

# “It’s Not Just Water”

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An investigation into the manageable causes and impacts of severe flooding across Cheshire East including flood risk management, recovery, and the reduction of future risk

Working for a *brighter future*  together



OFFICIAL-SENSITIVE

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## Chair's Foreword

Flooding is a natural phenomenon that often proves damaging to both people and property.

Notwithstanding the recent heatwave, UK rainfall records indicate that not only is more rain falling each year, but rainfall events are now more intense resulting in an increased likelihood of residents in Cheshire East experiencing flooding from groundwater, surface water and local watercourses.

The title of this report *It's Not Just Water* is a direct quote from a resident of Poynton who experienced first-hand the flooding of their property and possessions.

They elaborated:

*"We watched in disbelief as the water climbed higher and higher up the patio doors and then began to come in through the walls. We moved what we could to upstairs. It was relentless. We were helpless. It was filthy, not just water but the contents of drains and sewers.*

*We didn't know where to go for advice or help".*

No one should have to experience the trauma of a significant flood event. This Task and Finish Group was formed with the purpose of investigating the manageable causes and impacts of severe flooding across Cheshire East to work towards a reduction in future risk. Through this investigation we have consulted several sources, including people living within communities devastated by flooding as their homes and personal possessions were inundated and often destroyed by the floodwater.

We met with multiple agencies and specialist officers, and very quickly it became clear that the issue of flooding is not in the hands of one person or agency.

Together with the issue of the long-term impacts expected from climate change, it will take a combination of strategic partnerships, time, resources, and funding to begin to proactively work towards ensuring fewer of our Cheshire East communities experience the horror and the aftermath of flooding.

The recommendations outlined in this report should enable us to support those residents already living in and tackling flood prone areas within Cheshire East, and contribute to reducing any future risk in other areas.

The committee would like to thank all of those who contributed to this Task and Finish review, especially the residents of Poynton who shared their experiences.

Special thanks also go to Paul Reeves and Vicky Venn for their time and assistance in compiling this report.

Particular mention must be made of Helen Davies who conscientiously and expertly steered and managed the project from the start.

## Thanks and Acknowledgements

The Group would like to extend thanks to those who directly helped support and shape this review:

- A consultant at The Flood Hub
- A Flood Programme Manager, Calderdale Metropolitan Borough Council
- Councillor Scott Patience, Calderdale Metropolitan Borough Council
- The Clerk to Poynton Town Council
- Macclesfield Member of Parliament, David Rutley
- Representative of the Poynton Residents Flood Action Group
- Paul Reeves, Flood Risk Manager, Cheshire East Highways
- Vicky Venn, Flood Risk Engineer, Cheshire East Highways
- Ian McLellan, Contract Manager, Cheshire East Highways
- Matthew Davenhill, Contract Asset Manager, Cheshire East Council
- Helen Davies, Democratic Services Officer
- A Senior Advisor, Flood Risk Management at The Environment Agency.
- Tom Shuttleworth, Interim Head of Highways, Cheshire East Council
- Councillor Michael Beanland, Poynton West and Adlington (substituted for Councillor Sewart at the Environment Agency meeting).

## Calendar of Meetings

- **21 September 2020:** Resolution to form a Task and Finish Group at Environment & Regeneration Overview & Scrutiny Committee
- **18th October 2020:** Membership of Task and Finish Group approved by Committee
- **29th October:** Scoping Meeting 1 (setting objectives, project title and identifying who to meet with)
- **17th November:** Scoping Meeting 2 (finishing off from meeting 1)
- **17th December 2020:** Meeting with Flood Officers and Manager from Cheshire East Council
- **9<sup>th</sup> February 2021:** Meeting scheduled with a Consultant for The Flood Hub
- **11<sup>th</sup> February 2021:** Meeting scheduled with 1 Elected Member and Flood Manager from Calderdale Council, a peer with extensive experience of significant flooding
- **8<sup>th</sup> March:** Preliminary meeting with Key Flood Hub residents and Poynton Town Council
- **16th March 2021:** Poynton Town Council and MP David Rutley
- **18th March 2021:** Poynton Flood Hub & Poynton Town Council Flood Group and MP David Rutley
- **24<sup>th</sup> May 2021:** Meeting with Team Manager, Joint Cheshire Emergency Planning Team
- **10<sup>th</sup> June 2021:** Meeting with a Senior Advisor for Flood Risk Management at The Environment Agency
- **13<sup>th</sup> August 2021:** Meeting with United Utilities
- **8<sup>th</sup> February 2022:** Meeting with Internal Highways Officers
- **4<sup>th</sup> July 2022:** Meeting with Interim Head of Highways
- **12<sup>th</sup> July 2022:** Meeting with Interim Head of Highways

## 1. Executive Summary

- 1.1. Flooding is an issue that effects everybody. Across the borough of Cheshire East, residents have experienced flooding in 2016, 2019, 2020 and 2021.
- 1.2. Cheshire East Council exercises several statutory roles in relation to flooding, these include acting as the highway authority responsible for the roads in the borough. They are also the Lead Local Flood Authority (“LLFA”) responsible for managing the local risk of flooding from surface water, ordinary watercourses, and groundwater sources; in addition they are a Risk Management Authority (“RMA”) who have a key role in the management of flood risk under the Flood and Water Management Act 2010 (“FWMA”).
- 1.3. Poynton has seen two significant instances of flooding in 2016 and then again in 2019, with the latter affecting one in every 200 homes.
- 1.4. In November 2020, a presentation and statutory report into the requirements of Section 19 of the Flood and Water Management Act 2010 (specifically the 2019 flooding in Poynton) was given to the Environment and Regeneration Overview and Scrutiny Committee. The Committee noted the 2019 event was declared a major incident by the Council and resolved to undertake an in-depth review of flooding and flood risk management in Cheshire East.
- 1.5. This review sought to consider the manageable causes and impacts of severe flooding across Cheshire East including flood risk management, recovery and reducing the future risk of flooding.
- 1.6. As part of the review, it has been necessary to take evidence from a variety of people and organisations who have either been affected by flooding of their properties or work within similar organisations dealing with the investigation and the after effects of the flooding.
- 1.7. It should be noted that the review was undertaken during the second and third wave of the national lockdown during the Covid-19 pandemic. Consequently, it was not possible to carry out any site visits or physical meetings with a reliance on remote working, including the use of Microsoft Teams to conduct business.
- 1.8. This report outlines five key recommendations detailed below that the Group believe will help to proactively support those already tackling flood prone areas, and that through collaborative working, proactive steps can be taken now to help reduce the future risk of flooding across the borough. The Group acknowledged that some of the recommendations are directly linked and have a correlation to many of the points addressed in recommendations 2-5 that stemmed from recommendation one.

## Recommendations

### 1 – Governance & Democracy

- The information the Group had drawn out through the life of the review was significant and that to ensure transparency, accountability and fully embed any work undertaken as a response to these recommendations, this group (or similar type of sub-committee) should be maintained, and these Members should be consulted on any matters of flooding across Cheshire East.
- The Environment and Communities Committee would be deemed the most appropriate committee to agree LLFA decisions and documents to enable the Council's duties as a Lead Local Flood Authority (LLFA), which are the responsibility of the Council under the Flood and Water Management Act 2010 (Flood Risk Management) to be discharged without prejudice
- A review of the Current Councils constitution is undertaken to ensure that the roles and responsibilities of the Lead Local Flood Authority duties are correctly considered, and represented to be compliant with legislation and transparent to residents.

### 2 – Delivery of the LLFA Function

- Cheshire East should no longer continue with the current arrangements in subcontracting the LLFA. Whilst other statutory duties are outsourced by the local authority, the Group were unable to find similar arrangements to Cheshire East elsewhere in the northwest and was not convinced the LLFA can appropriately regulate the Highways Authority whilst being governed by it.
- The restructuring of the LLFA in-house will draw a distinct difference between the work of the Highways Authority, the Planning Authority and the LLFA. This can be reflected across all communications with residents, including the external website, to avoid confusion and transparently demonstrate how Cheshire East is meeting the statutory requirements of the Flood and Water Management Act 2010. An in-house operation will enable better connectivity with other council departments enabling a more joined up work force, less duplication or error.
- Having reviewed the evidence from other similar sized local authorities, the Group believe the LLFA should be placed within the remit of the Environment and Neighbourhood Services, in line with Planning, to draw a distinct difference in work to that of the Highways department and Highways Authority.

### 3 – Resources & Resilience

- The LLFA should be resourced adequately to ensure it can carry out its statutory and non-statutory duties, including supporting towns and villages across the borough to ensure that they understand their roles and responsibilities during a major flooding incident and become more resilient.
- The LLFA should ensure that it is adequately resourced to allow collaboration with stakeholders and to develop the necessary business cases to capitalise on existing external funding opportunities.
- The LLFA should consider how its existing and any new staffing resource is prioritised, to help support community resilience by becoming the interface between the council and local Flood Action Groups.

### 4 – Funding Opportunities

- MPs should be lobbied to bring about change to national flood funding, as national funding has been allocated for large fluvial (river) floods and not surface water flooding which is most of the flooding across Cheshire.
- Aligned to Recommendation 3 - the LLFA should ensure that it is adequately resourced to allow collaboration with stakeholders in order that robust business cases can be developed to capitalise on existing external grant funding opportunities. For example, Flood Defence Grant in Aid (FDGiA) and Local Levy for projects where there is a strong business case.

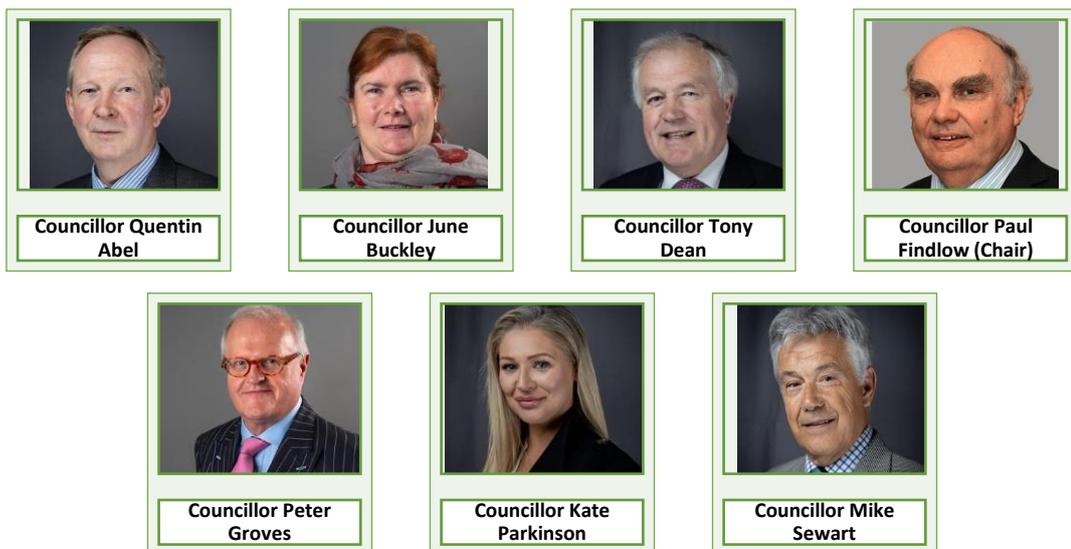
### 5 – Planning and Stakeholder Communications

- Where appropriate, the Local Planning Authority should promote the incorporation of innovative Green Infrastructure into any new development proposals. Consideration should be given to the introduction of policies within any new and emerging planning policy documents.
- Cheshire East Council corporately need to do more towards encouraging local people and businesses to make their assets resilient, and any opportunities to underpin flooding content messages generated in partnership should be used on council platforms where appropriate (social media, website, printed communications etc.)

