Appendix A

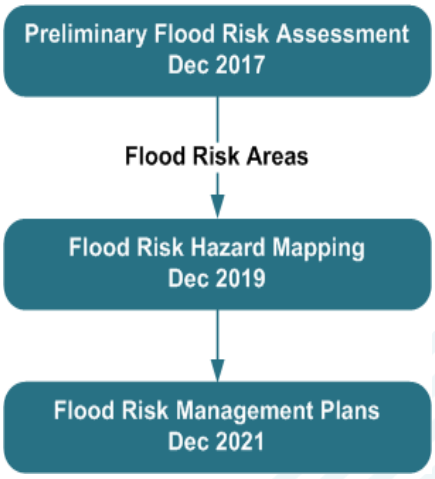
A.1 Planning Framework and Flood Risk Policy

A.1.1 EA Floods Directive & the Flood Risk Regulations

The European Floods Directive (2007) sets out the EU's approach to managing flood risk and aims to improve the management of the risk that floods pose to human health, the environment, cultural heritage and economic activity. The Directive was translated into English law by the Flood Risk Regulations which require LLFAs and the EA to produce Flood Risk Management Plans (FRMPs).

The Directive puts in place a six-year cycle of producing Preliminary Flood Risk Assessments (PFRAs) with the aim of identifying significant Flood Risk Areas; preparing flood hazard and risk maps; and preparing FRMPs. The first six-year cycle was completed in December 2015 and the second six-year cycle is currently underway at the time of writing.

Figure A.1-1: EU Floods Directive



PFRAs should cover the entire LLFA area for local flood risk (focusing on ordinary watercourses, surface water and groundwater flooding). Where significant Flood Risk Areas are identified using the national approach (and locally reviewed), the LLFA is then required to undertake flood risk hazard mapping and to produce a FRMP for the significant Flood Risk Area. EA guidance states that the LLFA is responsible for producing FRMPs for significant Flood Risk Areas that cover local sources of flooding including from surface water, ordinary watercourses and groundwater. The EA is responsible for producing FRMPs for significant Flood Risk Areas that cover main rivers, the sea and reservoirs. However, the preferred approach is for the EA and LLFAs to work together to produce one FRMP for all sources of flood risk for the RBD. This arrangement is agreed between the EA and the LLFAs involved before work starts. A FRMP therefore has been completed by the EA for the North West RBD. See Section A.1.4. FRMPs also meet the aims of the National Flood and Coastal Erosion Strategy for England.

The EA has implemented one of the exceptions for creating PFRAs, etc. for Main Rivers and coastal flooding, as they already have mapping (i.e. EA Flood Map for Planning (Rivers and Sea), Risk of Flooding from Rivers and Sea Map) and plans (i.e. CFMPs, SMPs) in place to deal with this. The EA has therefore focused their efforts on assisting LLFAs through this process.

A.1.2 Cumbria County Council Preliminary Flood Risk Assessment 2017

The LLFA for Copeland Borough Council is Cumbria County Council (CCC). The first cycle PFRA for CCC was submitted to the EA in June 2011. The PFRA provides a high level overview of local flood risk, from sources including surface water, groundwater and ordinary watercourses. A review of the PFRA was undertaken in 2017 in accordance with DEFRA Guidance.

Whereas all the new information available to Cumbria LLFA on potential future floods has improved the understanding on local flood risk, the significance of this flooding does not reach the indicators and criteria used in identifying Flood Risk Areas (FRAs). CCC was therefore not required to produce flood hazard maps, flood risk maps and flood risk management plans for any area in the county.

A.1.3 Catchment Flood Management Plans (CFMPs)

The CFMPs were carried out by the EA in 2009 and were designed to establish flood risk management policies which will deliver sustainable flood risk management for the long term. The CFMPs were used by the EA to help direct resources to where there are areas of greatest risk and help the EA and its partners to plan and agree the most effective way to manage flood risk in the future.

The CFMPs contain useful information about how the catchments work, previous flooding and the sensitivity of the river systems to increased rainfall. The EA draw on the evidence and previous measures and proposals set out in the CFMPs to help develop the FRMPs for RBDs.

CFMPs consider all types of inland flooding, from rivers, groundwater, surface water and tidal flooding. Shoreline management plans consider flooding from the sea.

CFMPs also include:

- the likely impacts of climate change,
- the effects of how we use and manage the land,
- how areas could be developed to meet our present day needs without compromising the ability of future generations to meet their own needs.

The CFMPs are grouped by river basin district. Copeland is part of both the South West Lakes[1] and Derwent North West[2] CFMPs.

A.1.4 Flood Risk Management Plans (FRMPs)

Following on from the CFMPs, completed in 2009, FRMPs are designed to set out the risk of flooding from rivers, sea, surface water, groundwater and reservoirs within each RBD and to detail how Risk Management Authorities (RMAs) will work with communities to manage flood risk up to 2021 for the current cycle, at the time of writing.

The FRMP should consider objectives for flood risk management (reducing the likelihood and consequences of flooding) and measures to achieve those objectives.

Both the River Basin Management Plans (RBMP) and FRMPs have been developed by the EA in tandem to ensure that flood defence schemes can provide wider environmental benefits during the same six-year cycle. Both flood risk management and river basin planning form an important part of a collaborative and integrated approach to catchment planning for water. Each EU member country must produce FRMPs as set out in the EU Floods Directive 2007.

Updated guidance on how to prepare FRMPs is available online via:

https://www.gov.uk/guidance/flood-risk-management-plans-frmps-how-to-prepare-them

The Copeland authority is located entirely within the North West RBD.

North West River Basin District Flood Risk Management Plan, 2015[3]

Copeland Borough is located within the North West RBD which covers an area of approximately 13,160 km^2 and contains 7 million people. The North West RBD extends from Cumbria in the north to Cheshire in the south, with Lancashire, Merseyside and Great Manchester in between.

The North West RBD comprises 12 river catchments; there are over 51,000 people at high risk of surface water flooding (more than a 1 in 30-year chance of being flooded in any year) and 31,000 people at high risk of flooding from rivers and sea (more than a 1 in 30-year chance of being flooded in any one year) within the North West RBD.

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[1] https://www.gov.uk/government/publications/south-west-lakes-catchment-flood-management-plan
[2] https://www.gov.uk/government/publications/derwent-catchment-flood-management-plan
[3] https://www.gov.uk/government/publications/north-west-river-basin-district-flood-risk-management-plan

Figure A.1-2: Main river catchments

South West Lakes catchment

The South West Lakes catchment covers the west and south of Cumbria, extending from Whitehaven in the north, the Lake District high fells in the east and extending south to Barrow-in-Furness. The catchment is predominantly rural with 92% being used for agricultural purposes, has a main river length of 295 km, draining a total catchment area of 900 km^2, and contains some of the highest numbers of rivers and streams in England. The catchment is also amongst the wettest and steepest sloped in England and Wales. Runoff following rainfall is generally rapid, due to the relatively impermeable underlying geology and sparse cover by drift material in the upland reaches.

Within the catchment, over 7,000 people are at risk of flooding from rivers and the sea, representing approximately 4% of the total catchment population. Approximately 1,600 non-residential properties are at risk of flooding in the South West Lakes catchment. Approximately 11% of the agricultural land in the catchment is at risk of flooding from rivers and the sea.

