

OPEN

By virtue of paragraph(s) X of Part 1 Schedule 1 of the Local Government Act 1972.

Highways & Transport Committee

20 July 2023

Lead Local Flood Authority 2022-23 Review

Report of: Peter Skates, Acting Executive Director Place

Report Reference No: HTC/03/23-24

Ward(s) Affected: All Wards

Purpose of Report

- 1 This report gives an update on activity in relation to the Council's role as Lead Local Flood Authority for 2022-23.

Executive Summary

- 2 Since 2010 the Council has been a Lead Local Flood Authority (LLFA) having powers and statutory duties to manage and co-ordinate local flood risk management activities.
- 3 Local flood risk means flooding from surface water (overland runoff), groundwater and smaller watercourses (known as Ordinary Watercourses).
- 4 The report details activity undertaken in 2022/23 relating to its specific statutory duties and other permissive powers including:
 - Prepare and Maintain a Local Flood Risk Management Strategy
 - Investigate internal / business flooding - in 2022/23 there were 81 new and ongoing investigations, with 2 properties confirmed to have internal property level funding.
 - Report on significant flood events – reports for Weaver Catchment and Storm Christoph were completed in 2022/23
 - Consent on activities on ordinary watercourses – in 2022/23 there were 43 consents issued.
 - Provide planning advice as a statutory consultee (flooding, drainage and SUDS) - in 2022/23, 631 comments were made on planning consultations received by Cheshire East.

- Maintaining a register of assets.
- Carrying out physical works to manage local flood risks in Cheshire East.
- Co-ordinating activity with other local bodies and communities through public consultation, scrutiny and delivery planning.
- Co-operating with other Risk Management Authorities to improve effectiveness, delivery and efficiencies.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

1. Note the update on activity in relation to the Council's role as Lead Local Flood Authority undertaken in 2022/23.
2. Agree that the Committee will monitor the activity of the Council in discharging its duties as Lead Local Flood Authority in 2023/24 and receive an annual report.

Background

- 5 Following severe flooding during the summer of 2007, the government commissioned an independent review (the 'Pitt Review') which in 2008 recommended that local authorities should lead on the management of local flood risk, working in partnership with other organisations. Two key pieces of legislation have brought this forward; the Flood Risk Regulations (2009) which transpose the EU Floods Directive into UK Law and the Flood and Water Management Act (2010).
- 6 In Cheshire East, there are 2,204 residential properties at risk from surface water flooding (1 in 100 year) and 2,885 from Fluvial Risk (Flood Zone 2 and 3).
- 7 Surface water flooding is known as Pluvial and this occurs, for example, when rainwater does not drain away through the normal drainage system, or soaks into the ground, but lies on or flows over the ground instead. This type of flooding can be difficult to predict and pinpoint, much more so than river or coastal flooding.
- 8 Fluvial is River Flooding that occurs when a river or stream cannot cope with the water draining into it from the surrounding land – for example, when heavy rain falls on ground that is already waterlogged. Cheshire East is responsible for Ordinary Watercourses and the Environment Agency is responsible for Main Rivers, details available at [Statutory Main River Map \(arcgis.com\)](https://www.arcgis.com)

- 9 The Council is a key party in the Regional Flood and Coastal Committee (RFCC). Since 2010 the Council has been a Lead Local Flood Authority (LLFA) having powers and statutory duties to manage and co-ordinate local flood risk management activities. The Council does this by working together with other Risk Management Authorities including the Environment Agency, who manage flooding from generally main rivers, reservoirs, estuaries and the sea, the Canal and River Trust, infrastructure/ utility providers, such as United Utilities, National Highways. And business, householders and community groups including Town and Parish Councils.
- 10 Local flood risk means flooding from surface water (overland runoff), groundwater and smaller watercourses (known as Ordinary Watercourses).