## 2. Introduction, Purpose and Scope

- 2.1. On the 21 September 2020 the Environment & Regeneration Overview & Scrutiny (EROSC) resolved to establish a Task and Finish Committee to undertake an in-depth examination and review of flooding and flood risk management across Cheshire East.
- 2.2. The review involved members to understand, scrutinise and review the impacts of the 2016 and 2019 flooding events that occurred across various areas of Cheshire East (e.g., Poynton, Kettlethulme, Adlington, Prestbury, Nantwich and Bollington).
- 2.3. At the Committee meeting on the 18 October 2020, the Task and Finish Group (hereafter referred to as the Group) membership was agreed. At the meeting held on 16 November the initial membership had to be reviewed as it was found that Poynton and Bollington Members had been co-opted onto the group; and due to both Members being part of the Cabinet, they were excluded from participating in any Scrutiny led reviews. It was therefore necessary to co-opt Councillor Mike Sewart from Poynton into the group.

### Task and Finish Group



### Officer Support

- 2.4. Expertise from Flood Officers was provided by:
- Paul Reeves- Flood Risk Manager, Cheshire East Highways
  - Vicky Venn- Flood Risk Engineer, Cheshire East Highways

### 3. Objectives of the Review

3.1. The following four points were agreed by the Group as key objectives to the review;

3.2. **Objective 1 - To investigate why there are recurring instances of flooding- what can be done to mitigate the risk.**

In order, to achieve this objective, it was necessary to consider which outside organisations or members of the public should be engaged with:

- Poynton flood working group
- Poynton flood action group: Residents action group
- Poynton residents as they are concerned about future flooding events
- The Environment Agency- (communication techniques, engineering side, inspecting side)
- United Utilities
- Cheshire East Council
- Town and Parish councils

Other groups to engage with:

- Cheshire Wildlife Trust
- Mersey Forest
- Cheshire and Mid Mersey group

3.3. **Objective 2 - Issues with communications to residents and businesses related to flooding issues- can this be improved?**

In order, to achieve this objective, it was necessary to consider which outside organisations or members of the public should be engaged with:

- Cheshire East Council- Comms team
- Poynton action group especially residents concerned about flooding
- Flood working group, to provide a technical background and to consider the work to be undertaken in the wider area to benefit all residents.
- Building Control
- CEC Emergency Planners-
- Poynton Town Council
- Social Media Groups for Poynton

- Number of resident groups, housing estates with issues, formed smaller groups and worked with them. To mitigate flooding or risk or property resilience.

**3.4. Objective 3 - Look at the specific support provided to residents and businesses and properties affected by flooding- anecdotal instances and what have CEC and partners done to support people?**

The people to engage with:

- Insurance Companies
- Poynton Town Council
- Residents
- Businesses
- UU
- EA- operate flood warning system,
- Cheshire East
- Local resilience forum

**3.5. Objective 4 - Are the public confident that the council and providers have procedures in place to offer support? To investigate the Place issues (logistics with flooding) and the People issues (support in place for People).**

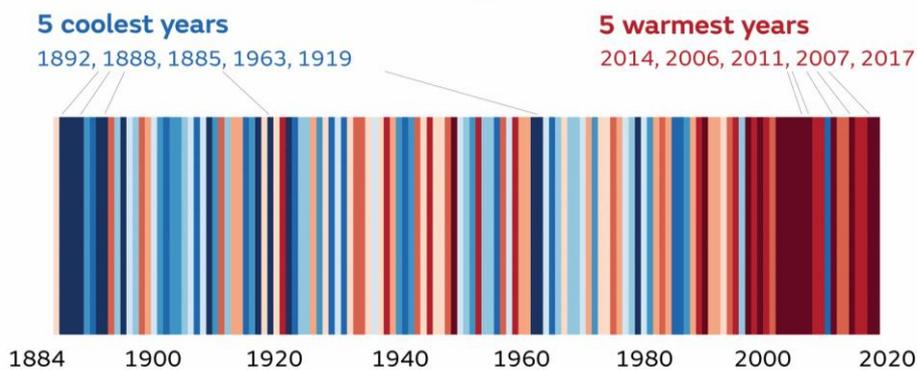
Objectives 3 and 4 contain enough crossover to be considered together.

## 4. The Climate Emergency Context

- 4.1. 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.
- 4.2. 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.
- 4.3. 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.

 Met Office

### UK annual temperature



- 4.4. 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
- 4.5. 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
- 4.6. 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.

#### Climate Change: Cheshire East Council Response

4.7. At the Council meeting on 22 May 2019 the Elected Members of Cheshire East Council (CEC) approved the following Notice of Motion relating to Climate Change.

“This Council notes that on 1 May Parliament declared an environment and climate emergency and

- a) Requests that a Cheshire East Environmental Strategy is brought forward as a matter of urgency.
- b) Commits to the target of Cheshire East Council being carbon neutral by 2025 and asks that details of how to meet this commitment are included in the Environmental Strategy.
- c) Will work to encourage all businesses, residents and organisations in Cheshire East to reduce their carbon footprint by reducing energy consumptions and promoting healthy lifestyles.”

#### Building the case for action

4.8. It is widely accepted that de-carbonising will offer many co-benefits. These include:

- **Health improvements** – Due to cleaner air, warmer homes, more exercise, and better mental health.
- **Quality of Place** – Less traffic congestion, job creation in the low-carbon sector, operational cost savings via increased energy efficiency and waste reduction
- **Green Infrastructure** – investments in natural solutions to climate change (i.e., tree planting, peatland management, etc.) can have a wide range of additional benefits including:
- **Biodiversity** – natural spaces in urban and rural settings create refuges for wildlife.
- **Water management** – regulation of water availability & quality and flooding.
- **Heat regulation** – vegetation provides cooling/ warming in the summer/ winter, respectively
- **Economic benefits** – e.g., increased productivity through greater wellbeing; new revenue streams.
- **Health & wellbeing** – e.g., increased recreation; reduced stress; spiritual connection to nature.

- 4.9.** However, recent science indicates that decarbonisation needs to accelerate, and as a result, not only are we forgoing opportunities to live better, healthier lives, we are exposing ourselves to more frequent, extreme weather events, such as flooding and heat stress (among many other adverse impacts).

Cheshire East Council  
Carbon Neutrality Action Plan 2020-2025

#### Flooding Context: 2007 Flooding in the UK

- 4.10.** The summer of 2007 was the wettest recorded since records began in 1766. There was 414mm of rainfall across England and Wales from May to July. Surface water and river flooding affected more than 55,000 homes and businesses across the country. 7,000 people were rescued, 17,000 families had to leave their homes and 13 people died. Estimates shortly after the floods put the total losses at approx. £4bn of which insurable losses were reported to be approx. £3bn.

The Environment Agency

#### Post-2007: The Pitt Review and Lead Local Flood Authorities

- 4.11.** Following the devastation of the 2007 floods, the government commissioned a review, led by Sir Michael Pitt, which recommended that "Local authorities should lead on the management of local flood risk (from surface water, groundwater and ordinary watercourses), with the support of the relevant organisations", (The Pitt Review, 2008). This led to the Flood and Water Management Act (2010) ("FWMA") with the aim of providing better, more comprehensive management of flood risk for people, homes, and businesses.

#### Types of Flooding

- 4.12.** There are five common types of flooding:
1. Tidal flooding- from sea and tidal rivers.
  2. Fluvial flooding-rivers bursting their banks or overflowing.
  3. Groundwater flooding - when the earth is saturated and can hold no more water.
  4. Flash flooding (pluvial) - when soils or drainage systems are overwhelmed by intense, sustained rainfall, often worsened by saturated ground or impermeable surfaces like paving/concrete or decking in gardens or urban areas and
  5. Sewer flooding- when there are failures with sewerage systems.

## **5. Roles and Responsibilities**

- 5.1.** There is no single body responsible for managing flood risk in the UK.

5.2. Responsibility is joint among several bodies; therefore collaboration is key.



5.3. The sources of flooding and the responsible Risk Management Authority are shown in the matrix below:

Flood Source	Environment Agency	LLFA	District/Unitary Council	Water Company	Highway Authority (Local & National)
Main River*	x				
Ordinary Watercourse*		x	x		
Surface water from highway					x
Surface water from other sources		x			
Sewer flooding				x	
The sea			x		
Groundwater flooding		x			
Water supply infrastructure				x	

**Table 1:** Sources of flooding : responsibility matrix

The Government

5.4. The Department for Environment, Food and Rural Affairs (“DEFRA”) is the policy lead for flood and coastal erosion risk management in England.

**5.5.** National policies are delivered by Risk Management Authorities (“RMAs”) which are.

- Environment Agency
- Lead Local Flood Authorities
- District and Borough Councils
- Coast protection authorities
- Water and sewerage companies
- Internal Drainage Boards
- Highway authorities.

**5.6.** The Flood and Water Management Act 2010 (“FWMA”) requires these RMAs to:

- co-operate with each other
- act in a manner that is consistent with the National Flood and Coastal Erosion Risk Management Strategy for England and the local flood risk management strategies developed by LLFA
- exchange information.

**5.7.** They have flexibility to form partnerships and to act on behalf of one another.

#### The Environment Agency (“EA”)

**5.8.** The EA is responsible for taking a strategic overview of the management of all sources of flooding and coastal erosion and are responsible for managing the risk of flooding from main rivers, reservoirs, estuaries, and the sea.

#### Local Authorities

**5.9.** District and Borough Councils are RMAs and key partners in planning local flood risk management. They carry out flood risk management works on minor watercourses working with LLFAs and other RMAs to ensure risks are managed effectively, including in relation to taking decisions on development in their area.

#### Planning Authorities

**5.10.** The planning authority is often the Local Authority. They are responsible for developing Local Plans, setting out how areas will develop in the future. They also make decisions through Planning Committees on which planning applications get approval. Communities can shape development in their areas through the production of Neighbourhood Plans.

#### Highways Authorities

**5.11.** Responsible for providing and managing highway drainage and roadside ditches. They must ensure that road projects do not increase flood risk.

National Highways are responsible for motorways and major trunk roads. Local authorities or national park authorities are responsible for other roads.

#### Internal Drainage Boards (IDBs)

- 5.12.** IDBs are independent public bodies responsible for water level management in low lying areas (approximately 10% of England at present), working in partnership with other authorities. IDBs do not apply to any area of Cheshire East.

#### Water and sewerage companies

- 5.13.** Water and sewerage companies are RMAs and are responsible for managing the risks of flooding from piped water and foul or combined sewer systems providing drainage from buildings and yards.

#### Coastal protection authorities

- 5.14.** District and unitary authorities in coastal areas are Coastal Protection Authorities. They lead on coastal erosion risk management activities in their area. They are responsible for developing Shoreline Management Plans (“SMPs”) which provide a long-term holistic framework for managing the risk of coastal change on their section of the coast.

