

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

Presented by:

**Dave Collyer** (MWA Director)

**Mike Wellington** (MWA Associate)

and

**Paul Reeves** (MWA Business Development Manager)

12 September 2011

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### **Today's aims and objectives**

- To introduce the Flood and Water Management Act and to explain some of the more significant implications arising from it
- To explore some of the ways in which Local Authorities could/should meet some of the major challenges ahead
- To encourage further dialogue and cooperation between all parties involved in the implementation of the Act

### **Facilitated by Martin Wright Associates**

- Many experienced staff with vast experience of working in Local Authorities/EA dealing first hand with the type of issues covered by the Act
- We recognise the importance of the Act and have spent a lot of time keeping up to date with it's implementation
- We don't pretend to be the experts, but we do believe we can help you

**Your views, experiences and thoughts are welcome**

**AIMS & OBJECTIVES**

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## Agenda

### Session 1

- 13.20 - 13.30 Introduction to the Act (Dave Collyer)  
 13.30 – 13.55 Responsibilities, developing a local strategy, effectively communicating (Dave Collyer)  
 13.55 - 14.25 SuDs (Mike Wellington)  
 14.25 - 14.40 **Tea/Coffee**

### Session 2

- 14.40 - 15.05 Duty to investigate floods, recording assets, setting up a Register of Assets and designating structures (Paul Reeves)  
 15.05 - 15.30 Changes to existing legislation, powers of control, etc. (Paul Reeves)  
 15.30 - 16.00 Discussion

AGENDA

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## INTRODUCING THE FLOOD & WATER MANAGEMENT ACT 2010

*“An Act to make provision about water, including provision about the management of risks in connection with flooding and coastal erosion”*

- Came into effect in April 2010
- Implements many of the recommendations of the Pitt Report into the 2007 floods
- Addresses many of the concerns/ideas arising from ‘Making Space for Water’ and generally about how flood risk is managed in England & Wales
- Consistent and complimentary with the Flood Risk Regulations 2009
- **WILL HAVE A SIGNIFICANT IMPACT UPON LOCAL AUTHORITIES**
- New money has been made available by DEFRA and Welsh Government

INTRODUCING THE ACT

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The **Flood and Water Management Act 2010** has:

**81 Pages**

**49 Sections**

**3 Parts**

- Part 1: Flood & Coastal Erosion Risk Management (Sections 1 to 31)
- Part 2: Miscellaneous (Sections 31 to 46)
- Part 3: General (Sections 46 to 49)

**5 Schedules** (further provisions of the Act, often more technical in nature than those in the sections)

- Schedule 1 – Risk Management: Designation of Features
- Schedule 2 – Risk Management: Amendment of Other Acts
- Schedule 3 – Sustainable Drainage
- Schedule 4 – Reservoirs
- Schedule 5 – Special Administration

**HOW THE ACT IS MADE UP**

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Sections 1 to 6      Definitions

**Sections 7 to 12      National and Local Strategies in England and Wales**

**Sections 13 to 15      Co-operating, working together and sharing information**

Sections 16 to 17      Grants and Levies

**Sections 18 to 19      Reporting and investigating floods and erosion**

Section 20 and 29      Appointing an authority to undertake the work of another

**Section 21              Duty to maintain a register of structures or features**

Sections 22 to 26      Regional Flood and Coastal Committees

Section 27              Sustainable development

Section 28              Amending other Acts

Sections 30 to 34      Brings into effect Schedules 1 to 5

Sections 35 to 36      Adds sub-sections to the Water Industry Act

Section 37              Civil Sanctions

**HOW THE ACT IS MADE UP**

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Sections 38 to 39	Undertaking work that may cause incidental flooding
Section 40	Building Regulations: Flood resistance
Section 41	Compulsory work orders
Section 42	Connecting to sewers and drains
Sections 43 to 45	Charges and tariffs
Sections 46 to 49	Procedural issues
<b>Schedule 1</b>	<b>Designating features</b>
<b>Schedule 2</b>	<b>Amendment of other Acts</b>
<b>Schedule 3</b>	<b>SuDS</b>
Schedule 4	Reservoirs
Schedule 5	Special Administration

**HOW THE ACT IS MADE UP**

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<b>SECTION 9</b> Local FRM strategies: England	<b>SECTION 10</b> Local FRM strategies: Wales	<b>SECTION 11</b> Effect of national & local strategies: England	<b>SECTION 12</b> Effect of national & local strategies: Wales	<b>SECTION 13</b> Co-operation and arrangements	<b>SECTION 14</b> Power to request information	<b>SECTION 15</b> Civil sanctions	<b>SECTION 16</b> Funding
<b>SECTION 17</b> Levies	<b>SECTION 18</b> Environment Agency: reports	<b>SECTION 19</b> Local authorities: investigations	<b>SECTION 20</b> Ministerial directions	<b>SECTION 21</b> Lead LAs: duty to maintain a register	<b>SECTION 22</b> Establishment	<b>SECTION 23</b> Consultation and consent	<b>SECTION 24</b> Membership
<b>SECTION 25</b> Money	<b>SECTION 26</b> "The Minister"	<b>SECTION 27</b> Sustainable development	<b>SECTION 28</b> Power to make further amendments	<b>SECTION 29</b> Restructuring	<b>SECTION 30</b> Designation of features	<b>SECTION 31</b> Amendment of other Acts	<b>SECTION 32</b> Sustainable drainage
<b>SECTION 33</b> Reservoirs	<b>SECTION 34</b> Special administration	<b>SECTION 35</b> Provision of infrastructure	<b>SECTION 36</b> Water use: temporary bans	<b>SECTION 37</b> Civil sanctions	<b>SECTION 38</b> Incidental flooding or erosion: EA	<b>SECTION 39</b> Incidental flooding or erosion: LAs	<b>SECTION 40</b> Building regulations: flood resistance
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**IMPLEMENTATION DATES**