Figure A.1-3 is an extract from the North West RBD FRMP showing an overview of the South West Lakes catchment.

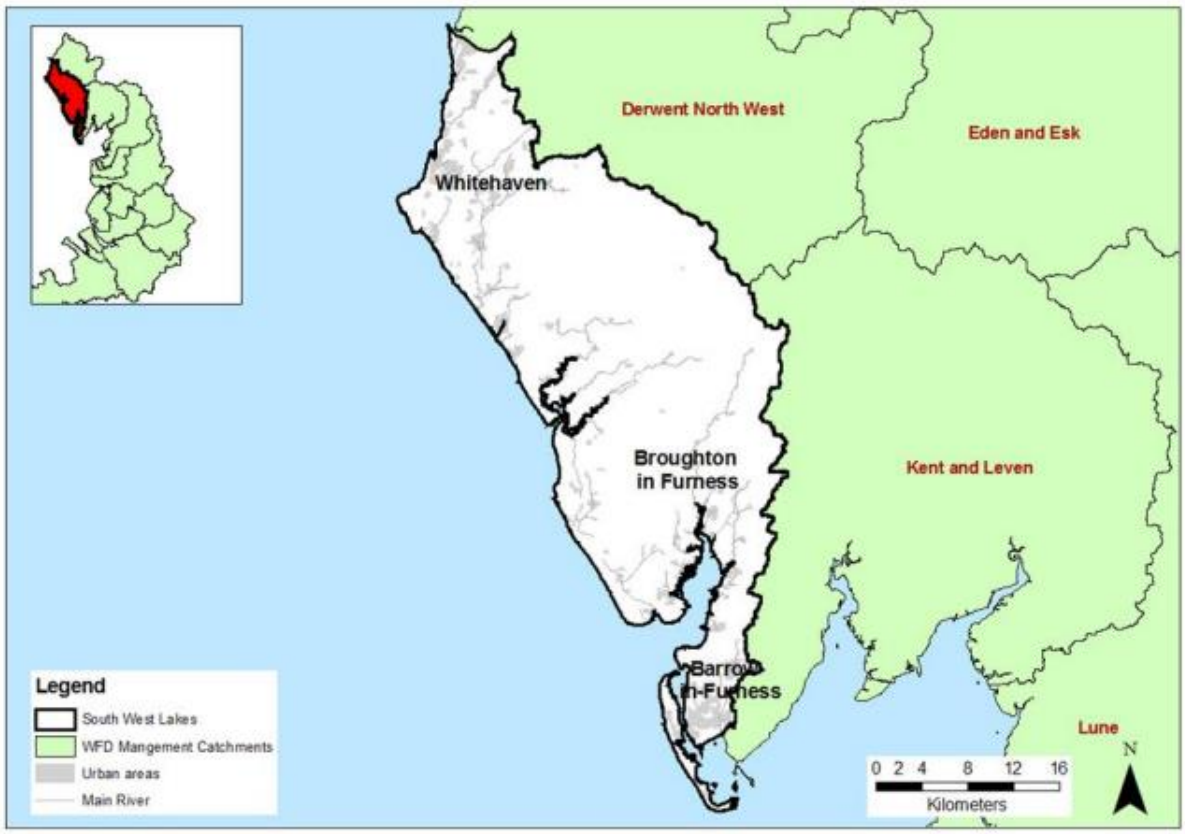

Figure A.1-3: South West Lakes catchment (North West RBD FRMP)

The North West RBD FRMP summarised various measures to help manage flood risk in the South West Lakes catchment. Those that may apply within the CBC authority area include:

Protection from risk:

- A study at Nor Beck has been completed which recommends increasing the capacity of the culvert at Cleator along with upstream storage to reduce the risk of flooding from Nor Beck

Prevention of risk:

- A study is required to focus on the combined risk in Whitehaven from flooding from Pow Beck, minor watercourses, drains, surface water and groundwater and flooding from high tides.
- Develop adaptation strategy for properties on beach in Braystones, Nethertown and Coulderton areas to facilitate relocation to a more sustainable site in the medium term.

Preparation for risk:

- Plans for implementing an additional Flood Warning Area at Braystones Village but not for Beckermet

- Consult Eskmeals site operator over approaches to coastal adaptation in Moderate and long term to allow roll back of facilities in dunes.
- Undertake a feasibility study for defence improvement works at Seascale, to confirm if works are justified and appropriate timing of interventions
- Network Rail to develop a strategic plan for monitoring and managing risks to the railway infrastructure to inform requirements for works and next revision of the Shoreline Management Plan (SMP).

River Derwent catchment

The River Derwent only affects a small proportion of the Copeland authority area and the Lake District National Park.

The catchment is predominantly rural with only four main towns and it covers a total area of 1,235 km^2. It has four significant river systems (the Derwent, Ellen, Wampool and Waver) which drain the northern feels of the Lake District and the Solway Basin into the Irish Sea. The River Derwent and its major tributaries cover the southern part of the area and rises in the high peaks of the Lake District draining into the Irish Sea at Workington. The River Ellen covers the central part of the area and drains into the Irish Sea at Maryport. The Rivers Wampool and Waver cover the upper portion of the area and drain into the Solway Firth at Moricambe Bay.

Within the catchment, 6,000 people are at risk of flooding from rivers and the sea, representing approximately 8% of the total catchment population. Approximately 1,500 non-residential properties are at risk of flooding in the South West Lakes catchment. Approximately 7% of the agricultural land in the catchment is at risk of flooding from rivers and the sea

Figure A.1-4 is an extract from the North West RBD FRMP showing an overview of the Derwent catchment