- 5.15.** In addition, other stakeholders such as residents and communities have an important role to play.

#### Canal and River Trust

- 5.16.** The Canal & River Trust are not an RMA under the FWMA. The responsibilities of the Canal and River Trust relate to its function as a navigation authority. It is not funded for flood risk management except in the context of maintaining the canals and their feeder streams, by-passes and discharge weirs fit for purpose.

#### Riparian Owners

- 5.17.** A Riparian owner is anyone who owns a property or land where there is a watercourse adjacent to the boundary of their property. A watercourse can include a river, stream, or ditch. A riparian owner is also responsible for watercourses or culverted watercourses passing through their land. As a riparian owner they have certain rights and responsibilities to maintain the watercourse.

#### Property Owners

- 5.18.** People are responsible for looking after their own property, including reducing the risks of water entering it and causing damage. Therefore, it is important that people are aware of their flood risk and can take measures to better protect themselves, where appropriate.
- 5.19.** The drainage pipes located beneath a person's house, garden or driveway belong to them and are their responsibility. These cease to be their responsibility the moment the pipes reach outside the boundary of their property and/or connect to pipes serving another property. If there is a problem with a private drain or sewer, it is up to homeowner to pay for an independent drain clearing company to carry out any clearance work.

#### Lead Local Flood Authorities (LLFAs)

- 5.20.** LLFAs are Unitary (such as Cheshire East Council) or County Councils and are responsible for:
- coordinating flood risk management in the area.
  - managing the risk of flooding from surface water, groundwater and ordinary watercourses and lead on community recovery; and
  - maintaining a register of flood risk assets and surface water risk.
- 5.21.** LLFAs work in partnership with other RMAs (Environment Agency, Highways Authorities and water and sewerage companies) and are required to:
- prepare and maintain a strategy for local flood risk management in their areas, coordinating views and activity with other local bodies and communities through public consultation and scrutiny, and delivery planning. They must consult RMAs and the public about their strategy. (The Local Government Association (LGA) in November 2011 produced a "Framework to assist with the development of the Local Strategy for Flood Risk Management. A living Document" to assist LLFAs)
  - carry out works to manage local flood risks in their areas (the power for works in relation to minor watercourses sits with either the district council or unitary authorities outside of IDB areas)
  - maintain a register of assets – these are physical features that have a significant effect on flooding in their area.
  - investigate significant local flooding incidents and publish the results of such investigations.
  - have powers under the Land Drainage Act 1991 to regulate ordinary watercourses (outside of internal drainage districts) to maintain a proper flow by:
    - issuing consents for altering, removing, or replacing certain structures or features on ordinary watercourses; and
    - enforcing obligations to maintain flow in a watercourse and repair watercourses, bridges, and other structures in a watercourse
  - undertake a statutory consultee role providing technical advice on surface water drainage to local planning authorities major developments (10 dwellings or more)

- co-operate with other Risk Management Authorities
  - play a lead role in emergency planning and recovery after a flood event. Local authorities are 'category one responders' under the Civil Contingencies Act and must have plans to respond to emergencies, and control or reduce the impact of an emergency.
- 5.22.** LLFAs and the Environment Agency and all other RMAs need to work closely together and ensure that the plans they are making both locally and nationally link up. An essential part of managing local flood risk is taking account of new development in land use plans and strategies.
- 5.23.** By working in partnership with communities, LLFAs can raise awareness of flood and coastal erosion risks. Local flood action groups (and other organisations that represent those living and working in areas at risk of flooding) will be useful and trusted channels for sharing information, guidance, and support directly with the community. The National Flood Forum may be able to provide information on flood action groups in local areas.
- 5.24.** LLFAs should encourage local communities to participate in local flood risk management. Depending on local circumstances, this could include developing and sharing good practice in risk management, training community volunteers so that they can raise awareness of flood risk in their community and helping the community to prepare flood action plans. LLFAs must also consult local communities about their local flood risk management strategy.
- 5.25.** From 15 April 2015, the LLFA became a statutory consultee for major developments (such as housing or industrial estates) which have surface water or other local flooding impacts.
- 5.26.** Now the roles and responsibilities have been established, the following teams within Cheshire East Council collaborate to mitigate flooding across the borough.

During a flood event:

- Cheshire Resilience Forum (shared service CEC & CWAC)
- Lead Local Flood Authority (LLFA)
- Public Health
- Children Team
- Highways Authority
- Local Planning Authority
- Facilities Management (Countryside / Parks / Assets)

During a significant flood event:

- 5.27.** In line with the Civil Contingencies Act 2004 and the council's Major Incident Plans and Multi-Agency Flood Plan a Strategic Recovery Co-ordination

Group is called in response to a “Major Incident Standby” or a “Major Incident Declared”.

- 5.28.** A council-led Strategic Recovery Co-ordination Group is formed of all the teams listed above with support from Public Health England, the Environment Agency, British Red Cross, Cheshire Fire and Rescue and Cheshire Police as required.
- 5.29.** Following each flood event, a lessons learnt session is held and feedback is collated via good practice and areas identified for improvement. This is then used to enhance the service provided by the council and its partners.

Pre / Post a flood event:

Team	Main responsibility with regards to flooding
Lead Local Flood Authority (LLFA)	Delivery of Local Flood Risk Management Strategy  Duty to Investigate <u>Significant</u> Flood Incidents  Consent and Enforcement Powers (development within 8m of a river)  Responsible for all other sources including ordinary watercourses, surface water, groundwater  Powers to Designate Features/Make byelaws  Sustainable Drainage Systems (revised LLFA statutory consultee arrangements from April 2015)  Required to Maintain an Asset Register  Collaboration with other RMAs to develop flood mitigation schemes and more resilient communities
Local Planning Authority	Strategic planning and development  Flow balanced developments  Sustainable urban drainage  Building enforcement
Cheshire Resilience Forum	Design and implement multi-agency flood plans and major incident plans  develop more resilient communities
Highways Authority	Keep the highway safe

	<p>Respond to emergencies on the highway, including flooding</p> <p>Close roads where roads are unsafe due to flooding</p> <p>Ensure that landowners do not discharge water onto the highway</p> <p>Maintain highway assets so to not cause flooding to private properties</p> <p>Repairing flood damaged assets on the highway and structures associated with highway bridges over watercourses</p>
ANSA	Cleanse highways, support with post flood clean ups
Facilities Management (Countryside / Parks / Assets)	<p>Riparian responsibilities</p> <p>Ensure reservoir are maintained in line with the Reservoirs Act</p>
Council tax	Reduced Council tax and business rate relief for flood affected properties
Housing	Emergency housing for flooded residents

**Table 2:** Responsibility matrix – pre and post flooding events

## 6. Recommendation No.1: Governance and Democracy

- 6.1. The Council as the LLFA must comply with statutory provisions relating to flooding, these are shown in the Table 3.
- 6.2. It should be noted that the EU Floods Directive 2007 has been incorporated into the Flood Risk Regulations 2009, and the Flood and Water Management Act, 2010.

European Legislation	Acts of Parliament	National Policy	Current Flood Risk Policy
<ul style="list-style-type: none"> <li>EU Floods Directive 2007</li> </ul>	-	<ul style="list-style-type: none"> <li>Flood Risk Regulations 2009</li> </ul>	<ul style="list-style-type: none"> <li>Preliminary Flood Risk Assessments</li> <li>Flood Risk Management Plans</li> </ul>
-	<ul style="list-style-type: none"> <li>Public Health Act 1936</li> <li>Reservoirs Act 1975</li> <li>Water Resources Act 1991</li> <li>Water Industry Act 1991</li> <li>Land Drainage Act 1991</li> <li>Flood and Water Management Act 2010 [Appendix 3]</li> <li>Environment Bill 2020</li> <li>Agriculture Bill 2019-2021</li> </ul>	<ul style="list-style-type: none"> <li>National Planning Policy Framework 2012</li> <li>25 Year Environment Plan 2018</li> </ul>	<ul style="list-style-type: none"> <li>Local Planning Policy</li> <li>National Flood and Coastal Erosion Risk Management Strategy*</li> <li>Local Flood Risk Management Strategies*</li> </ul> <p>*Requirement under the Flood and Water Management Act 2010</p>
-	<ul style="list-style-type: none"> <li>Civil Contingencies Act 2004</li> </ul>	-	<ul style="list-style-type: none"> <li>Multi Agency Flood Framework</li> <li>Community Level Plans</li> </ul>

**Table 3:** Relevant National, Regional and Local Legislation

- 6.3.** These duties are discharged by collaborative working by several teams within the Council including the LLFA, Resilience planning (shared service), Local Planning Authority, Facilities Management etc.

The Flood and Water Management Act 2010

- 6.4.** The Flood and Water Management Act 2010 (“FWMA”) was enacted to provide a more comprehensive management of flood risk for homes and businesses. The FWMA created LLFAs.
- 6.5.** The 2007 Pitt Review on flooding stated that ‘the role of local authorities should be enhanced so that they take on responsibility for leading the co-ordination of surface water flood risk management in their areas’.
- 6.6.** LLFAs lead in managing local flood risks (i.e., risks of flooding from surface water, ground water and ordinary (smaller) watercourses). This includes ensuring co-operation between the all the RMAs in their area including the Highways Authority, Highways England, Environment Agency, and United Utilities.
- 6.7.** Within the Cheshire East Constitution (May 2022) it is noted that Flooding is allocated to two different Committees as follows:

Highways and Transport Service Committee

- 6.8.** - are responsible for the discharge of its functions as the highway authority and as the LLFA; the determination of policies and making decisions in relation to flooding in co-ordination with the Scrutiny Committee.
- 6.9.** This aligns with the process that any decisions or investigations regarding flooding of the highway should be investigated by the Highways Authority.

Scrutiny Committee

- 6.10.** - duties include those under section 9JA and 9JB of the Local Government Act 2000 (LGA 2000) in relation to flood risk management.
- 6.11.** The Scrutiny Committee’s statutory role in relation to flood water management is to review and scrutinise the exercise of the functions by the risk management authority of its flood risk management duties. It can issue such reports and recommendations as it considers appropriate. The Council acting as the Highway Authority (i.e. a Risk Management Authority) must comply with any requests made by the Committee. In addition, it can influence the policies and decisions made by the Council and other organisations involved in delivering public services; it gathers evidence on issues affecting local people and makes recommendations based on its findings. Therefore the Scrutiny Committee can make recommendations relating to policies in relation to the forward planning of works to mitigate surface water, ordinary water and ground water flooding.