Lead Local Flood Authority Statutory Responsibilities

- 11 As a Lead Local Flood Authority, the Cheshire East continues to deliver on its statutory duties and obligations under the Flood and Water Management Act 2010.
- 12 **Prepare and Maintain a Local Flood Risk Management Strategy** - Section 9 of the Flood and Water Management Act requires Cheshire East to create and maintain a local flood risk management strategy. The Council's original strategy was formally adopted and published in 2017 and this will be subjected to a thorough review this year and brought to a future committee.
- 13 **Investigate internal / business flooding** – The LLFA has a duty to record and investigate flooding events where people or property, businesses or critical infrastructure were involved. The purpose of a formal flood investigation is to:
- Identify who has relevant flood risk management functions, and
 - Investigate whether each of those risk management authorities has exercised, or is proposing to exercise, those functions in response to the flood.
 - The results will be published and data shared with other flood risk management authorities. These include United Utilities and the Environment Agency
- 14 Where a review of the flood has been completed and it is determined that a formal investigation is not needed, the findings are shared with the person who asked for the review and with other flood risk management authorities and relevant landowners. The review is also recorded and reviewed to help in decision making about future flood risk management.

- 15 Where there are a number of flooding incidents to investigate, these will be prioritised within the available resource, taking into account where the potential risk to the community as a whole is highest.
- 16 In 2022/23 there were 81 new and ongoing investigations, with 2 properties confirmed to have internal property level funding.
- 17 **Report on significant flood event** - If the impact of the flood was significant, a formal flood investigation is carried out known as a Section 19 investigation. Significant for Cheshire East equates to 5 or more properties suffering internal flooding in any one catchment. To date 4 bespoke Section 19 reports have produced and published, these are:
- Poynton 2016
 - Poynton Brook, River Dean, River Bollin, Harrop Brook and tributary of Todd Brook 2019
 - Weaver Catchment Flooding 2019 (linked to flooding 25 to 26 October 2019)
 - Storm Christoph 2021 (linked to flooding 20-21 January 2021)
- 18 Reports for Weaver Catchment and Storm Christoph were completed during 2022/23. All reports can be viewed at <https://www.cheshireeast.gov.uk/planning/flooding/floods-and-flood-risk/flood-investigations.aspx>.
- 19 **Consent on activities on ordinary watercourses** – The law governing land drainage consent is the Land Drainage Act 1991 and an ordinary watercourse is any water channel that is not a main river, even a small stream or ditch and consent covers all of the following:
- any development within 8 metres of a watercourse
 - work on structures and features on or next to the watercourse
 - work on the watercourse itself
 - diversions to the watercourse
- 20 It is important to note that:
- you must get consent for both permanent and temporary work/structures
 - where work to create a permanent structure involves temporary work, for example, a water diversion, you'll need a separate consent for the temporary work
 - you must apply for consent for each separate piece of work or structure
 - land drainage consent is separate from any planning permission you might need

- you might need consent even just for repairs or maintenance work
- 21 The guidance from Cheshire East is that land drainage consent is sought at least 8 weeks before work starts and notes that longer time is needed if the site is a nature conservation site or ancient monument. Processing consents also requires the applicant to provide adequate data at the start, if additional calculations or consultations are needed then timescales will need to be extended. The fee for land drainage consent is £50 per structure or piece of work.
- 22 In 2022/23, 43 consents were issued. Our processes are being updated and streamlined to be more efficient and cost effective this will include online applications and payment systems.
- 23 **Provide planning advice as a statutory consultee (flooding, drainage and SUDS)** – The Flood Risk Team assess flood risk across the borough as part of our duty to take flood risk into account in the planning and development process. For reports and other documents, see [strategic flood risk assessment](#). For details about the requirements for sustainable drainage in new planning applications, see [surface water management and new developments](#).
- 24 In 2022/23, 631 comments were made by the Lead Local Flood Authority on planning consultations received by Cheshire East. Throughout 2022/23 there have been challenges with resources within the team to respond to planning consultations within the statutory timeframe, which is impacting on decision marking of applications. The LLFA are working with the Local Planning Authority to prioritise current workloads and to reduce / remove the consultee backlog.
- 25 Moving into 2023/24, measures are now in place to respond to any outstanding applications and to deal with new applications received, this includes additional temporary resource and improvements to processes to manage the requests received. This is supported by ongoing workshops with planning officers to further improve the processes around the flood team providing responses as statutory consultee.
- 26 In addition, a new Service Indicator is also proposed for 2023/24, this will be measured on a monthly basis to record the length of time it takes for planning application response times – the statutory duty is to provide a response to the Local Planning Authority within 21 days of receiving the consultation. Updates to performance will be reported through updates mid-year and end of year reports to Highways and Transport Committee.

