

**Hampshire Flood Risk Management Partnership Event: 9 December 2013**  
**Hampshire County Council Environment & Transportation Select Committee: Request for Written Evidence**

**Deadline for receipt of responses:** 10 November 2013

The following questions are being addressed to the local flood risk management authorities operating in Hampshire and the relevant regional flood and coastal committees. Your organisation's response to as many of these questions as are relevant will assist the Select Committee in its investigations.

You are welcome to use this document as a basis for your response (please contact the scrutiny officer, see below, for an electronic copy), or submit a separate document if you prefer.

**Name of Organisation Responding:** Hampshire County Council

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**Q1 What is Hampshire County Council's understanding of the key challenges in obtaining funding for flood risk management in Hampshire, and how might these be surmounted?**

There are three key funding external sources available to the County Council: Flood Defence Grant in Aid (FDGiA); Local Levy; and public or private funding contributions.

**Flood Defence Grant in Aid**

The primary source of funding for flood and coastal defence risk management comes from central government, known as Flood Defence Grant in Aid (FDGiA). All proposed Flood and Coastal Erosion Risk Management projects are assessed under the Government's new policy of Flood and Coastal Resilience Partnership Funding.

Based on the County Council's experience and understanding of the process, the main challenges for the authority in obtaining this source of funding are:

**a) Prioritisation of FDGiA funding**

Funding from the FDGiA is prioritised nationally, based on a project's ranking according to its Partnership Funding score. However, in this process Hampshire is disadvantaged compared to many other parts of the country, as schemes in deprived parts of the country score higher and Hampshire has less than the national average of properties at risk in such areas. It is also likely to prove challenging to secure private contributions to enhance the Partnership Funding score.

**b) Hampshire flooding issues**

Hampshire has many small rural communities where groundwater flooding, often combined with surface water, occurs over long periods of time with devastating long term impacts both for householders and local business. However, in each community it affects a relatively small number of properties. Consequently, the County Council finds it difficult to attract FDGiA funding for such schemes as they benefit relatively few people compared to bids for projects in the more densely populated urban areas, particularly those in coastal areas. Also the long term impacts are inadequately reflected in the Environment Agency's funding calculator/mechanism.

**c) Process and timescale**

The process for obtaining FDGiA presents its own challenges as the current annual 'bidding' process takes almost a year from the time a new bid is submitted to when final approval of funding is given. This has significant resource implications and can prove a disincentive to initially

submitting projects, particularly when it involves relatively small scale and low cost schemes and is dependant on securing other partnership funding contributions.

The Partnership Funding score is expressed as a percentage. In order for a scheme to secure Grant in Aid the threshold was 100%. However, because of existing commitments in Defra's flood and coastal defence capital programme, in 2014/15 the Partnership funding threshold score has been raised to 256%. The four schemes the County Council has submitted for funding in 2014/15 had Partnership Funding scores of between 100% and 120%. Given the amount of national funding available and the number of cost-beneficial schemes in the pipeline, the threshold score is expected to remain significantly above 100% at least for the next two to three years, with little prospect of the County Council securing funding from this source. It could also be argued that the process fails to provide the confidence and certainty necessary to attract potential funding partners, particularly in these economically challenging times.

### **Local Levy**

A Local Levy is charged to the Lead Local Flood Authorities (LLFAs) such as Hampshire County Council. The levy is set by the Regional Flood and Coastal Committees (RFCC) who use it to support flood risk management projects that do not attract national funding through FDGiA. This enables projects of local importance to be undertaken. There are key challenges to secure funding from this source. The call on the funding held by the Southern RFCC is dominated by significant coastal flooding issues in urban areas along the south coast. Thames RFCC has the most significant funding of the three that operate in Hampshire. However, Hampshire's priorities have to compete with the nationally higher priorities of the London Boroughs and Surrey with dense populations, which score more highly in the bidding process. The Wessex RFCC has a very small budget and includes only a small area of Hampshire. The process for bidding separately to all three committees for funding is resource intensive.

### **Other potential sources of funding**

Other sources of funding are local authorities, parish and town councils as well as contributions from individuals or local businesses who will benefit from flood alleviation schemes. Without the certainty that the schemes can be delivered as part of a longer term programme, it is challenging to plan and secure partnership funding from other public and private sources.