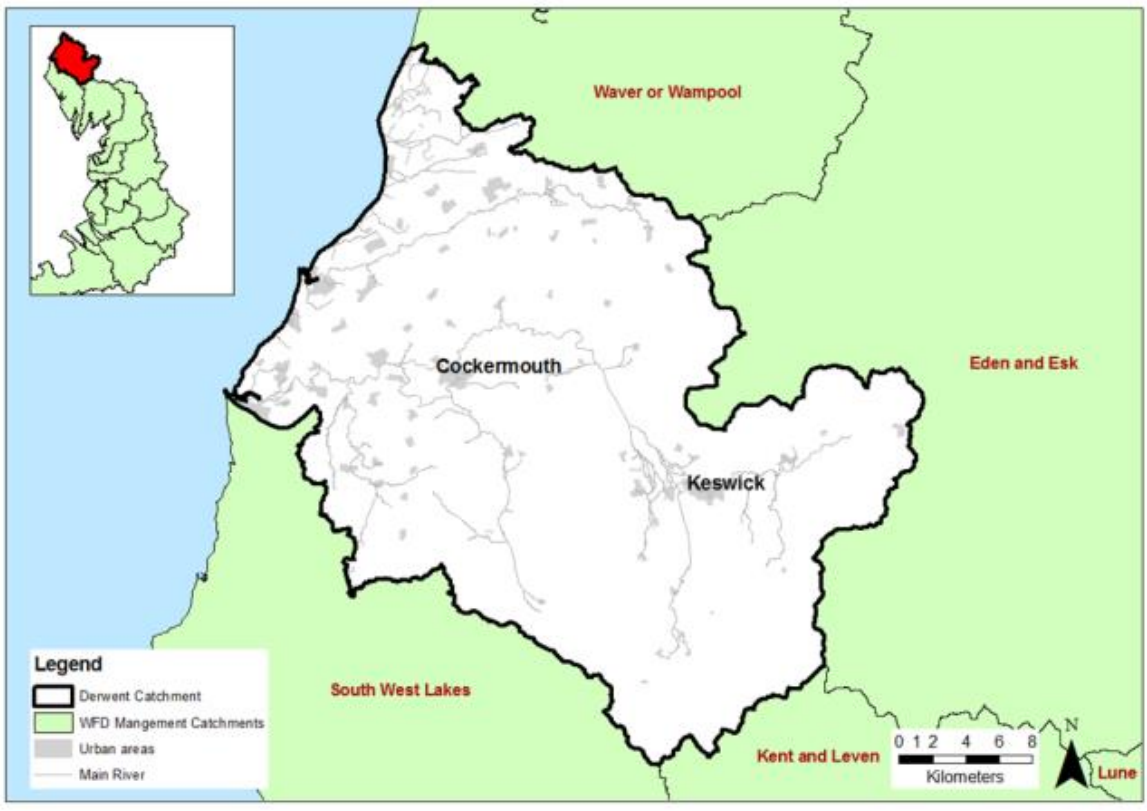

Figure A.1-4: Derwent catchment (North West RBD FRMP)

The North West RBD FRMP summarised various measures to help manage flood risk in the Derwent catchment. Those that may apply within the CBC authority area include:

Protection from risk;

- Promote Slowing the Flow/Natural Flood Management (e.g. on the River Marron) to benefit communities at risk of flooding e.g. river restoration opportunities. Work would focus on flood and erosion damages and be subject to consultation with local communities and farmers with consideration of impacts on the landscape and amenities. Instrumentation and monitoring, if part of any changes, could provide important evidence for future land management change.
- Where localised surface water problems exist at villages, they should be addressed with an appropriate response by promoting flood resilience measures and / or small scale local works either by the Making Space for Water groups or if justifiable by the EA.

Preparation for risk:

- Review whether a flood warning service could be effectively implemented in vulnerable villages using a forecasting model which exists for areas of the catchment. Lead times will be short and false alarm rates may be high but some warning may be feasible.

A.1.5 Shoreline Management Plan (SMP)

The whole Cumbrian coastline is covered by the North West England and North Wales SMP2[4]. There are three shoreline management policies in place along Copeland's coastline, namely 'hold the line', 'managed realignment' and 'no active intervention'. This is currently undergoing a refresh, with sub-categories to be added to the main policy options. There may also be changes in the main policy and policy boundaries for some locations and a new policy unit is proposed for Millom ironworks.

Figure A.1-5 is an extract from the North West England and North Wales SMP2 report showing the policy options for managing flood risk along the coast. The policy option 'advance the line' is not applicable to the Cumbrian coastline.

Policy Option	Description
Hold the line	By maintaining or changing the current standard of protection. This policy includes those situations where work is carried out in front of the existing defences (such as beach recharge, rebuilding the toe of a structure, building offshore breakwaters and so on) to improve or maintain the standard of protection provided by the existing defence line. It also includes work behind existing defences (such as building secondary flood defences) where this work would form an essential part of maintaining the current coastal defence system.
Advance the line	By building new defences on the seaward side of the original defences. Use of this policy is limited to those policy units where significant land reclamation is considered.
Managed realignment	By allowing the shoreline to move backwards or forwards, with management to control or limit movement (such as reducing erosion or building new defences on the landward side of the original defences).
No active intervention	Where there is no investment in coastal defences or operations.

Figure A.1-5: SMP2 policies for managing the shoreline

[4] North West England and North Wales Shoreline Management Plan SMP2, North West & North Wales Coastal Group, Main SMP2 Document, 2012

Hold the line

Where hold the line has been proposed, the intent is to manage the risk from coastal flooding or erosion to important assets and interests in an appropriate way. This could be achieved by maintaining current defences or by constructing new defences in the future. When upgrading defences or significant changes in management practice is required, this is progressed through a Strategy or Scheme and will be subject to more detailed appraisal, consultation and consenting.

In the short term, over the next 20 years, this policy is in place on the Copeland coastline where there are key assets, infrastructure or settlements in places such as proposed Nuclear New Build (NNB) Moorside site (Spring 2018), adjacent to Sellafield, the town of Whitehaven and the village of Seascale. There is also a large section of coastline in the south of the borough along the Duddon Estuary to which this policy applies for the continued protection of agricultural land.

Managed realignment

Managed realignment provides the opportunity to create a more natural coastline by allowing sediment movement which helps maintain beaches or provides space for natural landward roll-back of saltmarsh, beaches or dunes in response to ongoing coastal change and sea level rise.

The SMP2 recognises that there are a number of opportunities to move defences landward, or to remove defences so the shoreline realigns back to higher ground, in order to create more space for salt marshes and hence improve the natural defence and provide environmental benefits. However, in locations where managed realignment is proposed, the SMP2 does not generally define or predict the new shoreline or defence position. In theory, the shoreline could be moved inland up to where the area at risk of coastal flooding ends, however in reality defences are often not moved back that far, due to the presence of built or natural assets or infrastructure, where for example, Network Rail are able to intervene to protect the railway.

In the short term, over the next 20 years, this policy is in place from Sellafield to just south of St Bees.

No active intervention

This policy option lets nature take its course on the shoreline without any management and is usually in place where risk management is not required, or where sediment erosion from cliffs is required to feed beaches or to allow beaches, dunes or saltmarsh to adjust or rollback naturally as sea levels rise. This policy can also apply where there is insufficient national economic justification to maintain defences in the long term and therefore no funding available from public sources.

In the short term, over the next 20 years, this policy is in place along the headland at St Bees Head located southwest of Whitehaven and on the Duddon Estuary at Millom.

A.1.6 Flood & Water Management Act (FWMA)

The FWMA was established in April 2010. It aims to improve both flood risk management and the way we manage our water resources.

The FWMA has created clearer roles and responsibilities and helped to define a more risk-based approach to dealing with flooding. This included the creation of a lead role for local authorities as LLFAs, designed to manage local flood risk (from surface water, groundwater and ordinary watercourses) and to provide a strategic overview role of all flood risk for the EA.

The content and implications of the FWMA provide considerable opportunities for improved and integrated land use planning and flood risk management by LAs and other key partners. The integration and synergy of strategies and plans at national, regional and local scales, is increasingly important to protect vulnerable communities and deliver sustainable regeneration and growth.

The FWMA gives RMAs specific powers and duties for local flood risk management. A duty is something the RMA is legally obliged to do; a permissive power can be used at the RMA's discretion. All RMAs have a duty under Section 13 of the FWMA to cooperate with one another when exercising functions relating to flood and coastal erosion risk management.

Table A.1-1 provides an overview of the key LLFA duties and powers under the FWMA.