- 27 **Maintaining a register of assets** – these are physical features that have a significant effect on flood risk across the Borough these can include bridges, culverts, historic structures, retaining walls and other drainage structures. A publicly available version is being developed throughout 2023/24 and this will include details of the inspection regime in place which covers all Critical Assets across the Borough. Utilising our powers to designate specific features as flood risk management assets gives a degree of protection from damage and removal.
- 28 **Carrying out physical works to manage local flood risks in Cheshire East** – the following schemes were delivered in 2022/23 to mitigate flood risk:
- Giantswood Lane, Congleton (July 2022) – Two Properties better protected from surface water and groundwater flooding.
 - Castle Mill Lane, Ashley (October 2022) – Two Properties better protected from surface water runoff flooding.
 - Waterloo Road, Poynton (June 2022) – Multiple properties and a crucial road are now better protected from flooding from an Ordinary Watercourse and surface water runoff.
 - London Road South, Poynton (August 2022) – Multiple businesses, the main road, as well as several properties are now better protected from surface water and Main River flooding.
 - Bowes Gate Road, Bunbury Road and Bunbury Common, Bunbury (November 2022) – Multiple properties better protected from surface water flooding.
 - Pool View, Winterley (December 2022) – 1x Property better protected from the Highway drainage surcharging and causing surface water flooding.
 - Moss Lane, Leighton (January 2023) – Several properties and the road are now better protected from surface water flooding
- 29 Moving into 2023/24, as part of the annual business planning process capital allocations have been reassigned so that there is a specific allocation for dealing with flood risk issues and a separate allocation for highway drainage. This will help improve delivery of capital projects by having clearer lines of accountability for delivery and prioritisation of funding.
- 30 Cheshire East contributes to the National Flood and Coastal Erosion Risk Management (FCERM) programmes of work for worthwhile projects wherever it is considered it can attract Defra Flood Defence Grant in Aid (FDGiA) and Local Levy funding. Due to the nature of flooding and surface water flood risk across Cheshire many projects can be difficult to justify and require robust Business Cases to demonstrate value for money. Several feasibility studies have been funded

historically via this funding stream and some success in areas like Bradfield Green where extensive new capital works were delivered under the available grant schemes circa 2015 (total project value approximately £300k). Cheshire East currently have indicative allocations for Poynton Brook and Tributaries although this requires further discussion with the Environment Agency concerning eligibility for grant in aid. These work programmes are kept under review via established Cheshire and Mid Mersey Flood Partnership to ensure local priorities based on risk is refreshed annually.

- 31 In addition to the statutory duties detailed above, the Council has permissive powers to:
- Enforce the Land Drainage Act 1991 where applicable
 - Designate Features
 - Make byelaws
- 32 In 2022/23, no formal / legal action has been issued to enforce the Land Drainage Act 1991, but various investigations are ongoing and 8 formal letters were issued under the Act.
- 33 **Co-ordinating activity with other local bodies and communities through public consultation, scrutiny and delivery planning** – all schemes delivered to reduce flood risk are done through the Highway Services Contract and individual consultation would be carried out depending upon the project scale and complexity.
- 34 During flooding, responses are provided by Cheshire East both as Lead Local Flood Authority and Highways Authority. The response is delivered by Cheshire East Highways (Ringway Jacobs) who under the Highway Service Contract provide a Provide a 24/7, 365 day-a-year service.
- 35 Flooding responses will typically require a multi-agency approach to the response due to the scale, impact and risk. In these cases, the Highways Client Team and Cheshire East Highways will:
- Work closely to develop emergency response arrangements with:
 - Cheshire East Council Emergency Planning Team
 - Emergency services
 - Many other agencies including Environment Agency, Met Office, adjacent authorities etc
 - Contributing to Major Incident responses as part of CEMART
 - Monitor weather forecasts based on information from Met Office & Environment Agency
 - Implement adverse weather plan
 - Implement adverse weather desk throughout incident, to:

- Provide operational response includes road closures, communications, provision of gully tankers, jetting teams etc
 - Introduction of staff rosters to provide additional cover for 24/7 response that is above standard provision
 - Working with specialist supply chain partner to deal with effects of flooding both in terms of expertise and resource
 - Undertake effective communication and updates wither direct or through CEMART
 - Working alongside CEMART to ensure continuity
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- 36 Post significant events there is a formal debrief and activities would include:
- To review the Council's response to, and recovery from, the incident
 - To identify any lessons learnt to assist in the planning of and response to similar incidents in the future
 - To be consistent with our professional responsibilities
 - To identify recommendations for consideration by the Council
 - An Incident Debrief Report will be circulated for review by the Corporate Leadership Team
- 37 As referenced earlier in this report, flood events are investigated, and the response taken depends upon the severity and number of properties flooded.
- 38 **Co-operating with other Risk Management Authorities to improve effectiveness, delivery and efficiencies** - To tackle flood risk in an integrated way across the region, Cheshire East Council is a member of the [Cheshire Mid-Mersey local authority partnership](#).
- 39 The Cheshire Mid-Mersey Partnership is one of five Flood & Coastal Erosion Risk Management (FCERM) Partnerships within the North West region, the remaining four are:
- The Association of Greater Manchester Authorities (AGMA)
 - Cumbria
 - Lancashire
 - Merseyside.
- 40 The Partnerships are in regular contact to actively deliver the duties set out by the Flood and Water Management Act 2010 which is overseen by the North West Regional Flood & Coastal Committee (NW RFCC).

- 41 Members of the flood team also attend operational monthly meetings with United Utilities and regularly quarterly meetings at a strategic level are also in place.
- 42 Cheshire East also supports the **Flood Hub**, this is a resource that has been designed to be a one stop shop for flood information and resources to support householders, businesses and communities across the North West in becoming more flood resilient. The Flood Hub has pulled together multiple sources of guidance to produce a hub of information that gives an overview of flood resilience and its many related topics. By signposting a variety of other useful sources, you will easily be able to find all the information you need either within our content or by visiting one of the linked websites.
- 43 The Knowledge Hub on the website can be browsed to find a variety of downloadable resources that have been produced in collaboration with the flood team at Newground, or sourced from external sites.
- 44 On the website, the Local Area page highlights the regional focus of the website by pooling information on flood risk management across the North West, with further information on community groups, flood schemes, natural flood management schemes and events in the easy to use interactive map.
- 45 The Flood Hub can be accessed at <https://thefloodhub.co.uk/>. The Flood Hub website has been funded by the North West Regional Flood and Coastal Committee (RFCC).

Sustainable Drainage System

- 46 The Borough Council is committed to ensuring new developments adopt sustainable approaches to surface water management. To this end, the flood risk team have contributed to a new Sustainable Drainage System Guidance produced by Cheshire East Council in its role as Lead Local Flood Authority and Local Planning Authority. The primary purpose of the Sustainable Drainage Systems Supplemental Planning Document (SuDS SPD) is to provide guidance on how planning approval applications can achieve compliance with policy requirements set out in the National Planning Policy Framework and the Cheshire East Local Land.
- 47 A Sustainable Drainage System (SuDS) works with the landscape of its site, using a system of components to deliver more naturalist water management which provides reduced surface water run-off quantity and increased surface water run-off quality. Alongside these primary water-management benefits, a sustainable drainage system can provide multiple secondary environmental and social benefits which lead to a

higher quality development. The SPD being adopted is a tool to help planning approval applicants achieve SuDS by advising on the levels of best practice expected. Where schemes ignore opportunities to positively work with water on site, planning permission may be refused.

