fee charging schemes
- Powers to make byelaws for purposes of securing effectiveness of flood risk management within it area
- Excludes Main River – Environment Agency cover risks from sea and main river

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New Duties for LLFA's

Essentially, the existing arrangements are now clearly split :-

- EA - Main River and the Sea
- LLFA - Ordinary Watercourses - surface water runoff

Will require the introduction of new departmental arrangements similar to those currently discharged by the Environment Agency.

ALL SUBJECT TO SCRUTINY!

A need to provide timely and co-ordinated information and responses to reports

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New Duties - Powers of Control

Environment Agency well placed to advise and support!

Familiar with :-

- Current consenting powers (Main River and Non Main River)
- Enforcement Powers
- Assessment of proposed works affecting third party interests
- Compensation , disputes and rights of appeal – Tribunals
- Design standards of protection - river dynamics and hydraulic structures
- Modelling needs (use of specialist consultants where appropriate)

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Some Immediate Challenges ?

- What constitutes a flood investigation ? (A quick inspection and photo or a more thorough investigation, hydraulic study and options appraisal)
- What level of "detail" is required ? (Thirst for knowledge by the public at large - what will be done about the flooding - evidence gathering)
- Who should "deploy" and lead investigations?(Clear accountability)
- Floods are "complex" - often involve interactions of assets, structures and features? (Partnership working is key)
- Which features should we be mapping, registering and recording? (Some are obvious, others not quite so)
- What Data bases do we currently have - can they be adapted fit for purpose?
- The future of NFCDD - National Flood and Coastal Defence Database? (AIMS and other EA Tools - need for consistency in approach?)

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The Flood and Water Management Act - Providing some of the answers but not all?



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Questions and Review

- What do you see as the main issues and challenges for your authority going forward?

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Sources of Useful Information

Environment Agency E-Learning Packages

<http://learning.environment-agency.gov.uk/courses/FCRM/capacity/legal/>

Defra

<http://www.defra.gov.uk/environment/flooding/legislation/la-roles/>

Welsh Government

<http://new.wales.gov.uk/topics/environmentcountryside/epq/?lang=en>