FWMA duty / power	Description of duties and powers	LLFA status
Duty to produce a local strategy for flood risk management	The LLFA must develop, maintain, apply and monitor a local strategy for flood risk management in its area. The local strategy will build on information such as national risk assessments and will use consistent risk-based approaches across different LA areas and catchments. The local strategy should not be secondary to the national strategy; rather it will have distinct objectives to manage local flood risks important to local communities.	Published 2015, the next Cumbria LFRMS is due to be published in 2021 following public consultation (see Section A6.1)
Duty to comply with the National Strategy	The LLFA has a duty to comply with national flood and coastal risk management strategy principles and objectives in respects of its flood risk management functions.	Ongoing
Duty to contribute to sustainable development	The LLFA has a duty to contribute towards the achievement of sustainable development.	Ongoing
Investigating flood incidents	The LLFA, on becoming aware of a flood in its area, has (to the extent it considers necessary and appropriate) to investigate and record details of "locally significant" flood events within its area. This duty includes identifying the relevant RMAs and their functions and how they intend to exercise those functions in response to a flood. The responding RMA must publish the results of its investigation and notify any other relevant RMAs.	Ongoing
Asset Register	The LLFA has a duty to maintain a register of structures or features, which it considers to have a significant effect on flood risk, including details on ownership and condition as a minimum. The register must be available for inspection and the Secretary of State will be able to make regulations about the content of the register and records.	Ongoing
Duty to co-operate and Powers to Request Information	The LLFA must co-operate with other relevant authorities in the exercise of their flood and coastal erosion management functions. The LLFA has powers to request information as necessary (e.g. from United Utilities) under the FWMA.	Ongoing
Ordinary Watercourse Consents	The LLFA has a duty to deal with enquiries and determine watercourse consents where the altering, removing or replacing of certain flood risk	Ongoing

FWMA duty / power	Description of duties and powers	LLFA status
	management structures or features that affect flow on ordinary watercourses is required. It also has provisions or powers relating to the enforcement of unconsented works and non-maintenance by riparian owners.	
Works Powers	The Act provides the LLFA with powers to undertake works to manage flood risk from surface runoff, groundwater and ordinary watercourses, consistent with the LFRMS for the area.	Ongoing
Designation Powers	The Act provides the LLFA with powers to designate structures and features that affect flooding or coastal erosion. The powers are intended to overcome the risk of a person damaging or removing a structure or feature that is on private land and which is relied on for flood or coastal erosion risk management. Once a feature is designated, the owner must seek consent to alter, remove, or replace it.	Ongoing
Emergency Planning	The Council is required to play a lead role in emergency planning and recovery after a flood event.	Cumbria Local Resilience Forum (Section 7 of main report)
Community Involvement	The LLFA should engage local communities in local flood risk management issues. This could include the training of community volunteers, the development of local flood action groups and the preparation of community flood plans, and general awareness raising around roles and responsibilities.	Various ongoing - Cumbria Community Risk Register - Cumbria County Council Emergency Plan - Cumbria County Council Resilience Team (Section 7 of main report)
SuDS	SuDS are a planning requirement for major planning applications of 10 or more residential units or equivalent commercial development schemes with sustainable drainage. The LLFA is a statutory planning consultee and it will be between the LPA and the LLFA to determine the acceptability of these proposed sustainable drainage schemes. Approvals must be given before the developer can commence construction, and sometime before the occupation of dwellings. Planning authorities should use planning conditions or obligations to make sure that arrangements are in place for ongoing maintenance of the SuDS over the lifetime of the development.	CCC asks for Non-Statutory National Standards for SuDS and adequate water quality treatment in accordance with the SuDS Manual 2015. CCC also has a Design Guidance[5] document which details the requirements of CCC as LLFA. This document provides direction to the relevant design guidance for the successful implementation of SuDS

[5]https://cumbria.citizenspace.com/cumbria-county-council/cumbria-design-guide/

FWMA duty / power	Description of duties and powers	LLFA status
		and is the basis on which planning consultations from Local Planning Authorities are assessed
Latest changes to FWMA legislation[6]		

Table A.1-1: Key LLFA responsibilities under the FWMA

6 http://www.legislation.gov.uk/ukpga/2010/29

A.2 Flood and water focused policies and plans

A.2.1 25 Year Environment Plan

This Plan sets out Government action to help the natural world regain and retain good health. It aims to deliver cleaner air and water in our cities and rural landscapes, protect threatened species and provide richer wildlife habitats. It calls for an approach to agriculture, forestry, land use and fishing that puts the environment first. The Plan also sets out how government will tackle the effects of climate change, considered to perhaps be the most serious long-term risk to the environment given higher land and sea temperatures, rising sea levels, extreme weather patterns and ocean acidification. The Plan aims to show that Government will work with nature to protect communities from flooding, slowing rivers and creating and sustaining more wetlands to reduce flood risk and offer valuable habitats.

Focusing on flood risk, Government has updated the national flood and coastal erosion risk management strategy for England (see Section A.2.3) which looks to strengthen joint delivery across organisations. In terms of funding, Government will look at current partnership arrangements ahead of a review of funding needs beyond 2021, seeking to attract more non-public sector investment, and make sure all relevant agencies are able to respond quickly and effectively to support communities if and when flooding does occur. The Plan states that the EA will use its role in statutory planning consultations to seek to make sure that new developments are flood resilient and do not increase flood risk.

For flood mitigation, government will focus on using more natural flood management solutions; increasing the uptake of SuDS, especially in new development; and improving the resilience of properties at risk of flooding and the time it takes them to recover should flooding occur.

Figure A.2-1: Main goals and policy areas the Plan is intended to help work towards

A.2.2 The North West Regional Flood and Coastal Committee (RFCC) Business Plan

The RFCC, established by the EA, brings together relevant members appointed by LLFAs to:

- Ensure there are coherent plans for identifying, communicating and managing flood and coastal erosion risks across catchments and shorelines,
- Encourage efficient, targeted and risk-based investment in flood and coastal erosion risk management that represents value for money and benefits local communities,
- Provide a link between the EA, LLFA, other RMAs, and other relevant bodies to build understanding of flood and coastal erosion risks in its area.

The North West RFCC produced a business plan, which was adopted in July 2019, covering the three-year period from 2019 to 2022. The business plan sets out the long-term goals in which the North West RFCC, with the support of its Flood & Coastal Erosion Risk Management (FCERM) Strategic Partnerships, will deliver to better protect homes and deliver more resilient communities in the North West up to 2022. The Plan identifies priorities and objectives for the period to 2022 and will be monitored through the North West RFCC quarterly meetings to adapt to change if necessary.

A.2.3 FCERM Governance framework

The FWMA requires the EA to 'develop, maintain, apply and monitor a strategy for flood and coastal erosion risk management in England'. The current national FCERM strategy has been revised and was laid before Parliament on 14 July 2020 by the Secretary of State. See Section A.6.1 for more details.

A.2.4 Water Framework Directive, Water Environment Regulations and River Basin Management Plans

The purpose of the Water Framework Directive (WFD), which was transposed into English Law by the Water Environment Regulations (2003), is to deliver improvements across Europe in the management of water quality and water resources through RBMPs. The CBC area is covered by the North West River Basin Management Plan[7], managed by the EA and published in 2016, updated in 2018.

Water quality and flood risk can go hand in hand in that flood risk management activities can help to deliver habitat restoration techniques. The North West RBMP includes such examples whereby land management techniques have been designed to reduce flood risk whilst also reducing sediment loss and improving water quality. The EA is responsible for monitoring and reporting on the objectives of the WFD on behalf of Government. They work with Government, Ofwat, local government, non-governmental organisations (NGOs) and a wide range of other stakeholders including local businesses, water companies, industry and farmers to manage water[8].