- 48 Internal consultation of the SuDS SPD completed in May 2023 and this will then follow with consultation through the Local Plan Consultees for formal adoption later in 2023.
- 49 In addition, it has been announced nationally that the UK government will implement Schedule 3 of the Flood and Water Management Act 2010 that will mandate sustainable drainage (SuDS) in new developments in England from 2024. Key features of the proposed changes include:
- SuDS will have to be incorporated into new developments in England.
 - Applications for the approval of SuDS on new developments that meet the criteria will have to be made to a SuDS Approving Body, or “SAB”, which will sit within the Council.
 - SAB approval will be separate from the Local Planning Authority approval.
 - SAB approval could be subject to conditions and may require a non-performance bond.
 - Construction works covering an area of under 100 sqm or single properties will be exempt. Nationally Significant Infrastructure Projects will also be exempt.
 - Applications for approval could be made to the SAB directly or through the Council combined with the planning application. A fee will be payable and there will be rights of appeal against refusal.
- 50 The impact of implemented Schedule 3 is being assessed and implications will be considered as part of the annual business planning cycle and reported to a future committee meeting.

It's Not Just Water – Officer Recommendation

- 51 At the Highways and Transport Committee on Thursday 26th January 2023, the Committee considered a report which provided a response to the report of the former Environment and Regeneration Overview and Scrutiny (EROSC) Committee's Working Group – “It's Not Just Water”.
- 52 An amendment was proposed and seconded and subsequently carried which sought agreement to include the Working Group's recommendation (4) “MPs should be lobbied to bring about change to national flood funding” to the officer report recommendations.

53 The recommendations as detailed below were resolved (unanimously) by Committee are being implemented.

1. Approves Officer Recommendation Responses 1 and 2 contained in section 5 of this report in order that they can be implemented operationally, the officer recommendations are:

- Officer Recommendation 1 Response – Governance and Democracy

That the oversight of the LLFA statutory function is retained with the Highways and Transport Committee in line with the current Constitution.

- Officer Recommendation 2 Response – Delivery of the LLFA Function

To retain the current outsourced arrangement for the Flood Risk Management / LLFA delivery function.

Create a standalone LLFA delivery team initially from existing staff resource within the Cheshire East Highways (Ringway Jacobs) organisational structure which for all operational and decision-making matters relating to flood risk management reports directly to the Council's Head of Highways.

Implement a succinct set of key performance indicators (KPIs) specifically for the delivery of the LLFA function picking up on the key aspects of the Working Groups concerns.

Flood Risk Management / LLFA specific Key Performance Indicators to be reported to the Highways and Transport Committee as part of the bi-annual reports on the performance of the Highways and Infrastructure division.

2. Approves officer responses 3, 4 and 5 to not implement the Working Group Recommendations 3, and 5 detailed in section 5 of this report at the current time given the costs are not within the current Medium Term Financial Strategy (MTFS).

3. Agrees to implement the Working Group Recommendation 4 - to lobby MPs to bring about change to national flood funding.

Consultation and Engagement

54 This report is a review of the activity of the Council in discharging its duties as Lead Local Flood Authority in 2022/23. No consultation has taken place specifically on this report as in delivering this function, consultation would have been carried out where appropriate and required by legislation.

Reasons for Recommendations

55 To provide an update to Committee on activity relating to the Council's role as Lead Local Flood Authority for 2022/23

56 To facilitate monitoring of the activities the council undertakes to discharge its duties as Lead Local Flood Authority in 2023/24 by means of an annual report to the Highway and Transport committee.

Other Options Considered

57 Not applicable.

Implications and Comments

Monitoring Officer/Legal

58 There are no legal implications for this report that is for noting. Legal advice was previously provided for the items considered and delivered throughout 2022/23 by the Council relating to its statutory role as the Lead Local Flood Authority.

Section 151 Officer/Finance

59 This report considers activity for 2022/23 relating to the Council's role as Lead Local Flood Authority. The budget for this activity is held within the Highways Service within Highways and Infrastructure.

Policy

60 This report is linked to our aims of:

- Open - An open and enabling organisation
- Fair - A Council which empowers and cares about people; and
- Green - A thriving and sustainable place.