- 6.12.** Under the current constitution it is unclear as to the division of the statutory functions as it indicates that the Highways and Transport Committee oversee all flooding matters regardless of the type of flooding.
- 6.13.** Currently flooding within the Council is categorised into 3 levels dependent upon the number of times the property has flooded: -
- Level 1- the property has been flooded once.**
- 6.14.** Once the Highways Authority are aware and have investigated the flooding instance any works that may be required may deal with that issue as part of a maintenance budget, and as such will not have been reported to the LLFA; therefore they may never know there was an issue.
- Level 2- the property has been flooded for a second occasion.**
- 6.15.** Should the property be flooded again this may be dealt with through enhanced maintenance, and again, this may not be reported to the LLFA, or advice may not be sought, and no investigation as to causes of the flooding may take place. In order to address this issue, the LLFA has, over the last 12 months, been meeting with those completing level 2 works to carry out joint investigations in order to become as informed of the issues as soon as possible.
- Level 3 – third instance of flooding**
- 6.16.** This is usually when the LLFA have become notified; however, there may be instances where no notification was given at either Level 1 or Level 2; this is perhaps the residents first interaction with the LLFA despite having been flooded on two previous occasions. This can be very frustrating for the residents and may give them the perception that this is another failing by the council.
- 6.17.** The current system has a negative impact on the reputational risk of the council from the perception of flooded residents. Ideally in instances where highways flooding has affected a resident's property, the LLFA should investigate, inform the Highways Authority of what steps it needs to take and the time period in which to do so, and if necessary, take enforcement action to ensure that the necessary action has been taken and in instances where the LLFA have had to carry out the works in default to reclaim all monies back from the Highway Authority.
- 6.18.** Currently as the LLFA function is outsourced as part of the Highways Service it means it is more difficult to carry out the statutory duties under the FWMA legally or effectively as potential conflicts could arise.
- 6.19.** During a flood, RMAs have a duty to respond and support residents in line with the relevant legislation. In response to a flood the LLFA have a statutory duty to ensure that all Risk Management Authorities (including the Highways Authority, Highways England, Environment Agency, and United Utilities)

have responded adequately and recommend future actions to manage and mitigate flooding.

- 6.20.** As part of the reporting process, where a fault is found with any asset that has an impact on local flood risk, the Risk Management Authority responsible are informed and are required to restore/replace or maintain that asset in line with LLFA guidance.
- 6.21.** As the LLFA sits within an integrated highways contract this presents a conflict of interest; it lacks transparency.

Council's Constitution

- 6.22.** In addition, to the above the Councils constitution adds to the confusion and division of responsibilities. On the subject of flooding and flood risk management, the May 2022 version of the Constitution states that:

**Chapter 2, Part 4, Page 21:**

*The purpose of the Scrutiny Committee is to undertake reviews and make recommendations on services or activities carried out by other organisations and which affect residents, businesses as well as the Council and its Committees. 1 The Committee's responsibilities include: The discharge of the Council's responsibilities set out in section 19 of the Police and Justice Act 2006, section 244 of the Health and Social Care Act 2006, and section 9JA and 9JB of the Local Government Act 2000 [Appendix 2] in relation to flood risk management.*

**Chapter                    2,                    Part                    4,                    Page                    17**

*Highways and Transport Committee:*

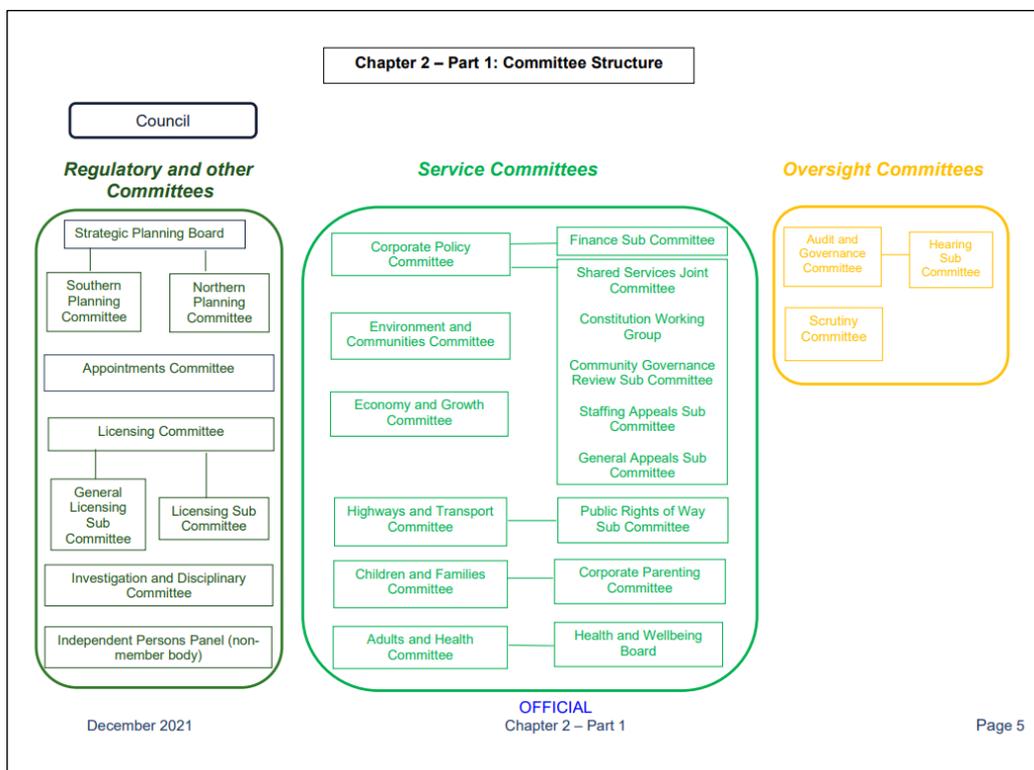
*2.3 discharge of the Council's responsibilities as Highway Authority; local transport authority; parking authority; and lead local flood authority*

*2.4 determination of policies and making decisions in relation to flooding and accessibility, in co-ordination with the Scrutiny Committee.*

**Chapter 6 Page 74:**

*Scrutiny – Scrutiny provides an opportunity for members of the Council to examine the way in which the Council provides its services, by questioning how and why decisions are made, and by making recommendations on existing and future Council policies, primarily focussed on Health and Wellbeing, Flood Risk Management and Crime and Disorder*

**Chapter 2 Page 5:**



**Figure 1:** graphic of Committee structure

**6.23.** Figure 1 shows how the governance of the Committee System works. Currently the work of the LLFA is scrutinised by two committees, the Highways and Transport and Scrutiny Committee.

Scrutiny Committee

**6.24.** As part of its statutory scrutiny function under s9FH of the Local Government Act 2000, these powers entitle the scrutiny function of councils which are lead flood authorities to carry out investigations into matters relating to flooding – including calling in evidence from “risk management authorities” (which include councils, water companies, the Environment Agency, and Highways England, amongst others) and.

Highways and Transport Committee.

**6.25.** The Highways and Transport Committee consider issues relating to both highways and the LLFA, it is therefore important that when employing a robust overview and scrutiny to the LLFA (as part of an outsourced highways contract) it will also be scrutinising the highways function as part of the Highways Authority. It is recommended that this function is removed from the Highways and Transport Service Committee and transferred to Environment and Communities Committee, which deal with other unrelated statutory

functions such as Planning and Licensing who are statutory regulatory bodies.

**Recommendation One:**

- To ensure transparency, accountability and to fully embed any work undertaken as a response to these recommendations, this group (or similar type of sub-committee) should be maintained, and these Members should be consulted with on any matters of flooding across Cheshire East.
- Considering the potential conflict of interest, the Environment and Communities Committee is deemed the most appropriate committee to agree Lead Local Flood Authority (LLFA) decisions and documents, which are the responsibility of the Council under the Flood and Water Management Act 2010 (Flood Risk Management), to be discharged without prejudice.
- A review of the Current Councils constitution is undertaken to ensure that the roles and responsibilities of the Lead Local Flood Authority duties are correctly considered and represented to be compliant with legislation and transparent to residents.

## 7. Recommendation Two – Delivery of the LLFA Function

- 7.1. As part of this review, the Group undertook a peer discussion with Calderdale Council. Calderdale has suffered from flooding on numerous occasions, with the most severe incidents occurring in Summer 2012 and with unprecedented levels in December 2015. The Group were informed that the Council dealt with climate change with the creation of a dedicated Climate Change Resilience Committee who consider the three corporate priorities of the Council:

### Strong and Resilient Towns

- 7.2. Building strong, resilient, and sustainable towns linked to the fact that a lot of the towns in Calderdale are the places that flood. Some towns through the national Towns Fund had attracted large sums of capital funding, with sustainable urban drainage, rainwater harvesting and moving towards active travel being included in those funding bids.

### Reducing Inequalities

- 7.3. Reducing inequalities linked back to climate and social justice the people who are disproportionately affected live in less secure housing etc.

### Climate Emergency

- 7.4. These three priorities align with the issue of flooding and climate in general.

- 7.5. The Group noted the way in which the LLFA function was structured at Cheshire East was different and through this review they took the opportunity to compare structures with other councils.

### LLFA Comparison Exercise

- 7.6. To be able to appropriately compare the different ways in which LLFAs operate the following context has been provided for that at Cheshire East Council.

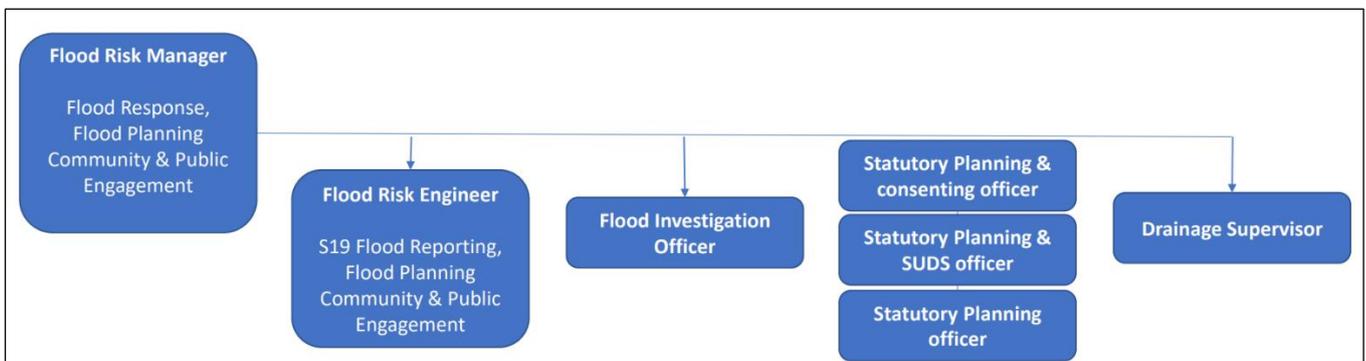
- The LLFA is known as the Flood Risk Management Team and is contracted to Ringway Jacobs as part of a Highways contract sitting within the Highways and Infrastructure Directorate.
- Unlike at Cheshire West and Chester where river flooding is more prevalent, Cheshire East is prone to surface and ground water flooding.
- Cheshire East Council has the same statutory duties as all other LLFAs. These are defined by the FWMA and can be seen on page 18 onwards.
- In addition to these duties, the LLFA also manages a programme of highway drainage improvements funded by the Council and the Department for Transport.
- The Flood Risk Management Team has grown from 3 FTE to 7 FTE in 2021/2022; however, 2 FTE are employed to manage and supervise the

delivery of the highway drainage improvement programme and so are not included in the core LLFA function.

7.7. Table 4 shows a summary of resources available over a 6-year period. Figure 2 shows the structure of the team as at 2021/22.