The second management cycle of the WFD[9] has begun and the second RBMPs were completed in 2015, building upon the first set completed in 2009. RBMPs are designed to address the pressures facing the water environment in the river basin management plan districts and the actions that will address them. The plans describe required objectives and measures to protect and improve the water environment over the next 20 years and aim to achieve WFD targets from 2015 onwards to 2021.

The RBMPs, like the CFMPs, are important documents relevant to the development of the SFRA. The SFRA should take into account the wider catchment flood cell aims and

7 https://www.gov.uk/government/publications/north-west-river-basin-district-river-basin-management-plan

8 https://www.gov.uk/government/publications/2010-to-2015-government-policy-water-quality/2010-to-2015-government-policy-water-quality#appendix-4-planning-for-better-water

9 http://ec.europa.eu/environment/water/water-framework/info/timetable_en.htm

objectives and understand how it can potentially contribute to the achievement of them.

The main responsibility for CBC as the Local Planning Authority and CCC as the Lead Local Flood Authority is to work with the EA to develop links between river basin management planning and the development of local authority plans, policies and assessments.

In particular, the general programme of actions (measures) within the North West RBMP that may be relevant to Copeland highlight the need for:

- Strategic working with United Utilities to seek partnership opportunities for improved infrastructure management e.g. reduced Combined Sewer Overflows (CSOs),
- Water Cycle Studies to promote water efficiency in new development through regional strategies and local plans,
- Surface Water Management Plan implementation,
- Consideration of the WFD objectives (achieving good status or potential as appropriate) in the spatial planning process, including LDDs and Sustainable Community Strategies, and
- Promotion of the wide scale use of SuDS in new development.

A.3 Other related plans and policies

A.3.1 Catchment partnerships

The Catchment Based Approach (CaBA) embeds collaborative working at a river catchment scale to deliver cross cutting improvements to our water environments. The CaBA partnerships drive cost-effective practical delivery on the ground, resulting in multiple benefits including reduced flood risk and resilience to climate change.

Catchment partnerships are groups of organisations with an interest in improving the environment in the local area and are led by a catchment host organisation. The partnerships work on a wide range of issues, including the water environment but also address other concerns that are not directly related to river basin management planning. Government is also working to strengthen or establish partnerships in the areas most affected by the December 2015 floods, caused by Storm Desmond, to encourage a more integrated approach to managing risk across all catchments.

The National Flood Resilience Review will align closely with Defra's work on integrated catchment-level management of the water cycle in the Government's 25-year Environment Plan. Government's aspirations for the next cycle of planning is for more integrated catchment planning for water, where flood and coastal Risk management, nature conservation and land management are considered together.

Catchment partnerships relevant to CBC include:

- The West Cumbria Catchment Partnership;
- The Cumbria Strategic Flood Partnership, which uses the catchment based approach; and
- The South West Lakes Catchment Partnership, hosted by the South Cumbria Rivers Trust and the West Cumbria Rivers Trust (this partnership covers a small section of Copeland but there has been no Copeland involvement to date).

A.3.2 National Flood Resilience Review[10]

The National Flood Resilience Review was established by Defra in September 2016, following Storm Desmond in 2015, to review how flood risk is assessed, how the likelihood of flooding can be reduced and to try and make the country as resilient as possible to flooding. The review aligns closely with Defra's work on integrated catchment-level management of the water cycle in the Government's 25-year Environment Plan.

A.4 Planning legislation

A.4.1 Housing and Planning Act, 2016

The Act provides the statutory framework to build more homes that people can afford, expand home ownership, and improve housing management. The Act places a duty on local authorities to promote the development of starter homes, custom and self-build homes. The Act simplifies and speeds up the neighbourhood planning process to support communities that seek to meet local housing and other development needs through neighbourhood planning. In addition, the Act seeks to ensure that every area has a Local Plan and gives the Secretary of State further powers to intervene if Local Plans are not effectively delivered.

The Secretary of State must also carry out a review of planning legislation, government planning policy and local planning policies, concerning sustainable drainage in relation to the development of land in England.

A.4.2 Localism Act, 2011

The Localism Act was given Royal Assent in November 2011 with the purpose of shifting power from Central Government back to local councils, communities and individuals. The Government abolished Regional Spatial Strategies, providing the opportunity for councils to re-examine the local evidence base and establish their own local development requirements for employment, housing and other land uses through the plan making process.

Additionally, this act places a duty to cooperate on local authorities, including statutory bodies and other groups, in relation to the planning of sustainable development. This duty to cooperate requires local authorities to:

"…engage constructively, actively and on an ongoing basis in any process by means of which development plan documents are prepared so far as relating to a strategic matter." (Provision 110).

This act, together with the Neighbourhood Planning (General) Regulations 2012, also provides new rights to allow Parish or Town Councils to deliver additional development through neighbourhood planning (Neighbourhood Plans). This means local people can help decide where new homes and businesses should go and what they should look like. Local planning authorities can provide technical advice and support as neighbourhoods draw up their proposals. Neighbourhood Plans have a number of conditions and requirements as set out in the NPPF. Also refer to Paragraph 061-064 of the FRCC-PPG for information on neighbourhood planning and flood risk.

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10 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/551137/national-flood-resilience-review.pdf

A.5 Planning policy

A.5.1 National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) was published in March 2012 and received a significant revision in July 2018. The latest update took place in July 2021. It forms the national policy framework in England and is based on core principles of sustainability. It must be taken into account in the preparation of local plans and is a material consideration in planning decisions. The NPPF is accompanied by Planning Practice Guidance (PPG) notes which are updated as the need arises.

The PPG documents will, where necessary, be updated in due course to reflect the changes in the latest version of the NPPF.

The key changes compared to the 2012 NPPF include:

- Strategic policies should also now consider the 'cumulative impacts in, or affecting, local areas susceptible to flooding' (para 160), rather than just to or from individual development sites (see Section 6.5 of the main report);
- Future risk from climate change. The 'sequential approach should be used in areas known to be at risk now or in the future from any form of flooding' (para 162) (see Sections 6.6 of the main report and Appendix B)
- Natural Flood Management. 'Using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management)' (para 161c) (see Section 5.7.4 of the main report and Appendix B)
- Sustainable Drainage Systems (SuDS). 'Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate' (para 169) (see Section 6.7 of the main report) and;
- Emergency planning. Emergency plans are required as part of an FRA that includes the inclusion of safe access and egress routes (para 167e) (see Section 7 of the main report)

As explained, the FRCC-PPG sits alongside the NPPF and sets out detailed guidance on how this policy should be implemented.

A.5.2 Flood Risk and Coastal Change Planning Practice Guidance (FRCC-PPG)

At the time of writing, the current FRCC-PPG was published on 6 March 2014 and is available online via:

https://www.gov.uk/guidance/flood-risk-and-coastal-change

The Government will, where necessary be updating the FRCC-PPG to reflect the changes discussed above in Section A.5.1. It is advised that any hyperlinks within the FRCC-PPG that direct users to the previous 2012 NPPF should be disregarded.

Whilst the NPPF concentrates on high level national policy, the FRCC-PPG is more detailed. The practice guidance advises on how planning can take account of the risks associated with flooding and coastal change in plan making and the development management process. This is in respect of local plans, SFRAs, the sequential and exception tests, permitted development, site-specific flood risk, Neighbourhood Planning, flood resilience and resistance techniques and the vulnerability of development to make development safe from flooding.