An open and enabling organisation	A council which empowers and cares about people	A thriving and sustainable place
The report is to provide Committee members with an update of activity for 2022/23 relating to the	The statutory duties placed upon the Council as Lead Local Flood Authority all contribute to mitigating flood risk and	Flood risk mitigation promotes the use of Sustainable Drainage in providing solutions to development and contributes to a thriving

Council's role as Lead Local Flood Authority	the impact on people as a result of flooding	and sustainable place to live
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Equality, Diversity and Inclusion

61 There are no equalities implications arising from this report.

Human Resources

62 There are no human resources implications arising from this report.

Risk Management

63 The Council has a statutory duty as Lead Local Flood Authority. Failure to fulfil its duties and obligations may result in developments being brought forward that do not consider flood risk fully and result in increased flood risk that could have been mitigated. Other risk include lack of investment and not carrying out physical works to manage local flood risks that could lead to repeat events or more severe flooding and not co-ordinating with other Risk Management Authorities to maximise investment to improve effectiveness, delivery and efficiencies relating to flood risk across the Borough.

64 Rural Communities

65 There are no implications for rural communities arising from this report.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

66 There are no implications for children and young people arising from this report.

Public Health

67 There are no implications for public health arising from this report.

Climate Change

68 The climate of the Earth is changing, for 11,000 years the average temperature across the world was a stable 14°C. The Industrial Revolution began in the mid-1800s when humans began to burn fossil fuels (coal, oil, and gas). This practice released greenhouse gases (carbon dioxide, methane, and nitrous oxides) into the air where large quantities have built up in the atmosphere- rising by 40% during the 20th and 21st century.

- 69 By the 1980s the 'greenhouse effect' had been noticed and by the end of the decade the International Panel on Climate Change had been established to provide governments with information in tackling climate change.
- 70 Data held by the Met Office shows the coldest years and warmest years in the UK. Notably the warmest years have all occurred since 2006.
- 71 The long-term effects of climate change in the UK are expected to be:
- Warmer and wetter winters
 - Hotter and drier summers
 - More frequent and intense weather extremes
- 72 And by 2070 projections show:
- Winters will be between 1 and 4.5°C warmer and up to 30% wetter
 - Summers will be between 1 and 6°C warmer and up to 60% drier
- 73 Changes to the climate system include:
- Rising ocean levels- glaciers and ice sheets will melt adding more water to oceans, elevating levels, and expanding the ocean space with warmer water.
 - Ocean acidification- through the absorption of carbon dioxide.
 - Extreme weather events- becoming more intense and frequent such as heatwaves, droughts, and floods.
- 74 The Highway Service both as Lead Local Flood Authority and Local Highway Authority continue to be committed to the Council's 2025 carbon neutral target. The service is actively working to reduce its carbon footprint and further contribute to the net zero target. This is wide ranging and includes expanding its use of electric plant and tools, selection of lower carbon materials, expanded use of recycling and reduction in use of virgin aggregates, changes in working arrangements and travel patterns etc.

Access to Information	
Contact Officer:	Paul Davies, Contract Operations Manager Paul.davies@cheshireeast.gov.uk
Appendices:	None
Background Papers:	<p>Local Flood Risk Management Strategy 2017, available at: https://www.cheshireeast.gov.uk/pdf/highways/flood-risk-strategy/local-flood-risk-management-strategy-2017.pdf</p> <p>Section 19 flood reports available at: https://www.cheshireeast.gov.uk/planning/flooding/floods-and-flood-risk/flood-investigations.aspx.</p> <p>Strategic Flood Risk Assessment available at: https://www.cheshireeast.gov.uk/planning/spatial-planning/research and evidence/strategic flood risk assmnt/strategic flood risk assmnt.aspx</p> <p>Sustainable drainage in new planning applications (current) available at: https://www.cheshireeast.gov.uk/planning/flooding/floods-and-flood-risk/surface-water-management.aspx</p> <p>Cheshire Mid-Mersey local authority partnership available at: https://thefloodhub.co.uk/your-local-area/cheshire/</p>

The Flood Hub available at:

<https://thefloodhub.co.uk/>

Its Not Just Water – Officer Recommendations Report from 26th January 2023 Highways and Transport Committee available at:

<https://moderngov.cheshireeast.gov.uk/documents/s100799/Report%20-%20Its%20Not%20Just%20Water%20Officer%20Recommends%20Rev%2010.0%2016.12.2022%202.pdf>