Year	2021/22	2020/21	2019/20	2018/19	2017/18	2016/17
Revenue	213K	193K	189K	139K	162K	131K
Capital - Surface Water Management	0	50K	50K	50K	50K	50K
Capital - Highway Drainage Improvements	1.55M	500K	350K	200K	450K	200K
FDGiA / Local Levy	0	0	0	0	0	600K
DfT Highway Drainage	400K	0	0	0	0	0
LLFA Staff Nos.	7	5	5	4	4	3

**Table 4:** CEC Flood Risk Management Team resources summary



**Figure 2:** CEC Flood Risk Management Team structure chart (2021/22)

7.8. The resources available within the team and hence its resilience are explored further in Recommendation 3.

7.9. The second stage of the comparison process was to compare the CEC function with other Local Authorities. In order to do this eleven Unitary and County Councils were approached and asked specifically how the council had structured its LLFA function in the form of a survey. Of those contacted, six responses were received which are set out below. Each Local Authority was asked to give a brief overview of the work undertaken as part of the LLFA, to establish a level of consistency even though the LLFA statutory duties are universal, mandatory and outlined in the FWMA.

Cheshire West and Chester Council

7.10. The LLFA is a client function and sits within the Highways and Transportation Directorate with observations as follows;

- Work: Cheshire West was prone to river flooding more than any other type of flooding.

- The Council as LLFA have appointed Planning Consultants, Atkins Ltd to carry out the Section 19 flood investigations, Betts Associates to carry out the site investigations and additional Cheshire West and Chester Council resources have been appointed to manage and to assist with the investigations.
- On a day-to-day basis, LLFA staff respond to customer enquiries about localised flooding issues and land drainage consents.
- For significant flooding events, council resources are appointed from departments such as Highways, Streetscene and Communications; and partnership engagement was carried out strategically by the Locality teams.
- Staffing: 1.5FTEs however, at the time of writing, the Director of Environment and Communities was proposing that a Flood Risk Management team be constituted to consist of dedicated officers to carry out the LLFA statutory role with the additional staffing requirement of 4 FTEs to deliver the following functions at a cost to the revenue staff budget of circa £147,000. The Council would include within its budget planning framework for 22/23 onwards, the inclusion of a dedicated Flood Risk Management Team.

#### St Helens Borough Council

- 7.11.** The LLFA function sat up until very recently in the within the Highways & Infrastructure service of the council. More recently it has transferred to sit with other teams in a newly formed strategic growth area.

Staffing: There are a total of 1 FTEs LLFA core funded

- 1FTE - LLFA Officer

- 7.12.** It should be noted that the bulk of work relating to planning application responses is outsourced to a third party consultant, hence the reason for a small client staff. The same can be said for the support to a number of other LLFA functions relating to investigations, funding bids and the like. Therefore drawing comparisons with CEC this is a similar arrangement of outsourcing but again where the Council in question retains ultimate responsibility for the statutory duties.

#### Warrington Borough Council

- 7.13.** The LLFA function sits within the larger Engineering and Flood Risk Team with the wider Highways services of the council.

Staffing: There are a total of 2 FTEs LLFA core funded

- 0.5FTE – Group Manager

- 1FTE - LLFA Officer
- 0.5FTE - Flood Risk Engineer – planning application responses

**7.14.** A number of County Councils also responded to the survey however it should be noted that these organisations are significant in scale, operate two tier structures i.e. they have District Councils fulfilling some of their functions and in two cases also have the likes of coastal flood risk to consider. As such whilst comparisons can be made these may not be as relevant as those to similar sized borough councils previously stated.

Cumbria County Council

**7.15.** The LLFA sit within the Flood and Development Management Team of the council.

Staffing: There are 5.5 FTEs LLFA core funded for most, the rest are capital funded:

- 1FTE Manager Flood and Development Management (part)
- Flood Works Team consists of;
  - 1FTE Coastal Development Management Officer
  - 1FTE Project Lead Officer
  - 2FTEs DMO project leads
  - 0.5FTE Assistant Development Management Officer
  - 1FTE Programme Officer

Lancashire County Council

**7.16.** The LLFA is delivered from within the wider Highways Service by a Flood Risk Management Team.

**7.17.** Staffing: The team is comprised of 12 full time posts with one additional post part-funded through the Northwest Regional Flood and Coastal Committee to support and facilitate partnership working for the Lancashire Strategic Partnership (all the flood risk management authorities for the administrative areas of Lancashire, Blackpool and Blackburn-with-Darwen). This post holder does not actively contribute to the daily LLFA functions of the team.

**7.18.** Specialist technical services for various projects may be procured from the council's technical services framework consultants, where these are required to supplement the skills & resources of the team.

Essex County Council

**7.19.** The LLFA sit within the Place and Public Health Directorate under the Director of Climate, Action and Environment.

**7.20.** The work of the LLFA includes:

- LLFA functions (Section19 investigations, Section 21 Asset Register, Watercourses, Surface Water Management Plans, Sustainable drainage systems, Scheme Delivery and Property Flood Resilience Grant) with a few exceptions.
- Consultancy support for flood modelling is outsourced and scheme design work but deliver everything else in house. We do offer support and services to other LLFAs too.
- Staffing: There are 5.5 FTEs LLFA core funded, the rest are Climate Action Commission funded. A structure chart is included at Figure 3.



**Figure 3:** Essex CC – Climate Change Team structure chart

**7.21.** A summary is included at Table 5, produced to demonstrate the comparisons. Also included is a column which indicates the number of responses required to be made in 2021/22 by the respective flood risk management teams,

where this information was available. This gives a clear indication as to the level of demand on this function when compared with other local authorities in the region.

Local Authority	Method of Delivery	Department	Staff (FTE)	No. properties at risk from surface water flooding	No. of Watercourse Consents	No. of planning applications (2021/22)
<b>Unitary Authorities</b>						
Cheshire East	Outsourced	Highways & Transportation	5	26,000	41	1,027
Cheshire West and Chester	Client	Highways & Transportation	1.5 to 4	21,000	30	431
St Helens BC	Client	Highways & Transportation	1	Info not available	Info not available	110
Warrington BC	Client	Highways & Transportation	2.5	Info not available	2	111
<b>County Councils</b>						
Cumbria	Client	Highways & Transportation	12	21,000	\	\
Essex	Client	Place and Public Health Directorate under the Director of Climate, Action and Environment.	21	12,000	\	\
Lancashire	Client	Highways & Transportation	13	19,000	\	\

**Table 5:** Comparison of LLFAs

### Risks

- 7.22.** Currently the way that the LLFA is organisationally structured creates a potential statutory compliance and reputational risks for the Council. Under the FWMA if a LLFA is considered to have breached its statutory duty to provide Flood and Water Management as part of the LLFA function, DEFRA could serve notice on the Council using its power under section 20 of the FWMA. Subject to the severity of the alleged breach and any investigation that follows it can instruct another organisation to carry out the LLFA role, recovering the costs from the Council. The Environment Agency Area

Director would monitor progress and report back to DEFRA with their findings. It is however considered that this risk is low.

#### Task and Finish Group review

- 7.23.** The Group reviewed the organisational information and were concerned that both authorities in Cheshire have taken a different approach with the formation of the LLFA function than anywhere else in the UK.
- 7.24.** When the Committee met with the Consultant within The Flood Hub (a funded organisation, providing advice and guidance to support householders, businesses, and communities across the North-West in becoming more flood resilient), this particular issue was raised and they were informed that they had not seen any evidence to support that this approach had been taken anywhere else in the country.
- 7.25.** It was evident that in places where councils had experienced significant flooding events, the issue of climate change and the LLFA function had become a top priority and was very much embedded within the structure of the constituent Local Authority.
- 7.26.** Following a meeting with a Senior Advisor on Flood Risk Management across Greater Manchester, Merseyside and Cheshire for The Environment Agency, this concern increased.
- 7.27.** The Group were informed that whilst the communication and the working relationship between the Environment Agency (EA) and Cheshire East Council was good, the EA were frustrated with the capital scheme delivery.
- 7.28.** For example, the Strategic Cheshire East Local Flood Strategy identified 26,000 properties across Cheshire East that are at risk of surface water flooding (to a depth of 0.1m) and 11,000 properties (to a depth of 0.3m). By using this data together with the data held by the LFFA about “hot spots”, schemes are nominated for Capital Works Programme funding from the Environment Agency to try and reduce these risks of surface water flooding.
- 7.29.** During the period 2015-2021 the government set a target to better protect 300,000 homes. Cheshire East was given a target of protecting 203 homes and put forward schemes for funding which equated to £2.1 million in flood defence grants. In June 2021, the scheme had delivered protection for 17 properties out of the 203 target, with the total spending being £0.6 million from the £2.1 million total grant. It is understood that half of the £600,000 was spent on the scheme and half on the study. The EA have concerns over the capital programme delivery across Cheshire East. As the flood defence grants are allocated in-principle but require the submission of a business case which is required to be approved before the funding can be awarded. The EA pointed out that this issue is not unique to Cheshire East and is seen in other areas of the country, however the EA deal with 5-6 other Local Authorities in the Northwest including an overview of Greater Manchester and mid-Mersey. They suggested that there is a shared resource around

capital programmes available for the Council to use, this is the Local Levy which is paid into by all the regional local authorities and is available to Cheshire East to bid for. They are aware that it appears that other Councils have better prioritisation of the issues. The evidence would suggest that the exacerbated delays may be due to the structures that are in place in Cheshire East.

- 7.30.** The Group had been made aware that the resources and structures were, and continued to be problematic for Cheshire East. It was appreciated that geographically, the counties of Essex and Lancashire are larger than Cheshire East (Cheshire is 904.6 sq. miles as opposed to Essex at 1417 sq. miles and Lancashire at 1189 sq. miles). However, Calderdale within West Yorkshire is 140.5 sq. miles and at higher risk of significant flooding events, the resources committed to the LLFA in all these authorities were higher than Cheshire East and West combined.

### **Potential Joint Lead Local Flood Authority**

- 7.31.** Given that rainfall and the water flow is not governed by political boundaries the group considered that it could demonstrate better value for the residents of Cheshire, if Cheshire East Council, Cheshire West and Chester Council were to adopt a multi-agency approach and form a joint Lead Local Flood Authority, that is jointly funded and adequately resourced to operate throughout its area of jurisdiction.
- 7.32.** Whilst better value for money may be a by-product of such an arrangement this has seen no scrutiny and would need to be the subject of a robust business case process before it could be taken further.
- 7.33.** The business case would need to consider that there are a number of risks to this approach, notably but not limited to the following;
- The significant task of establishing such an arrangement and how it would be resourced, considering the current demands in this area.
  - Organisational and wider political support for such an initiative
  - Corporate and local governance arrangements
- 7.34.** Whilst this was considered by the Group as something that could add value, due to the above it should be noted as a potential future aspiration and which could be explored when the appropriate resource and support is in place to do so.

### Potential Insourcing Option

- 7.35.** To address the above concerns there is the potential to bring back in-house the LLFA function.

- 7.36. It is envisaged that this would remove all risk associated with the issues set out in paragraph 7.22.
- 7.37. It was however acknowledged by the Group that **overall responsibility for the efficient and effective discharge of statutory duties associated with the LLFA function has always remained with the Council.**
- 7.38. In considering the future of the LLFA function for Cheshire East there is a need to have a clear understanding of the practical implications of any changes to how the function is currently delivered.

Delivery Partner - Cheshire East Highways (Ringway Jacobs)

7.39. Subsequent to the completion of the main review Ringway Jacobs were formally notified that the potential to insource the LLFA function was being explored as part of this review. At the same time they were asked to provide commentary on the proposals.