A.5.3 Local Plan

A Local Plan[11] is a statutory document prepared in consultation with the local community. It is designed to promote and deliver sustainable development. Local Plans have to set out a clear vision, be kept up to date and to set out a framework for future development of the local area, addressing needs and opportunities in relation to housing, the economy, community facilities and infrastructure as well as safeguarding the environment and adapting to climate change and securing good design.

Local Plans set the context for guiding decisions and development proposals and along with the NPPF, set out a strategic framework for the long-term use of land and buildings, thus providing a framework for local decision making and the reconciliation of competing development and conservation interests.

The aim of a Local Plan is to ensure that land use changes proceed coherently, efficiently, and with maximum community benefit. Local Plans should indicate clearly how local residents, landowners, and other interested parties might be affected by land use change. They are subject to regular periods of intensive public consultation, public involvement, negotiation and approval. The Local Plan should be the starting point when considering planning applications.

The NPPF requires that the evidence base for the Local Plan must clearly set out what is intended over the lifetime of the plan, where and when this will occur and how it will be delivered. The NPPF states that Local Plans should be supported by a SFRA and should take account of advice provided by the EA and other flood risk management bodies. This SFRA should be used to ensure that when allocating land or determining planning applications, development is located in areas at lowest risk of flooding. Policies to manage, mitigate and design appropriately for flood risk should be written into the Local Plan, informed by both this SFRA and the Sustainability Appraisal.

Government guidance on Local Plans can be found via:

https://www.gov.uk/guidance/local-plans--2

Copeland Local Plan[12]

Following its adoption, anticipated in early 2022, the Local Plan will become part of the Borough's Development Plan, replacing the current '*Copeland Local Plan 2013-2028 Core Strategy and Development Management Policies'*, which was adopted in December 2013 and Saved Policies.

The new Copeland Local Plan 2017-2035, which covers the area of Copeland outside the Lake District National Park, will:

- Identify how much development should take place and where it should go
- Provide guidance for high quality developments and the infrastructure required to support them
- Allocate sites for housing, regeneration and employment
- Identify areas which should be protected from development
- Include policies to be used when determining planning applications

The Council carried out a public consultation on the Local Plan Preferred Options Draft[13] between 20th September 2020 and 30th November 2020.

A.5.4 Sustainability Appraisal

The Sustainability Appraisal (SA) is a key component of the Local Plan evidence base, ensuring that sustainability issues are addressed during the preparation of local plans. The SA is a technical document which has to meet the requirements of the Strategic

[11] Town and Country Planning, England. The Town and Country Planning (Local Planning) (England) Regulations 2012
[12] https://www.copeland.gov.uk/content/local-plan-preferred-options
[13] https://www.copeland.gov.uk/sites/default/files/attachments/po_draft.pdf

Environmental Assessment Directive 2001/42/EC which assesses and reports on a plan's potential impact on the environment, economy, and society. The SA carries out an assessment of the draft policies at various stages throughout the preparation of the Local Plan, and does this by testing the potential impacts, and consideration of alternatives are tested against the plan's objectives and policies. This ensures that the potential impacts from the plan on the aim of achieving sustainable development are considered, in terms of the impacts, and that adequate mitigation and monitoring mechanisms are implemented.

Copeland Sustainability Appraisal[14]

In July 2020, an 'Integrated Assessment of the Preferred Options and Issues and Options Drafts' was produced in which an integrated assessment was undertaken including a combined Sustainability Appraisal and Strategic Environmental Assessment (SEA). Within the integrated assessment, objectives were set out in which the relevant objectives to this SFRA are:

- ENV3 – To maintain and enhance the water quality of Copeland's inland and coastal water and coasts to sustainably manage water resources
- ENV4 – To promote adaptation to climate change
- ENV5 – To reduce flood risk in Copeland from surface water, rivers, estuaries and sea level change.

[14] https://www.copeland.gov.uk/sites/default/files/attachments/integrated_assessment_report.pdf

A.6 Flood risk management policy

A.6.1 National and Local Flood Risk Management Strategies

The FWMA establishes how flood risk will be managed within the framework of National Strategies for England and Local Strategies for each LLFA area. The EA has a statutory duty to develop, maintain, apply, and monitor a strategy for England. The EA updated the Draft National Flood and Coastal Erosion Risk Management (FCERM) Strategy for England following a public consultation in 2019. The Secretary of State laid this revised strategy before Parliament on 14 July 2020 and this can be viewed online via the following link:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/899498/National_FCERM_strategy_for_England.pdf

The National Strategy sets out principles for how flood risk should be managed and provides strategic information about different types of flood risk and which organisations are responsible for their effective management. The Strategy sets out the long-term delivery objectives the nation should take over the next 10 to 30 years as well as shorter term, practical measures RMAs should take working with partners and communities.

The FWMA requires RMAs (local authorities, EA, sewerage companies and highways authorities) to work together and act consistently with the National Strategy in carrying out their flood and coastal erosion risk management functions effectively, efficiently and in collaboration with communities, businesses and infrastructure operators to deliver more effective flood risk management.

The LLFA has a leadership role on local flood risk management in its area and must produce a local flood risk management strategy covering its local area. **The local strategy produced must be consistent with the National Strategy**. The local strategy should set out the framework for local flood risk management functions and activities and should raise awareness of local organisations with responsibilities for flood risk management in the area. The strategy should also facilitate partnership arrangements to ensure co-ordination between local organisations and an assessment of flood risk and plans and actions for managing risk, as set out under Section 9 of the FWMA.

The following link provides guidance for RMAs and local authorities on various subjects of flood risk management, including tools to support LLFAs in developing their LFRMS:

https://www.gov.uk/guidance/flood-risk-management-information-for-flood-risk-management-authorities-asset-owners-and-local-authorities

Cumbria County Council Local Flood Risk Management Strategy (2015[15])

The Cumbria Local Flood Risk Management Strategy sets out how the Council will manage flood risk, from surface water runoff, groundwater, main rivers and ordinary watercourses for which the Council has responsibility as Lead Local Flood Authority, and other types of flooding where local agents can play a supporting role to lead agencies.

The Local Flood Risk Management Strategy has five objectives which aim to form policy on flood risk for Cumbria County Council:

- Reduction in flood risk to the people of Cumbria
- Increased knowledge and awareness of the factors affecting flood risk across Cumbria
- Ensure that flood risk management is integrated within the planning process in Cumbria

[15] https://www.cumbria.gov.uk/eLibrary/Content/Internet/544/3887/5894/4212914154.pdf

- Facilitate close partnership working between all risk management authorities
- Improve Community Resilience through awareness of flood risk

The Cumbria Local Flood Risk Management Strategy is developed and maintained by Cumbria County Council and is viewable online via:

https://cumbria.gov.uk/planning-environment/flooding/local_flood_risk_management_strategy.asp .

The local strategy is currently due to be published in 2021 following public consultation as it must remain consistent with the national strategy which was published in September 2020. This is a requirement under the Flood & water Management Act 2010.

A.6.2 Water Cycle Studies (WCS)

The purpose of a WCS is to investigate whether the local water environment has the capacity to support planned levels of growth and provide a comprehensive and robust evidence to support Local Plan production.

To achieve this, the WCS investigates the capability of the water and sewerage suppliers to provide the services to enable housing and economic growth and identify key risks to the timing of housing delivery and impacts on customers and the local environment. A WCS is certainly useful in the Local Plan Examination, where there is large growth and urban expansion planned within a local authority area.