### **Q 2. What role, if any, can partnership working play in helping to attract funding for flood risk management in Hampshire ?**

Partnership working is supported and embedded in the County Council ethos. However, the context within which partnerships need to function is very complex. In 2010, Hampshire County Council established the Hampshire Strategic Flood and Water Management Group<sup>1</sup>. This officer group has worked successfully to interpret and share information with respect to the new responsibilities under the Flood and Water Management Act. With the adoption of Hampshire's Local Flood Risk Management Strategy (LFRMS) in July 2013, the terms of reference have been revised to become the Hampshire Strategic Partnership Board with the prime focus on delivery of the LFRMS for Hampshire. This will include maximising opportunities for partnership working, identifying opportunities to attract partnership funding, and the joint delivery of projects.

### **Q3. What can Hampshire County Council do to help maximise investment in Hampshire's flood risk management?**

#### **a) A new approach to securing a long term joint funded capital programme**

The County Council has already explored the potential for a joint Hampshire County Council/Environment Agency three year flood defence capital programme Pathfinder. The aim was

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<sup>1</sup> representatives from the County Council, Hampshire District Authorities, the adjoining Lead Local Flood Authorities (Southampton, Portsmouth and the Isle of Wight Unitary Authorities), the Environment Agency, water companies, National Park Authorities, the emergency services, Parish and Town Councils and other key stakeholders.

to overcome challenges encountered in the bidding process for Defra FDGiA funding. The proposal had the added benefit of providing greater certainty through a longer term strategic programme of capital works and by potentially unlocking external contributions for flood risk management schemes to enable economic development. It was also hoped that a longer term approach would enable the lowering of costs through a more strategic approach to procurement. However, whilst supportive of the principle of the Pathfinder, somewhat surprisingly Defra considered that its objectives could be achieved through the existing funding mechanism.

**b) Capital programme to attract external contributions**

The County Council allocated £1.5m of capital funding in 2011 for a 'Flood Risk and Coastal Defence Management' two year programme 2012/14 and hoped to augment this through FDGiA and also partnership funding for delivery of the priority flood mitigation schemes identified in the Local Flood Risk Management Strategy for Hampshire. Four scheme proposals have already been submitted for 2014/15 FDGiA funding. As the thresholds for attracting funding for 2014/15 have now been raised since the schemes were submitted, and there is now no prospect of securing FDGiA, officers have commenced discussions with the EA to secure Local Levy funding instead.

**c) Representation on Regional Flood & Coastal Committees**

In order to promote Hampshire's interests and influence the prioritisation of funding allocation, the County has Member representation on all three Regional Flood and Coastal Committees (RFCCs) in Hampshire (Southern, Thames and Wessex – on Thames it is a shared seat). The Environment Agency is required to obtain the consent of the committees before it can implement its regional investment programme for their region. As part of this process the RFCCs can propose changes to the programme which reflect local choices. Therefore, the Hampshire County Council Members on these committees have an important role to play in relation to investment in flood risk mitigation.

**d) Partnership working to develop schemes to attract regional funding**

The County Council has been working closely with the Environment Agency. A practical demonstration of this collaborative approach has been that since August an EA officer has been working from the County Council's office one day a week, providing invaluable advice and guidance, not least in respect to the agency's flood risk management funding process and in the planning and development of schemes such as at Hambledon, for which FDGiA and now Local Levy funding has been sought.

**4. The Flood and Water Management Act has made major changes in the division of responsibilities for flood risk management. However, the duties conferred upon the various agencies by the legislation interact and overlap, as do the sources of flooding themselves. What are the key areas of overlap (in the opinion of Hampshire County Council) and what challenges do these pose to flood risk management in Hampshire?**

The Flood & Water Management Act 2010 (FWMA) was, to a great extent, the Government's response to the Pitt Review of the serious flooding events which occurred across large parts of England in the summer of 2007. A key theme of the Pitt Review was the need to simplify and clarify responsibility for flood risk management. The Government responded by legislating for the creation of Lead Local Flood Authorities (LLFAs). This role was given to upper tier local authorities (County and Unitary Councils).