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**IMPLEMENTATION DATES**

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## Local Authority Responsibilities under the F&WM ACT

The Act places a significant and new level of duty and responsibility onto some local authorities.

“Much has been achieved since 2007, with the Flood and Water Management Act, greater powers and clarified responsibilities for tackling local sources of flood risk, and a new role for lead local flood authorities in bringing partners together and **making sure things get done**”.

Richard Benyon MP (Parliamentary Under-Secretary of State)

LOCAL AUTHORITY RESPONSIBILITIES

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The Act establishes the new role of.....

### **the lead local flood authority (LLFA)**

..... a unitary authority or county council

***“the role of local authorities should be enhanced so that they take on responsibility for leading the co-ordination of flood risk management in their areas”***

***“This will avoid any delay or confusion about who is responsible”***

Sir Michael Pitt (2007)

LOCAL AUTHORITY RESPONSIBILITIES

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### Leading and coordinating who or what ?

- Working together with other **risk management authorities** and exchanging information will be essential

### Risk Management Authorities (as defined by the Act)

- The Environment Agency
- A Lead Local Flood Authority
- A District Council for an area where there is no unitary authority
- An Internal Drainage Board
- A Water Company
- A Highway Authority

LEADING & COORDINATING

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### Section 13 – Co-operation and arrangements

- Risk management authorities (and Welsh Ministers) **must** co-operate with each other in the exercise of their flood and coastal erosion risk management functions

### Section 14 – Power to request information

- The Environment Agency and Lead Local Flood Authorities may request a person to provide information in connection with the authority's flood and coastal erosion risk management functions
- Section 15 allows for fines to be imposed if information is not provided

CO-OPERATING

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	County and Unitaries	District Councils	Highway Authorities	IDBs	Water Companies
Strategic co-ordinating function	✓				
New duty to act consistently with national strategy	✓	✓	✓	✓	✓
New duty to act consistently with local strategies	✓	✓	✓	✓	✗
New duty to have regard to local strategies	✓	✓	✓	✓	✓
New duty to investigate	✓	✗	✗	✗	✗
New duty to maintain asset register	✓	✗	✗	✗	✗
New Power to designate 3rd Party assets	✓	✓	✓	✓	✗

**ROLES & RESPONSIBILITIES OF OTHERS** [www.martinwrightassociates.com](http://www.martinwrightassociates.com)

	County and Unitaries	District Councils	Highway Authorities	IDBs	Water Companies
New duty to co-operate & provide information	✓	✓	✓	✓	✓
New power to request information	✓				
New power to enter into arrangements	✓	✓	✓	✓	✓
New and existing works powers	Surface water & ground water	Ordinary watercourses (where not an IDB area)	Under Highways Act 1980 (not modified)	Ordinary watercourses in IDB areas	Effectual drainage (not modified)
New Environmental works powers	✓	✓		✓	
Transferred Powers from EA to consent to works which may lead to obstructions to ordinary watercourses.	✓ can delegate to District Councils				

**ROLES & RESPONSIBILITIES OF OTHERS** [www.martinwrightassociates.com](http://www.martinwrightassociates.com)

## NATIONAL AND LOCAL STRATEGIES

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### National Strategies

**Section 7** of the Act:

The **Environment Agency** must develop, maintain, apply and monitor a strategy for flood and coastal erosion risk management in **England** (a “*national flood and coastal erosion risk management strategy*”)

**Section 8** of the Act:

The **Welsh Ministers** must develop, maintain, apply and monitor a strategy for flood and coastal erosion risk management in **Wales** (a “*national flood and coastal erosion risk management strategy*”)

NATIONAL STRATEGIES

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## What is in a National Strategies?