There is currently no water cycle study in place for the CBC authority area.

A.6.3 Surface Water Management Plans (SWMP)

In June 2007, widespread flooding was experienced in the UK. The Government review of the 2007 flooding, chaired by Sir Michael Pitt recommended that…

"…Local Surface Water Management Plans (SWMPs) …coordinated by local authorities, should provide the basis for managing all local flood risk."

The Government's SWMP Technical Guidance document[16], 2011, defines a SWMP as:

- *A framework through which key local partners with responsibility for surface water and drainage in their area, work together to understand the causes of surface water flooding and agree the most cost-effective way of managing surface water flood risk.*
- *A tool to facilitate sustainable surface water management decisions that are evidence based, risk based, future proofed and inclusive of stakeholder views and preferences.*
- *A plan for the management of urban water quality through the removal of surface water from combined systems and the promotion of SuDS.*

As a demonstration of its commitment to SWMPs as a structured way forward in managing local flood risk, Defra announced an initiative to provide funding for the highest flood risk authorities to produce SWMPs.

Defra's framework for carrying out a SWMP is illustrated by the SWMP wheel diagram, as shown in Figure A.6-1. The first three phases involve undertaking the SWMP study, whilst the fourth phase involves producing and implementing an action plan which is devised based on the evidence gained from the first three phases.

[16] Surface Water Management Plan Technical Guidance - https://www.gov.uk/government/publications/surface-water-management-plan-technical-guidance

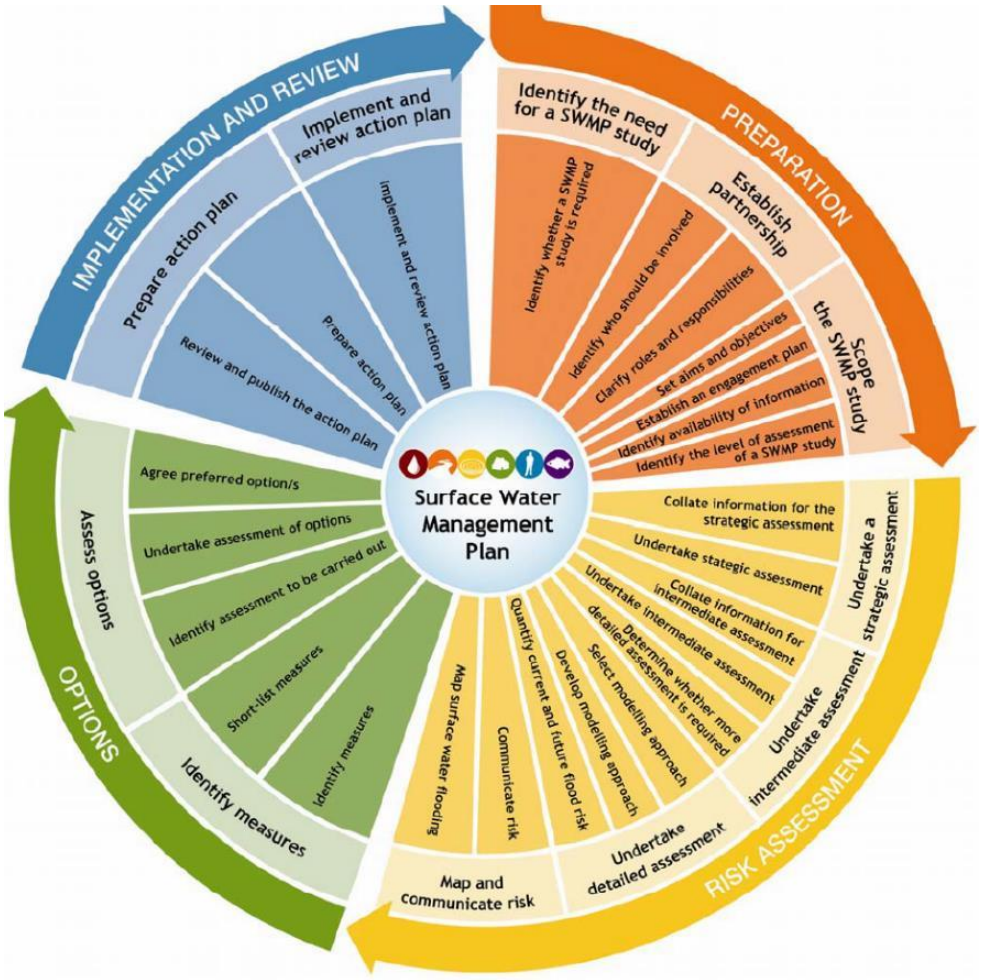

Figure A.6-1: Defra wheel (taken from SWMP Technical Guidance)

Cumbria Surface Water Management Plan, 2012

The Cumbria County Council SWMP was completed in November 2012 and developed over three phases:

- Phase 1 - Strategic Risk Assessment
- Phase 2 - Intermediate Risk Assessment
- Phase 3 - Options and Action Plan

Phase 1 involved reviewing historic data from a variety of sources, as well as undertaking a strategic risk assessment using the national surface water flood maps available at the time and the National Receptor Dataset (NRD) over 1 square kilometre sections of Cumbria. This analysis allowed the categorisation of every 1 square kilometre square as either very high risk, high risk, intermediate risk or little/no risk. Areas at significant risk, either due to the level of risk or number of people at risk, were then reviewed in Phase 2. 16 locations were identified in Phase 2 which required detailed modelling and/or site visits, of which six were taken forward to Phase 3.

The SWMP also proposed seven Critical Drainage Areas (CDA) based on the information gathered in Phases 1 and 2. These CDAs have been delineated by CCC as the LLFA. The EA are not required to be consulted on development proposals within a CDA that is not within a fluvial / tidal flood zone of the EA's Flood Map for Planning. See Section **Error! Reference source not found.** for more details on CDAs and EA designated Areas with Critical Drainage Problems (ACDPs). The CDAs proposed through the SWMP are located at:

- Ulverston
- Whitehaven
- Keswick
- Dearham
- Windermere
- Moresby Parks
- Kendal

At the time of writing, the SWMP, including detailed modelling, is currently being updated.

A.6.4 Critical Drainage Areas and Areas with Critical Drainage Problems

Certain locations known to be susceptible to localised flooding can be defined as Critical Drainage Areas (CDAs) and are based on areas of surface water flood risk and where the sewer network may be at capacity. Areas with Critical Drainage Problems (ACDPs) may be designated where the EA is aware that development within a certain catchment / drainage area could have detrimental impacts on fluvial flood risk downstream, and / or where the EA has identified existing fluvial flood risk issues that could be exacerbated by upstream activities.

A.6.5 Green Infrastructure assessments

Open space, or Green Infrastructure (GI), should be designed and managed as a multifunctional resource capable of delivering a wide range of environmental and quality of life benefits for local communities and should be provided as an integral part of all new development, alongside other infrastructure such as utilities and transport networks.

Open space can provide many social, economic and environmental benefits close to where people live and work including:

- Places for outdoor relaxation and play;
- Space and habitat for wildlife with access to nature for people;
- Environmental education;
- Local food production – in allotments, gardens and through agriculture;
- Improved health and well-being – lowering stress levels and providing opportunities for exercise;
- Climate change adaptation – for example flood alleviation and cooling urban heat islands.