The purpose of the LLFAs was to co-ordinate the activity of all flood risk management authorities in managing local sources of flood risk (groundwater and surface water flooding), which necessarily interact with other sources of flooding. However, the provision of such leadership is dependant upon the statutory "Duty to Co-operate" incumbent upon all risk management authorities. Partnership working is therefore essential to the success of the Government's initiative. Fortunately, in Hampshire partnership working on flood related issues has shown early signs of success in the planning stages. It is hoped that this momentum can be built upon in the delivery

stages. However, there are some key challenges to achieving this. Perhaps the biggest challenge is funding, which is addressed elsewhere in the answers to the Scrutiny Committee's questions. Other challenges relating to the overlap of responsibilities may be categorised as:

- Physical challenges – being the physical interaction between sources of flood risk, which can be difficult to predict and to manage, especially across organisations. Flooding has a number of key sources, and these interact in complex ways. Different types of flood causes are the responsibility of different agencies and over different administrative areas, but more often than not a flood event is attributable to several different types of cause;
- Legal challenges – being some of the legal ambiguities and grey areas relating to which authorities are responsible for which flood risk management activities, especially in the specific and complex situations;
- Practical challenges – being the competing priorities of the risk management authorities, which must be reconciled for effective risk management across the authorities in order to guarantee the best outcome for the public. We cannot fund all the risk management activity proposed by all the risk management authorities; but we can work together to minimise the risk of flooding in general to residents of Hampshire.

Flood risk management authorities in Hampshire are still adjusting to the new context set by the incrementally enabled Flood and Water Management Act – and this at a time of restricted resources. All of the challenges identified above may be illustrated by the example set out below. As the answer provided to the next question suggests, lessons were learnt from this episode, and improved collaboration will result.

A problem arose 12 months ago in St Mary Bourne where groundwater was infiltrating Southern Water's sewerage system and causing a back up of sewage in residential properties and localised flooding in the village. The County Council is responsible for managing groundwater flood risk. Southern Water is responsible for managing flood risk from its sewers. The Environment Agency became involved because Southern Water's initial response to the problem was pumping out of the sewers and disposal of the water, once treated, into a local water course. The Environment Agency therefore had to monitor the amount and quality of water entering the system. The district council was also involved from an environmental health perspective, and also because, under the Land Drainage Act, they have encouraged local residents to tackle infiltration into the sewerage system from their privately owned drains. Finally the Parish Council and local County Council Members were involved as representatives of the local community. Clearly this was a complex problem of over-lapping responsibility where, pre-Flood and Water Management Act, the various parties may have simply 'passed the buck' between them with no satisfactory way forward agreed.

Two further points should be raised in answer to this question. Firstly, as the answers to questions 6-8 indicate, the need for the district councils and the County Council to work together is paramount when it comes to making the new drainage approval responsibility a success, and ensuring it does not hinder development.

Finally, an important lesson which emerged from the preparation of the Local Flood Risk Management Strategy was that the relatively small scale actions which can be taken by private (riparian) landowners are especially important to alleviating flooding through better management of water courses. Publicising that message and taking necessary action to mitigate this local flood risk can only be achieved through co-operation and collaboration between the relevant bodies.

**5. How can these challenges be managed, and what are the key actions that must be taken to improve flood risk management partnership working in Hampshire?**

Dialogue between risk management authorities is paramount to developing a shared understanding to help manage these challenges. From this can flow the mechanisms required not only to prevent future flooding but also to react to it promptly in situations where several agencies have a role to play.

As stated, an excellent basis for future partnership working has been built already in Hampshire. Perhaps the biggest and most successful single initiative the County Council has pursued is the creation of the Hampshire Strategic Flood & Water Management Group. This group ensures by working together that action on local flood risk, as led by the County Council, is appropriately co-ordinated with the activities of other authorities. It comprises representatives from across the County Council as well as the water companies, the Environment Agency, district and local councils (the latter through the Hampshire Association of Local Councils) and adjoining LLFAs. It has recently agreed a new terms of reference to enable a stronger focus on delivery, maximising partnership working to identify opportunities to attract partnership funding and the joint delivery of projects. A series of sub-groups have been established to address particular aspects of the Flood and Water Management Act including sustainable drainage, the Local Flood Risk Management Strategy, and the investigation / register & record duties. Other networks also exist, such as that used to develop the Local Flood Risk Management Strategy in collaboration and consultation with interested parties. It is this kind of dialogue, which did not exist to the same extent before the establishment of lead local flood authorities, that will be vital to improving outcomes for residents. But so far this has focused upon planning, and there is now an urgent need to conjoin efforts in delivery, especially of the following:

- A collaborative approach to attracting funding into Hampshire;
- A Sustainable Drainage Approval Process fully integrated into the planning system as exercised across Hampshire;
- The regular and easy sharing of technical information;
- The collaborative identification of flood risks in Hampshire with complex causes requiring action from multiple authorities, and agreed protocols to managing such risks.

During the flooding problems at St Mary Bourne this year, the County Council used its new powers under the Flood and Water Management Act to carry out an investigation into the problem, which resulted in the formation of a steering group comprising representatives of the organisations concerned, as listed above, chaired by Hampshire County Council. A communications protocol was agreed and a public meeting was held to discuss the problem and potential ways forward. Finally, a draft Infiltration Reduction Plan was prepared. Regular communication was undertaken with the local community and, while the Infiltration Reduction Plan is still in the process of being finalised between the Environment Agency and Southern Water, this has been an excellent example of addressing the challenges of 'overlapping responsibilities' in action. The chief lesson learned here is the importance of early, decisive action in co-ordinating the efforts of the various authorities and building a consensus on what actions should be taken, ensuring united and consistent communication to local communities as soon as possible after the problem has been identified.

**6. Once the Flood and Water Management Act has been fully enabled, the County Council will be responsible for approving and adopting all drainage systems on new developments. What impacts will this have upon Hampshire County Council and its operations?**

**Timescale for implementation**

The Flood and Water Management Act 2010 (FWMA) was enacted as primary legislation 3 years ago. Since then the implementation of Schedule 3 of the Act, setting out the new duty for the County Council as a Sustainable Drainage Approval Body (SAB), has continued to be delayed by Defra and no details on the requirements of this duty have emerged until relatively recently. In the intervening time the County Council has prepared itself as far as possible. However, by way of the uncertainty and changing timescales, it could be said that this part of the legislation has *already* had an impact – not only upon the operations of Hampshire County Council, but also on developers who, like the County Council, have continually called for clarity on what they are required to do and from what starting date. Defra have now confirmed the commitment to implementation of this part of the Act on 6<sup>th</sup> April 2014. The final details on standards and process will be dealt with through Statutory Instruments which are currently still being drafted by Defra and not likely to be available until December 2013.

**Need for collaboration with the planning authorities through the development management process.**

Hampshire County Council is only a planning authority with respect to Mineral and Waste, and therefore not for the purposes of development planning which lies with the District or Borough planning authorities in Hampshire. Defra is promoting, through its national standards and guidance, a strong link between the development planning process and the approval and adoption of sustainable drainage systems (SuDs). This will mean that the County Council will need to work closely with the local planning authorities during all stages of the planning process in its new role as a Sustainable Drainage Approval Body (SAB). The County Council's response has been to secure agreement in principle from the district authorities to a collaborative approach to delivery of this role. Successful collaboration will facilitate an efficient development management and SAB approval process, avoiding undue delays to the approval of development in Hampshire. Currently, five voluntary SuDs pilots are underway with district planning authorities and developers to inform decisions on the approval and adoption processes; skills and capacity needs; and long term maintenance recommendations.

**Specialist skills to assess the proposed drainage solutions**

SuDS design relies on a variety of features and approaches depending on the geographic, topographic, and geological aspects of a development site. It is also influenced by the type, scale and development footprint. As the County Council will be responsible for the long term maintenance of the SuDs once adopted, the proposed design submitted by the developer will need to be checked to ensure it is "fit for purpose" and that it will be practical to maintain at a reasonable cost in order to reduce the long term risk, as well as potentially onerous implications for the County Council. There are limited skills and resources available within the public sector and no specific funding to support this function. A specialist shared service arrangement between Hampshire County Council and the New Forest District Council has been set up to provide this specialist advice: both to the County Council for assessment of the design prior to approval and adoption of a system, and to the district planning authority who will discuss development proposals and the integration of the drainage solutions into the proposed development on the County Council's behalf. This service is planned to be self funding from the fees secured from the SuDs/SAB applications.