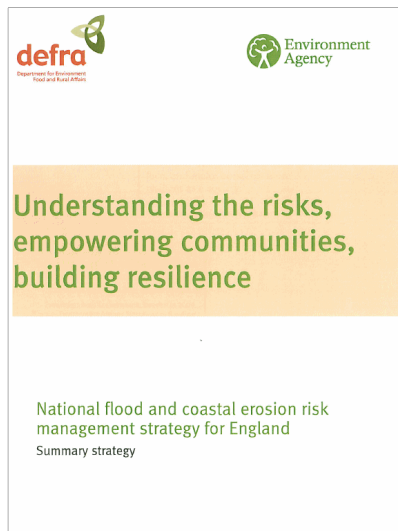
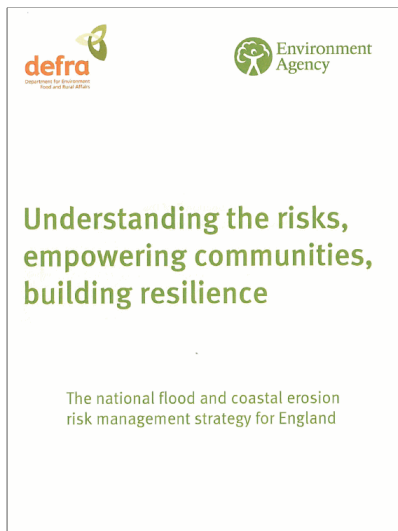
Each of the Strategies (England and Wales) must specify .....

- a) the English/Welsh risk management authorities,
- b) the flood and coastal erosion risk management functions that may be exercised by those authorities in relation to England/Wales,
- c) the objectives for managing flood and coastal erosion risk,
- d) the measures proposed to achieve those objectives,
- e) how and when the measures are to be implemented,
- f) the costs and benefits of those measures, and how they are to be paid for,
- g) the assessment of flood and coastal erosion risk for the purpose of the strategy,
- h) how and when the strategy is to be reviewed,
- i) the current and predicted impact of climate change on flood and coastal erosion risk management, and
- j) how the strategy contributes towards the achievement of wider environmental objectives.

**NATIONAL STRATEGIES**

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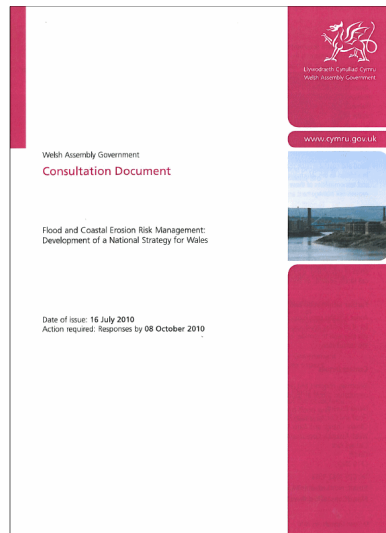
## The English National Strategy



**NATIONAL STRATEGIES**

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## The Welsh National Strategy



- Consultation document issued in July 2010
- Responses received by October 2010
- Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) are now complete.
- Publication of the final strategy is expected in the autumn (subject to the views of the Minister)

NATIONAL STRATEGIES

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## Local Strategies

### Section 9 of the Act:

A lead local flood authority for an area in England must develop, maintain, apply and monitor a strategy for **local flood risk** management in its area (a “local flood risk management strategy”)

### Section 10 of the Act:

A lead local flood authority for an area in Wales must develop, maintain, apply and monitor a strategy for **local flood risk** management in its area (a “local flood risk management strategy”)

**local flood risk** means flood risk from:

- surface runoff,
- groundwater, and
- ordinary watercourses

LOCAL STRATEGIES

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## What is in a Local Strategy?

The strategy must specify...

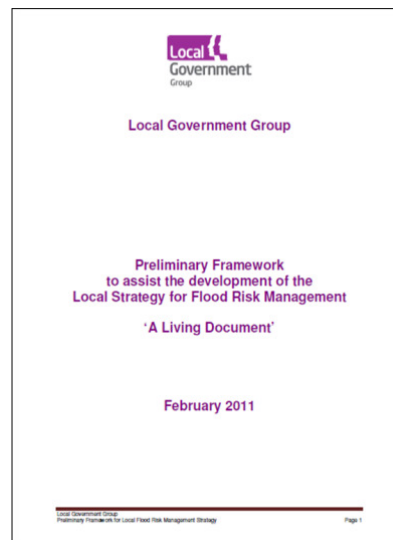
- a) the risk management authorities in the authority's area,
- b) the flood and coastal erosion risk management functions that may be exercised by those authorities in relation to the area,
- c) the objectives for managing local flood risk (including any objectives included in the authority's flood risk management plan prepared in accordance with the Flood Risk Regulations 2009),
- d) the measures proposed to achieve those objectives,
- e) how and when the measures are expected to be implemented,
- f) the costs and benefits of those measures, and how they are to be paid for,
- g) the assessment of local flood risk for the purpose of the strategy,
- h) how and when the strategy is to be reviewed, and
- i) how the strategy contributes to the achievement of wider environmental objectives.

LOCAL STRATEGIES

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## Preparing a Local Strategy

- No set timescale to produce strategy
- Must be consistent with National Strategy
- Must consult with risk management authorities and the public
- Must publish summary
- In Wales, Local Strategy must be approved by Welsh Ministers (not required in England !)
- What about timescale for reviewing the strategy?
- SEA required?
- **Guidance is available (72 pages)**



LOCAL STRATEGIES

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- **The Act and the implementation of the Act**
- **Definitions**
- **Roles and responsibilities**
- **Coordinating**
- **Co-operating**
- **Requesting information**
- **National Strategies**
- **Local Strategies**

**Any questions, thoughts, ideas ?**