The NPPF (2021) explains that open space can perform many functions, including flood risk mitigation, and that Local Plans should account for increased flood risk, resulting from climate change, through the planning of Green Infrastructure. GI can have an important role to play in reducing the likelihood of flooding by providing space for flood storage, reducing runoff and increasing infiltration, whilst also providing other benefits as stated above.

Alongside GI should be the implementation of SuDS, specifically within potential development sites, where possible. The suitability of GI and SuDS can be informed by this SFRA through utilisation of open space for water in the areas of greatest flood risk, which would be key to helping deliver sustainable development. Examples include:

- Restoration of natural character of floodplains;
- Reduction of downstream flood risk;
- Preserving of areas of existing natural floodplain; and

- Introduction of new areas and enhancing existing areas of greenspace whilst incorporating sustainable drainage within new development.

The Town and Country Planning Association together with the Wildlife Trusts produced a guidance document for Green Infrastructure[17]. The guidance states that local plans should identify funding sources for GI and provision should be made for GI to be adequately funded as part of a development's core infrastructure. For new developments, GI assets can be secured from a landowner's 'land value uplift' and as part of development agreements. LPAs may include capital for the purchase, design, planning and maintenance of GI within the Community Infrastructure Levy (CIL) programme.

At the time of writing, CBC does not have a GI strategy in place. However, in 2020 an Open Space Assessment[18] was undertaken in which details are provided with regard to what open space provision exists in the area, its condition, distribution and overall quality. The document also gives direction on the future provision of accessible, high quality, sustainable provision for open spaces in Copeland.

A.6.6 Flood risk partnerships and partnership plans

CBC has been involved in the development of several partnerships designed to provide collaboration between public agencies, businesses and the community. Partnerships and plans that affect the Borough include:

- Cumbria Local Resilience Forum (LRF),
- Cumbria Community Risk Register,
- Community Emergency Plan,
- Cumbria Floods Partnership,
- Cumbria Strategic Flood Partnership,
- Making Space for Water,
- North West Regional Flood and Coastal Committee (NW RFCC),
- Flood warning and awareness in partnership with the EA,
- Local flood plans,
- Evacuation Plans,
- Key businesses and organisations.

See Section 7 of the main report on Emergency Planning for more information.

[17] Planning for a Healthy Environment - Good Practice Guidance for Green Infrastructure and Biodiversity, Published by the Town and Country Planning Association and The Wildlife Trusts, July 2012

[18] https://www.copeland.gov.uk/sites/default/files/attachments/open_space_assessment_2020.pdf

A.7 Roles and responsibilities

The responsibilities for the Risk Management Authorities under the Flood & Water Management Act and Flood Risk Regulations, as summarised by Government[19], are summarised below.

A.7.1 EA as a RMA

- Has a strategic overview role for all forms of flooding;
- Provides and operates flood warning systems;
- Carries out work to manage flood risk from the sea and main rivers;
- Carries out works in estuaries to secure adequate outfalls for main rivers;
- Carries out surveys to inform FCERM works and has the right to enter private land to carry out such works;
- Issues permits and byelaws with the Environmental Permitting (England and Wales) Regulations 2016 and remaining Environment Agency North West Region byelaw prohibitions for works on or near main rivers, and works affecting watercourses, flood and sea defences and other structures protected by its byelaws;
- Designates structures and features of the environment that affect flood or coastal erosion risk;
- Has the power to request information from any partner in connection with its risk management functions;
- Must exercise its flood or coastal erosion risk management functions in a manner consistent with the National Strategy and Local Strategies;
- Must be consulted on Local Strategies, if affected by the strategy, by the LLFA;
- Must help advise on sustainable development.

A.7.2 LPA as a RMA

- Has a duty to act in a manner that is consistent with the National Strategy and have regard to Local Strategies;
- Must be consulted on Local Strategies, if affected by the strategy, by the LLFA;
- Has a duty to be subject to scrutiny from the LLFA;
- Has a duty to cooperate and share information with other RMAs.

A.7.3 LLFA as a RMA

- Must develop, maintain, apply and monitor a strategy for local flood risk management. This must be consulted on with all RMAs, the public and all other partners with an interest in local flood risk, and must comply with the National Strategy;
- Should prepare and maintain a preliminary flood risk assessment, flood hazard maps, flood risk maps and flood risk management plans;
- Is required to coordinate and share information on local flood risk management between relevant authorities and partners;
- Is empowered to request information from others when it is needed in relation to its flood risk management functions;
- Must investigate significant flooding incidents in its area where it considers it necessary or appropriate;

[19] https://www.gov.uk/government/collections/flood-and-coastal-erosion-risk-management-authorities

- Has a duty to establish and maintain a record of structures within its area that it considers having a significant impact on local flood risk;
- Is empowered to designate structures and features that affect flooding;
- Has powers to undertake works to manage flood risk from surface runoff, groundwater and ordinary watercourses;
- Must exercise its flood and coastal erosion risk management functions in a manner consistent with the National Strategy and the Local Strategy;
- Can carry out work that may cause flooding or coastal erosion in the interests of nature conservation, preservation of cultural heritage or people's enjoyment of the environment or cultural heritage;
- Can acquire land in or outside of their district for use in flood risk management if necessary;
- Is permitted to agree the transfer of responsibilities for risk management functions (except the production of a local strategy) to other RMAs;
- Can take the lead on preparing SWMPs;
- Must aim to contribute to sustainable development;
- Should consider flooding issues that require collaboration with neighbouring LLFAs and other RMAs.

A.7.4 United Utilities as a RMA

- Has a duty to act in a manner that is consistent with the National Strategy and have regard to Local Strategies;
- Must be consulted on Local Strategies, if affected by the strategy, by the relevant LLFA;
- Has a duty to be subject to scrutiny from LLFAs;
- Has a duty to cooperate and share information with other RMAs;
- Is responsible for managing the risks of flooding from water and foul or combined sewer systems providing drainage from buildings and yards.

A.7.5 Highways Authority (LCC) and Highways England as RMAs

- Have a duty to act in a manner that is consistent with the National Strategy and have regard to local strategies when:
  - Carrying out highway drainage works,
  - Filling in roadside ditches,
  - Diverting or carrying out works on part of a watercourse;
- Have responsibility for ensuring effective drainage of local roads in so far as ensuring drains and gullies are maintained;
- Must be consulted on Local Strategies, if affected by the Strategy, by the LLFA;
- Have a duty to be subject to scrutiny from LLFAs.

A.7.6 The local community

- Has a responsibility for protecting their own property from flooding;
- Must be consulted on Local Strategies by the LLFA;
- Has a key role in ensuring local strategies are capable of being successfully delivered within the community. They should actively participate in this process and be engaged by the LLFA.

A.7.7 Riparian owners

A riparian owner is someone who owns land or property alongside a river or other watercourses. A watercourse is any natural or artificial channel through which water flows including through a culvert, ditch, cut, dyke, sluice or private sewer.

Riparian owners have statutory responsibilities, including:

- Maintaining watercourses;
- Allowing the flow of water to pass without obstruction;
- Controlling invasive alien species

Further guidance for riverside property owners can be found via:

https://www.gov.uk/guidance/owning-a-watercourse

A.7.8 Developers

Have a vital role in ensuring effective local flood risk management by avoiding development in areas at risk of flooding. Local Strategies should form a key element of local planning guidance for developers, along with this Level 1 SFRA.