7.40. Their response can be summarised as follows;

- The insourcing of the LLFA function would be a change to the scope of the contract as procured, hence compensation would be payable at the point the service transfers. A mechanism in the contract exists to enable this. Subject to the remaining duration of contract (approximately a minimum 5 years, maximum 12 years) the level of compensation would be £100k - £250k at current day prices. These figures do not factor in annual inflation which would need to be considered.
- There are some clear risks relating to TUPE regulations as the current staff terms and conditions will be different from those which the Council could offer. Hence some staff may choose not to transfer and create gaps within the existing LLFA staff structure which would then need to be filled by the Council.
- A suggestion was put forward to segregate the current LLFA statutory function from the non-statutory (delivery related) function within the Ringway Jacobs team structure. This would be a route to mitigating the concerns as set out under paragraph 7.22 of this report.
- They are ready to support the Council in whatever decision is taken.

Human Resource Implications

7.41. Any proposal to insource the LLFA function would involve the movement of staff from a private company (Ringway Jacobs) over to the Council. Advice was sought from the Council's HR department on the process and as per the feedback received from Cheshire East Highway this inherently carries a number of risks, as follows;

- the Council would have to give notice of a change of provision /contract variation in order to enact a TUPE transfer of staff;

- in regards to the staff we have to build in to the time scale a period for consultation with the relevant staff (Ringway Jacobs would do this initially) and the Trade Unions. Failure to consult with the Trade Unions is an absolute requirement under the TUPE legislation;
- if the matter is straight forward and both parties are supportive of the transfer then it could be achieved in 3 months if it is proactively planned and resourced accordingly; and
- there needs to be consideration by the Highways client team as to their management resource implications of both the TUPE transfer process and that required to adequately manage any additional staff.

### Conclusions

- 7.42.** Whilst there are obvious benefits to the potential insourcing of the LLFA function there are also some clear disadvantages to the Council in the form of the financial and human resources risk set out in earlier paragraphs.
- 7.43.** It should also be considered that all of the recommendations which follow are not specific to how the LLFA duties are delivered i.e. in house or continue to be out sourced.
- 7.44.** It was however the view of the Group that the potential risk of challenge to the day-to-day delivery of the LLFA function being outsourced was greater than those direct financial and human resource implications of insourcing.
- 7.45.** The potential for a Joint Lead Local Flood Authority (as outlined on page 35) was viewed by the Group as something that could add value and should be noted as a potential future aspiration, which could be explored when the appropriate resource and support is in place to do so.

### **Recommendation Two**

- Cheshire East should no longer continue with the current arrangements in subcontracting the LLFA as the Group were not convinced the LLFA can appropriately regulate the Highways Authority whilst being governed by it.
- The restructuring of the LLFA in-house will draw a distinct difference between the work of the Highways Authority, the Planning Authority and the LLFA. This can be reflected across all communications with residents, including the external website, to avoid confusion and transparently demonstrate how Cheshire East is meeting the statutory requirements of the Flood and Water Management Act 2010.
- Having reviewed the evidence from other similar sized local authorities, the Group believe the LLFA should be placed within the remit of the Environment and Neighbourhood Services in line with Planning to draw a

distinct difference in work to that of the Highways department and Highways Authority.

## **8. Recommendation Three – Resources and Resilience**

- 8.1.** The LLFA at Cheshire East has seen first-hand that it took two significant instances of flooding in Poynton before resilience to flooding began to establish itself. Flood Action Groups, Flood Warning Groups and the Town Council were able to coordinate reports from the community back to the council for targeted resources where they were needed.
- 8.2.** One of the key factors for any homeowner is understanding their personal flood risk. Agencies such as the Environment Agency and the Met Office provide weather and flood warning services that any resident or business can sign up for.
- 8.3.** Residents should be encouraged to check locally to see if there are flood action groups to join or in instances where they are not available, to sign-up to receive flood related content electronically. The most pertinent social media accounts would include the Local Authority, Environment Agency, United Utilities, the Met Office, and The Flood Hub, all would relay important flood related messages out through their channels.
- 8.4.** The Flood Hub is unique to the Northwest and no other region has such an organisation coordinating flooding messages for the entire region with a knowledge of specific flooding typography and demographic spread.
- 8.5.** This post emergency phase of a flooding incident is the most important phase as this is when most of the data is collected. The data can include taking witness statements from residents, determining where the water came from, how it behaved and how quickly it entered and left spaces. As once the recovery begins, residents concentrate on getting back to normal as quickly as possible and often fail to report any flooding as they fear that they may be penalised by insurance companies, especially if the water flowed away quickly as the flooding may not always be evident. This can have serious implications for flood recovery support.
- 8.6.** The Group considered post-flooding events, given that people who have been flooded require answers. Flooding Officers and Flood Community Groups often hold post-flood community events; it is important that all data collected is shared with the Environment Agency and United Utilities and that the data is stored confidentially. Cheshire East has a role in helping provide government with flooding data.
- 8.7.** Until the significant instances of flooding in Poynton, there were no Cheshire East Flood Action Groups in operation. In 2016 the residents formed the Poynton Flood Action Group (PFAG). The membership is eight people, one of whom is a university lecturer on flooding, but PFAG has a larger following online with hundreds of people across the town. In addition, the Town Council set up a flood group to help liaise with the Council and other partner organisations, to act as a conduit for information particularly with issues that can be time consuming such as lobbying for effective change, all the way to government level.

**8.8.** Flood Action Groups are particularly effective in:

- monitoring local conditions and coordinating volunteers.
- being vigilant and report matters that could contribute to flooding such as blocked drains.
- identifying vulnerable members of the community.
- preparation and action during a flooding event.
- identifying key flooding issues within the community and who is responsible.
- building relationships and lines of communication with key agencies.
- lobbying decision makers and commenting on government consultations; and
- influencing the development of future flood schemes and opportunities to manage flood risks better.

**8.9.** The group heard about the Whalley and Billington Flood Action Group (WBFAG), in 2015, when following torrential rainfall six severe flood warnings were issued in Lancashire and Yorkshire and 300 properties in Whalley and Billington flooded.

**8.10.** The WBFAG was formed because of this flooding and devised a 3-point action plan:

Action 1: Flood Risk Reduction

- Alleviate flooding of property and possessions in Whalley and Billington
- Obtain and maintain full community support
- Encourage agencies to work in harmony on the Whalley and Billington flood issues
- Initiate engineering solutions

Action 2: Resilience Plan

- Ensure a support plan is available for businesses and homeowners to respond to a serious flood warning
- Create a Localised Flood Action Plan for Whalley and Billington to dovetail into the statutory agencies.

Action 3: Create a platform for reasonable insurance policies

**8.11.** To date, the group have achieved 2 of their 3 goals, they have a resilience team, flood wardens, Personal Protective Equipment (PPE), resources, a local flood plan and storage. They are in communication with the local council and give out pre-warnings and get prepared if they are made aware of an event. They have worked with the councils to repair culverts, drainage, watercourses and monitoring in the area. They have also built a string of walls around the river which has saved the village from flooding on several occasions.

- 8.12.** The initial figures by the Environment Agency for Storm Christoph in 2020-21 show that between 24-26,000 properties were protected against the flooding whilst 4-6,000 properties flooded in comparison to the 7,000 that flooded in Cumbria alone in 2015. This illustrates that communities are becoming more resilient to instances of flooding.
- 8.13.** Some members of the Group had first-hand experiences of residents who invested heavily in specialist advice and equipment following flooding in 2019, however this did not make any difference to future flooding. The members were made aware that some residents had made their homes 'floodable' by installing stainless steel kitchens and lifting plug sockets to ensure the water drained out.
- 8.14.** For the community to rebuild following a flooding instance, to build resilience to ensure the impacts of flooding are as minimised as possible, or build back assets to a higher standard, will require financial inputs.

### **Recommendation Three**

- The LLFA should be resourced adequately to ensure it can carry out its statutory and non-statutory duties, including supporting towns and villages across the borough to ensure that they understand their roles and responsibilities during a major flooding incident and become more resilient.
- the LLFA should ensure that it is adequately resourced to allow collaboration with stakeholders and to develop the necessary business cases to capitalise on existing external funding opportunities.
- The LLFA should consider how its existing and any new staffing resource is prioritised, to help support community resilience by becoming the interface between the council and local Flood Action Groups.

## **9. Recommendation Four – Funding Opportunities**

- 9.1.** Throughout the review funding was regularly raised as an issue. The consultant at Flood Hub informed the Group of an instance where a flooded resident found themselves homeless. Whilst the resident may receive some financial assistance from their home insurance, they may also be entitled to receive £500 emergency payments and reductions to Council Tax.
- 9.2.** Poynton residents never specifically benefitted from any Government Repair and Renew grants (approximately £5,000 per property to assist with making the property resilient) because the criteria were restrictive and applies to how many days of flooding there were and how many properties were affected, and Cheshire East fell short of the minimum needed.
- 9.3.** Alongside financial support, residents can receive support for mental health for 12-18 months after a flood as they can experience anxiety awaiting another flooding incident. In Calderdale, a group 'Healthy Minds', was set up and funded to enable outreach to groups and individuals who are suffering anxiety due to flooding; this included vulnerable people who were upset to see what was happening in their village. In those instances, the hubs felt less like a flood hub and became a social hub.
- 9.4.** During the discussions with Calderdale Council the Group were informed of the impacts of the public commitments made by MPs and government bodies as to funding and resources because of the scale of the flooding experienced.
- 9.5.** They also discovered how the groups originally formed as part of the rebuilding and recovery aspects of post-flooding, were able to evolve into a resilience group once the damaged structures and assets had been repaired and they were able to apply for external funding.
- 9.6.** Issues also surround Central government funding as the criteria doesn't remain consistent each year and it is not evident as to how these changes occur; this is an issue that could be considered by MPs. For example, following the 2014-15 flooding the Government introduced Government Repair and Renew grants, that provided £5,000 per property to assist owners to make the property resilient to future flooding. However, in 2020 those criteria changed and only 25 properties were eligible. Therefore, for properties that flooded in Poynton the owners were not eligible to apply for the funding due to the restrictive eligibility criteria (how many days of flooding there were and how many properties were affected).
- 9.7.** It was noted that there are opportunities for the faith, voluntary and third sector organisations to attract funding that the local authority are not always able to apply for.
- 9.8.** Through the national Towns Fund, large towns can apply for large sums of capital funding. In Calderdale, sustainable urban drainage, rainwater harvesting and moving towards active travel was incorporated into their funding bids.