**Maintenance of SuDs systems**

As the SAB, Hampshire County Council will be required to maintain SuDs systems that it adopts in perpetuity. There are three key areas of uncertainty around this role which pose a risk to the County Council and, more generally, to the success of the legislation in the management of flood risk.

- **Funding.** Options are currently being considered to secure the most cost effective means of maintenance. How on-going maintenance is to be funded is yet to be

confirmed by Defra. However, currently Defra have indicated that the cost of such maintenance, once adopted, will be borne by the individual householder in the new development. It would be for the County Council to decide how to collect this money.

- **Affordability Clause.** Allied to the issue of funding is the reference to “affordability” in the Act. If developers claim that the cost of providing sustainable drainage design solutions in a proposed development renders the development not economically viable there are two issues. Firstly, Defra has not clarified what criteria might be brought to bear in order to make this judgement; and secondly, if the criteria favour the claims of the developer then the County Council may be compelled to accept a drainage proposal solution that is onerous in terms of future maintenance implications.
- **Definition of Sustainable Drainage.** Defra have indicated that traditional pipe drainage could ultimately be included in their definition of “sustainable drainage”. In the context of the two issues raised above this could seriously obstruct the efforts of the SAB to encourage the use of sustainable, “soft” drainage solutions (infiltration, swales, balancing ponds), which in many instances can be more much more effective in regulating water flow and quality, and also in securing positive outcomes for biodiversity and “quality of place”.

### **SAB, Highways Authority, Lead Local Flood Authority and Emergency Planning roles**

In the context of other County Council functions and operations, officers are acutely aware of potential overlapping roles and the opportunity to streamline advice and delivery, both

- to build capacity to deliver the new duties and functions imposed on the County Council, thereby ensuring efficiency of operations; and
- to deliver a “joined up” service to Hampshire’s communities.

Officers from across the authority are regularly liaising to discuss the best means of integrating the SuDS Approval role into the County Council’s other flood related responsibilities. A key area of ambiguity concerns Highways Drainage. The provisions of the Flood and Water Management Act require the new SuDS Approval standards to be met by roads that are to be adopted by the Highway Authority. However, there is potential conflict between the standards for adoption under the Flood and Water Management Act, which chiefly concern private water from new development, and the standards that will be used for maintenance under the Highway Act, which is concerned with the collection and disposal of water from the highway. The County Council will develop protocols internally to harmonise its different duties, but it remains to be seen whether secondary legislation associated with the SuDS Approval duty will provide legal clarity on the some of the detailed points arising from this.

### **7. In what ways can the County Council use this new responsibility to complement the work of other flood risk management authorities – especially, but not exclusively in relation to flood risk management?**

#### **Environment Agency**

As a Sustainable Drainage Approval Body, the County Council can work collaboratively with the Environment Agency to help mitigate catchment-wide flooding issues by consideration through the SuDs approval process of the design of infiltration systems that slow down water movement from across a site.

#### **District and Borough Planning authorities**

The County Council’s new SuDS Approval duty provides an opportunity to review and improve the joint working of the County Council and the districts upon planning matters generally. The County Council is already collaborating with district planning authorities on pilot schemes to test some of the issues involved. The aspiration is to improve efficiency for all parties through:

- early, joined up collaboration between authorities on pre-application discussions with the developer;
- receipt by the district councils of joint applications for both planning permission and drainage approval;
- the County Council co-ordinating its engagement throughout as both the Highway Authority and the SuDS Approval Body.

In support of this the County Council has delivered a joint practitioner workshop to secure a consistent approach and understanding of the SAB approval process. The overall outcome would be an efficient “one point of contact” for development management decisions in Hampshire. However, there remain questions around how this work will be funded. As yet, Defra have not confirmed the details of funding or fees to undertake this work.

### **Water Companies**

Water companies have a responsibility to adopt sewers. Some of the drainage solutions that are currently in operation are joint surface water and foul water systems. These systems could potentially be impacted upon where new development takes place. The County Council will work with water and sewerage companies to ensure its policies on SuDS approval are complementary to the approach taken by water companies and vice versa.