- 9.9. The Portfolio Holder for Climate Change in Calderdale informed the Group of the need for a rounded national strategy relating to flooding and the damage caused to assets within the local authority's area, as the collective voice is more powerful. The last major government fund for flooding was £5.2billion (nationally over five years); despite this only small sums of money were dedicated to Natural Flood Management (NFM) as it is not always possible to concentrate funding in the construction of building walls and defences. There needs to be a balance on how funding is spent and the formula used to calculate the funding needs to be more transparent. It has been found that issues revolve around where the funding arises from as there is a difference between revenue and capital funding. Revenue funding is used to fund day to day activities such as gully cleansing. The difficulties lie in the lobbying of government for revenue expenditure. Calderdale have worked with neighbouring authorities and the Local Enterprise Partnership (LEP) supported them, as funding was received through the LEP.
- 9.10. Recommendation Two details information from the EA regarding the impact of the current structuring of the LLFA function of CE as it is presently within the Highways Contract. **As previously covered, the schemes Cheshire East have already put forward have seen 17 of the 203 targets realised at a cost of £0.6 million with £1.5million earmarked funding untouched.**
- 9.11. The Group discovered that due to the LLFA function having been subcontracted out as part of the highways contract, the ability to apply for capital funding is diminished, largely because the team are busy with an expanding programme of work, the majority of which is focussed on highway related flooding issues. It is noted that officers work is focused on making the links between properties and the property flooding. The main issues relate to the capacity, skills and expertise required for compiling the business case.
- 9.12. The LLFA should concentrate on its statutory duties predominantly preventative work in areas prone to flooding.

#### The Local Levy

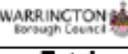
- 9.13. Funds are raised by a levy on local authorities. Regional Flood and Coastal Committee (RFCC) committee members are appointed from LLFAs and the Environment Agency onto the RFCC who plan and invest in flood and coastal erosion risk management.
- 9.14. Each year Regional Flood and Coastal Committees (RFCC) raise a Local Levy from their Lead Local Flood Authorities which is used to fund work by flood risk management authorities to reduce flood risk and to increase climate resilience.
- 9.15. The majority of flood and coastal erosion risk management projects are funded by central government (Grant in Aid (GiA)); this must be applied for with priority being given based on the benefits each scheme will deliver.

- 9.16.** The Local Levy Annual contribution for Cheshire East is £290,000; this is included within the Council Tax and is based upon the number of properties that fall within Council Tax Band D; there are numerous properties within Cheshire East that are Band D. Of 26 authorities that make up the Regional Flood Risk Committee Cheshire East is the 3rd highest contributor.
- 9.17.** Local Levy is a local source of funding which the RFCC decides how to spend and there is greater flexibility on the type of work it funds.
- 9.18.** Unlike many other public finances, local levy balances can be carried forward to subsequent financial years and can be earmarked for use in future years; this provides the flexibility to respond to evolving needs and programme changes.
- Since 2015, Cheshire East Council have contributed £1,344,414 towards the local levy pot.
  - Cheshire East have completed 1 scheme with a value of £135,000 since 2015 (some of which was GiA funded) (Council Only Led Schemes)
  - Environment Agency Led Scheme – Northwich (in Cheshire West) Flood Defence c.£7m (£500,000 from Local Levy – in 2016)

#### Quick Win Funding

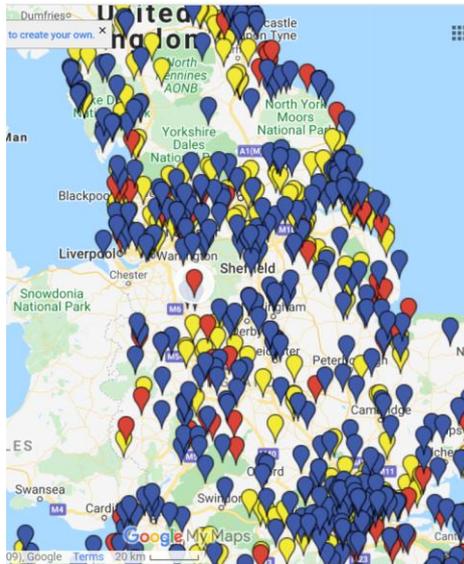
- 9.19.** Each year RFCCs allocate ‘Quick Win’ funding of £50,000 per year to each of the five sub-regional partnerships that can be used for small scale intervention schemes.
- 9.20.** Cheshire East are within the Cheshire Mid-Mersey Partnership who actively utilise this funding source. However, since 2015, Cheshire East have accessed none of this funding. Table 6 below gives a summary of this.

### Historic allocation of Quick Wins within Cheshire Mid-Mersey FCERM Partnership

Authority	Amount claimed per financial year (£k)						Total number of schemes	Total number of households better protected
	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21		
 Cheshire East Council	-	-	-	-	-	-	Schemes to be identified / business cases to be developed	-
 Cheshire West and Chester	-	-	-	-	-	-		
 HALTON Council	-	-	7 (1)	-	25 (2) [3]	3		3
 St. Helens Council	-	30 (2)	-	-	28 (2) [2]	4		2
 WARRINGTON Borough Council	-	15 (2)	44.5 (2) [7]	25 (N/A)	40 (3) [12]	8		19
<b>Total</b>	<b>0</b>	<b>45</b>	<b>51.5</b>	<b>25</b>	<b>93</b>	<b>15</b>	<b>24</b>	

( ) – Number of schemes, [ ] – Number of properties protected

- 9.21.** Figure 4 is taken from the Flood Hub website accurately depicts the level of grant funding attracted into Cheshire in comparison to other parts of the country.



**Figure 4:** grant funding awards map

#### **Recommendation Four**

- MPs should be lobbied to bring about change to national flood funding, as national funding has been allocated for large fluvial (river) floods and not surface water flooding which is most of the flooding across Cheshire.
- Aligned to Recommendation 3 - the LLFA should ensure that it is adequately resourced to allow collaboration with stakeholders in order that robust business cases can be developed to capitalise on existing external grant funding opportunities. For example, Flood Defence Grant in Aid (FDGiA) and Local Levy for projects where there is a strong business case.

## Recommendation Five - Planning and Stakeholder Communications

### Planning – the role of Green Infrastructure

9.22. The Group became aware of networks of multi-functional green spaces for solving urban and climactic challenges by building with nature. The consultant at The Flood Hub spoke of the importance of Green Infrastructure.

9.23. According to the Town and Country Planning Association:

Green Infrastructure is not simply an alternative description for conventional open space. It includes parks, open spaces, playing fields, woodlands- and street trees, allotments private gardens, green roofs and walls, sustainable drainage systems (SuDS) and soils. It includes rivers, streams, canals, and other water bodies, sometimes called: blue Infrastructure.

- **Natural Flood Management (NFM)** can be found upstream, more trees, more peatbogs, holding the water for longer and slowing the flow of the water.
- **Maintenance** is also an important factor in flood risk management. Maintenance including dredging and clearing brash (bushes and vegetation) and blockages from watercourses when appropriate.
- **Strengthening and improved defences**, for example, increasing the height of flood gates and improving old defences that have been improved with technology etc.
- **Resilient Communities**. Giving back the ownership to residents as much as possible through initiative such as Flood Action Groups. Communities need to be as prepared as possible.

9.24. Representatives from Calderdale Council, The Flood Programme Manager, and the Portfolio Holder emphasised the importance of green infrastructure during their meeting with the Group.

### Calderdale Council experiences

9.25. Calderdale has suffered from flooding on numerous occasions, with the most severe incidents occurring in Summer 2012 and unprecedented levels in December 2015. During this time is not known exactly how many properties flooded, though the best estimates listed in the Joint Strategic Needs Assessment (JSNA) 2016 were 7,924 residential and business premises.

9.26. During this time partnership working was strengthened particularly with the Environment Agency with whom the Council had always had a good working relationship, and Yorkshire Water, who are a major landowner in the upper catchment area, also having responsibility for a significant number of small reservoirs.

- 9.27. Following the 2015 floods Calderdale Council investigated 4 distinct areas, three of which directly relate to green infrastructure. These are detailed below:

#### Looking at the major defences

- With the scale of flooding in Calderdale, media interest in the event meant that local MP's and government bodies made public commitments to prevent this happening again, and additional monies were injected into the area, in addition to the funding received from the usual levies. The consequence of this was that it enabled a specific scheme in Mytholmroyd to happen quickly including the ability to procure and quickly source and use suppliers via the Environment Agency Framework as opposed to having to procure suppliers through the Local Authority.

#### Natural water management/nature-based solutions

- Calderdale benefits from established community groups. As everyone in the valley is affected by flooding in some way or another, there is plenty of local support for each other and support to tackle flooding. For example, a group called *Slow the Flow* locally plant trees; this group are good at self-promotion and have managed to get on television from time to time. Another group, *Moors for the Future*, worked on high moorland helping to restore the moorland by putting in breaks in the moorland to collect excess water. The group works in partnership with other organisations such as Yorkshire Water, whose representative chairs the group. Yorkshire Water is a major landowner therefore their support was essential to enable the scheme to commence. In Hardcastle Cragg, a good partnership has developed between Yorkshire Water and the National Trust where Natural Flood Management (NFM) measures have been implemented; these can now be monitored to track their effectiveness, as this information has previously been difficult to demonstrate.

#### Recovery works

- During the flooding, many structures were so badly damaged that they needed to be rebuilt. Canal bridges were swept away and had to be rebuilt in partnership with the Canal and River Trust, with funding from the Department for Transport. The Council set up a group to oversee and coordinate the rebuilding of the numerous structures; upon completion of work the group became a Resilience Group with the main focus being maintenance and understanding the assets by developing an asset record.

#### Community resilience.

- Prior to the flooding in 2015 some of the local communities in Calderdale had flood groups already in existence; after the flooding Calderdale Council helped new ones to be formed. The Council supported Flood

Wardens who came forward from specific areas (including Councillors) and had flood stores to hold goods. The flood groups are independently run as charities with their own finances with the council replenishing stocks where possible and helping where groups have had issues obtaining third party liability insurance.

- 9.28.** Calderdale Council is proactive in communicating to the public; it actively encourages the public to consider the issues that can be experienced before a flood event and how to plan for a flood event, in conjunction with the Environment Agency who send out Flood Warnings prior to an imminent flooding event. The residents are encouraged to check social media for any important flood messages.
- 9.29.** The *Eye On Calderdale* website, provides updates and information to residents about local schemes, NFM, opportunities for volunteering, and it shows river levels at any point in time.
- 9.30.** The Council can take a proactive approach as it has a fully funded Flood communications office who works in partnership with the Environment Agency, the Officer deals with the website, social media and publishes a bi-annual newsletter.
- 9.31.** The Council also funds an NFM Project Officer; the council was one of first to fund that post. The officer works throughout region and with EA and other authorities in the area.
- 9.32.** Also, worth noting were initiatives like the Catchment Based Approach (CaBA), a community-led approach that engages people and groups from across society to help improve water environments; for this approach to work, all partners must work together. Currently, the closest one to Cheshire East is the *Weaver Gowy Catchment Partnership* and is operated by Groundwork Cheshire, Lancashire, and Merseyside.
- 9.33.** Calderdale worked with landowners on a broader catchment plan, as it not just civil engineering schemes that help to prevent or protect land and properties from flooding. The council have worked over the past 3-years with Yorkshire Water to reduce levels in their reservoir to make a difference. Natural Flood Management (NFM) work has been effective in changing legislation such as that introduced to assist with the issue of moorland burning. The Council worked with landowners to carry out NFM but also put in practical measures such as the maintenance of drainage ditches on former farmland that is now owned by domestic residents.
- 9.34.** The majority of the work at Calderdale has been to understand the effect that climate change is having on the environment, Calderdale has always flooded but the frequency and the extremity of flooding is more severe.
- 9.35.** Calderdale form part of West Yorkshire and sits within the Yorkshire Regional Flood and Coastal Committee. Calderdale have strong ties with partners and good partnership working across the area.

### The Environment Agency

- 9.36.** Finally, a Senior Advisor at the EA who deals with Flood Risk Management across Greater Manchester, Merseyside, and Cheshire discussed at length the relationship of green infrastructure.
- 9.37.** The EA explained that a key part of understanding flooding is mapping; as the main rivers are the responsibility of the EA whilst the surface water and ground water are Local Authority responsibilities. The Government website (Gov.uk) has mapping that shows flooding associated with main river and surface water flooding and the associated flood risk. The surface water flooding maps belong to the LLFA and Cheshire East, but the EA produce them on behalf of the authorities.
- 9.38.** The Performance Team at EA consider these maps combined with on the ground evidence data and produce the Local Flood Risk Management Strategy, this outlines what can and can't be done and identifies the risk.
- 9.39.** Surface water maps are based on the topography of the ground in order to determine where water will accumulate, water is poured onto the ground and the metrics are then considered to identify where water escapes and where it doesn't. The areas shown on the surface water maps are areas that the LLFA will be aware of, or have been made aware of from the maps and it is their responsibility to investigate and to plan any necessary works.
- 9.40.** The EA suggested that issues arise where assumptions are made about the drainage network. This can happen in instances where equipment is unable to be tested, assumptions are made and these assumptions then pose a greater risk.
- 9.41.** Where a flood risk problem is known it is the role of the relevant RMA to reduce the risk. For example, this could include holding more water upstream (attenuate) on main rivers. It is the responsibility of the landowner to keep attenuated ponds clear.
- 9.42.** The EA have looked at ways that the water can move across the flooded areas, including the dredging of main rivers but this is not sustainable due to the cost of carrying out the dredging and the benefit in terms of water level reduction is not a long-term solution. There are instances where a one-off intervention of dredging could work, but if it is used on a regular basis, it will incur maintenance costs. Depending on the situation, it may be advantageous to consider other ways to improve hydraulic flows, such as eliminating narrow bridges downstream.
- 9.43.** The majority of flooding in Cheshire East is from surface water. With most towns having a rural area upstream, it is evident that when ditches are cleared upstream the accumulated water can flow more quickly from the land and consequently the flooding issues downstream will be worse.

**9.44.** Government have announced an Environment Land Management Scheme (ELMS). The Agriculture Act 2020, introduces the idea of public money for public good. Public good is defined as ecosystem services, e.g. transmission or holding of water on land. Therefore it incentivises paying farmers to store the water in ponds already on the land. Until recently land payments from the Rural Payments Agriculture (RPA) were based on the amount of land owned. For example, if the land-owner had 900 hectares of land and 10 hectares were being used as ponds or water storage, under the old system the landowner would not be paid for the 10 hectares. The ELMS addresses that issue and incentivises the land designated for water storage. It is envisaged that this should assist with the movement of water from rural to urban areas.

#### Cheshire East

**9.45.** Councillors were aware that Cheshire Fire and Rescue had maps showing ponds and ditches that had since been filled in. Landowners are not always aware of the consequences of their actions to both their properties and those adjacent by infilling culverts.

**9.46.** When acts or omissions by riparian owners impact on others, enforcement action is possible.

**9.47.** Cheshire East as the LLFA has powers to take enforcement action against a riparian owner if they have carried out works that impact on others (e.g. building a dam on a watercourse or a wall to keep water out of a particular area), or if they fail to carry out necessary maintenance work to their watercourses. **A key fact that is not widely understood is that a riparian owner (by a river, a small water course or culvert) must receive water from upstream and allow the water to pass it through the curtilage of the property without causing it to be diverted, or obstructed.**

**9.48.** The LLFA has enforcement powers for ordinary watercourses and the EA have enforcement powers for main rivers.

**9.49.** The Group considered the advice from the Town and Country Planning Association and noted that key features of green infrastructure are important as they can:

- support people's mental health and physical health;
- encourage active travel;
- cool urban areas during heat waves;
- attract investment;
- reduce water run-off during flash flooding;
- carbon storage; and
- provide sustainable drainage.

- 9.50.** The extent to which green infrastructure can provide these benefits is dependent upon how it is designed and maintained and the maturity of the health of the elements (such as trees) that form it.
- 9.51.** It may also be necessary to consider how buildings are designed and used in future especially at the planning stage where the development is near to a watercourse, for example, the property could be designed so that the lower section of the property is used as a garage and all upper floors are living spaces, this would minimise the damage of a flood at the property.
- 9.52.** A core function of the LLFA is the consideration of drainage as any development in flood zone 3 would be deemed for refusal by the LLFA and the decision supported by the Environment Agency until the risks of flooding were adequately addressed. Flood zone 2 is on the fringes of flooding, the Environment Agency would give advice to any developer and check the responsibility for land management with a heavy scrutiny on developers plans.
- 9.53.** The Group were in agreement that developers should be thinking creatively on the subject of water; for example storage of water and the protection of properties downstream can help during periods of drought. The approach taken to the use of land and the way in which people treat land needs to be considered; tarmacking over driveways, for example, encourages more water to go into the drainage systems. United Utilities constantly raise awareness about acceptable items to flush down drains (such as wet wipes/fat etc). Overall, flooding is driven by the scale and interest following recovery events from previous flooding.
- 9.54.** The main risk for local communities is cloud burst over a short period. Cloud burst have short lead-in times, but require the same approach to its management; the objective is to hold water on the land.
- 9.55.** The LLFA at Cheshire East worked successfully in partnership with the Environment Agency in Poynton specifically with the upper catchment to minimise run-off water using Natural Flood Management (NFM). However, this approach identifies opportunities and is dependent on land-owners support to achieve results.

#### Stakeholder Communications

- 9.56.** The Group looked at the ways in which Cheshire East communicates with the public by looking at its external website. It found that when a search was carried out on the website no reference could be found to inform the public of the Council's statutory role as the LLFA; only one reference could be found within the planning pages:

*A multi-agency team responds to flooding within Cheshire East. This includes teams from Cheshire East Council, the Environment Agency, United Utilities, and the Emergency Services.*

- 9.57.** There was general reference to flooding information and what to do in the instance of a flood, whereas when the Cheshire West website was checked it clearly stated:

*Under Government legislation, we are the Lead Local Flood Authority (LLFA) and are required to formally investigate flooding incidents where appropriate.*

- 9.58.** The Cheshire East website does refer to preliminary flood risk assessment, but only in relation to planning; it was found that the website did not have an explicit link to the LLFA to allow members of the public to search for this statutory function.
- 9.59.** The Group noted that the current outsourcing of the LLFA function has had a direct correlation with the lack of information contained within its website and the ability to meet the requirements set out in the legislation which in turn has associated risks.
- 9.60.** Following the discussion with the Team Manager for the Emergency Planning Team, the Group were advised that emergency events are always classified as major events as they can involve flooding and the impact of severe weather. However the emergency planners are not the blue light emergency services; it is important to note that in an emergency reliance on staff awareness is critical; when a call is received into the council any officers that respond must be aware of the process of what to do when the call comes in. Training in this area should be mandatory from the call-centre all the way through to key officers.
- 9.61.** After each emergency event the Council holds both an internal and external debriefing to establish if improvements could be made for the future. All communications into the council are monitored to establish where the information came from, was relayed to and where any improvement is needed.

#### Improvements in Communications and Engagement

- 9.62.** The Highways Service is being used to trial the corporate Customer Experience Initiative and since February 2022 it has undertaken a significant investment in improving its communication and engagement with customers. This involves;
- a refresh of existing and new webpages to make these more user friendly, accessible and to focus the content;
  - a monthly newsletter;
  - new and enhanced information around the significant social media coverage via Facebook, Twitter and other channels;
  - Members Engagement Events;
  - briefings with key stakeholder groups;
  - enhanced working with partners such as United Utilities, particularly at a strategic level to resolve issues; and

- a Members, Town and Parish Council satisfaction survey, the results of which will inform a detailed action plan to be fed back in Quarter 3 2022.
- 9.63.** These initiatives which, although given strategic direction by the Highways Client Team, are substantially delivered by resource provided through the contract with Ringway Jacobs. Hence, there is therefore significant scope to enhance how issues and initiatives directly related to the flood area of work are delivered, through what are now existing lines of communication. This is particularly relevant when referring to how internal teams within Ringway Jacobs contribute to this effectively and efficiently.

#### **Recommendation Five**

- Where appropriate, the Local Planning Authority should promote the incorporation of innovative Green Infrastructure into any new development proposals. Consideration should be given to the introduction of policies within any new and emerging planning policy documents.
- The LLFA should continue to be included in all planning applications including pre-applications as a statutory consultee to consider flooding and sustainable drainage systems (SUDs).
- Cheshire East corporately need to do more towards encouraging local people and businesses to make their assets resilient, and any opportunities to underpin the proactive publication of flooding messaging. The framework for this is already in place (set out within paragraph 9.62) with recommendations for delivery.

## **10. The Views of Internal Departments within Cheshire East Council**

- 10.1.** As part of this review, the Group met with internal officers within the Highways and Infrastructure department to discuss the findings of this review.
- 10.2.** Officers agreed that the Council had two separate and distinct statutory roles as the LLFA and as the Highways Authority and that issues could arise in relation to the operation and management of the LLFA as the functions were contained within the outsourced highways contract.
- 10.3.** A significant issue raised related to the funding of the department, as it was significantly underfunded for the work it was required to do. The responsibilities need to be defined and more funding and resources for flooding issues needed to be sought.
- 10.4.** Officers identified an issue in relation to the work required after a flooding incident, as the key priority should ideally be the logging and recording of all drainage records after a flood incident but they acknowledged that this was not possible as there was not the resource to undertake this, as there are number of other authorities that have to be consulted as they have drainage systems separate from the Highways Authority.
- 10.5.** The Group questioned whether the budget could be apportioned directly to the LLFA as a way of it commissioning its own resources and staff.
- 10.6.** Officers agreed that this would align with the structural way the Council organise functions. However, there was a strong likelihood the LLFA would need to increase the resource and associated funding.
- 10.7.** Due to the backlog of applications within the planning service, the Executive Director of Place had commissioned a deep dive review as to the causes. Officers felt that this could have a consequential effect within both the LLFA and the Highways Authority as each area will be required to provide comments and input into any planning application responses. Officers felt this must be considered as part of the same Deep Dive Review, as when making fundamental changes in one area of the business the impacts will be felt in others.
- 10.8.** Officers were aware of collaborative working and interdepartmental communication as, when a flooding incident occurs it can be a particularly anxious time for the person who has been flooded, and it was therefore important that the resident received the same messages from other agencies as from the council.
- 10.9.** Officers acknowledged the work done by the Group and gave reassurances that they were asking the right questions and in attempting to achieve the right outcomes.

<b>12 Access to Information</b>	
Contact Officer:	Helen Davies, Democratic Services Officer <a href="mailto:Helen.davies@cheshireeast.gov.uk">Helen.davies@cheshireeast.gov.uk</a> (01270) 685705
Appendices:	<b>Appendix One:</b> Flooding Major Incidents: Experiences of Poynton Residents  <b>Appendix Two:</b> Section 9JA and 9JB of the Local Government Act 2000  <b>Appendix Three:</b> Section 19 (1) and (2) of the Flood and Water Management Act (2010)
Background Papers:	None