One of the measures in the Water Bill, currently before Parliament, is to encourage the use of Sustainable Drainage Systems (SuDS) by clarifying that building and maintenance of SuDS can be a function of sewerage undertakers. In some areas, this could effectively mean that there are two authorities responsible for surface water. For this reason the County Council will endeavour to engage with the water and sewerage companies to ensure that the best possible approach is adopted by both parties for the good of Hampshire residents.

### **8. In what ways, if any, can Hampshire County Council support the delivery of the sustainable drainage approval body function?**

When the legislation is enabled, the County Council will be the Sustainable Drainage Approval Body and, as has been outlined above, the Authority is already working to ensure it is able to deliver the function as effectively as possible. This involves joint working, not only between the County Council, district authorities and the other flood risk management authorities, but also between the different functions of the authority itself.

### **9. Please provide details of any relevant maintenance programme/s your organisation undertakes which is beneficial to flood risk management?**

#### **Role as a Highway Authority**

Hampshire County Council carries out a number of functions in respect to maintaining highway drainage assets. These include:

- The Routine cleansing of gullies, catchpits and separators to prevent contamination of the wider drainage network and to ensure these assets continue to operate correctly to prevent flooding of the highway.
- Routine and/or specific highway inspections are undertaken to resolve flooding issues which are generally resolved through individual works orders.
- Where more extensive works are required these are carried out through prioritised planned maintenance schemes or through minor ad-hoc improvements/repairs.

#### **Working with the local community**

Two years ago the County Council recognised that by working with parishes an opportunity existed to improve local responsiveness, provide added value to the core highways service, and improve the environment within local communities by the re-introduction of the role of Parish Lengthsman.

One of the benefits of this scheme is to provide a more local and flexible response to water course maintenance to mitigate local flood risk.

**10. What is the biggest issue in terms of effective maintenance of flood risk management infrastructure/water courses, and what would help address this?**

**Highways assets**

From a highways asset management perspective, many of the problems in terms of the reduction of flood risk are related to having an ageing and depreciating asset, and also an asset base that we have limited information on, both in terms of the size of the asset and its operational efficiency. Additional pressures have been created through development activities over a number of years which have not adequately taken into account the repercussions of 'overloading' the local land's ability to cope through reduced permeability/increased run off etc. Future proofing the drainage system as a whole, rather than just elements of the system, has not been fully considered, leaving a legacy which will prove difficult to overcome. The effects of a fully functional drainage system, which can cope with all highway needs, and its effect at outfall, such as on watercourses and land drains, needs to be mapped to ensure that it can cope with storm condition flows from an efficient highway system.

The County Council is developing its register and record of structures and features affecting flood risk in Hampshire in such a way that the final product will combine data on Highways drainage assets with data on other features affecting flood risk. The register is a work in progress, but populating it is now being prioritised, and it will always remain "live" in the sense that both future development and our growing knowledge of water management in Hampshire will cause us to add to the data. Eventually, this should provide a highly effective tool in co-ordinating maintenance across authorities and among private landowners, and ensuring that future development does not increase the risks of flooding.

**Riparian Ownership of ordinary water courses**

Much local flooding is due to the neglect of maintenance or a lack of understanding among private landowners or householders of their responsibilities for watercourses on their land. Landowners or residents who own land or property situated next to a main river or ordinary watercourse are legally termed riparian landowners and they are responsible for maintaining ordinary watercourses. Ordinary Watercourses are watercourses that are not part of a main river and include streams, ditches, drains, cuts, culverts, dykes, sluices, sewers (other than public sewers), and passages through which water flows. Hampshire County Council has produced guidance for these landowners, providing them with information about their rights and details of their responsibilities for maintaining watercourses on, or adjacent, to their land. This guidance is available as simple and easily reproduced leaflets and on the Hampshire County Council flood web site, along with information on how to apply for Ordinary Water Consent, which is required for any works on or close to ordinary water courses.

**Sustainable Drainage**

The issues relating to the future maintenance of sustainable drainage by the County Council have been addressed in the answers provided to questions 6-8.

**Other**

Are there any other comments with regard to flood risk management that you would like to make to the Select Committee? No

Thank you for taking the time to respond to the Committee's request, your responses will help Members identify areas for improvement in flood risk management.