
Appendix B - Legislation and Policy

This appendix gives an overview of the legislation which is relevant to the Warwickshire Local Flood Risk Management Strategy. It does not cover every piece of legislation that is related to the management of local flood risk but is intended give an appreciation of those which are most relevant. The full legislation can be viewed at www.legislation.gov.uk.

Legislation

Flood Risk Regulations (2009)

The Flood Risk Regulations 2009 came in to force on 10th December 2009, and transposed the EU Floods Directive into UK law. The key provisions of the Regulations are the preparation of the following.

- Preliminary Flood Risk Assessments (PFRA) – this involves collecting information on past and future floods from surface water, groundwater and ordinary watercourses, and identifying where significant numbers of people are at risk (these are termed Indicative Flood Risk Areas).
- Flood Hazard and Flood Risk Maps – Where areas have been identified within the PFRA as being an indicative flood risk area hazard, and risk maps are required to be produced.
- Flood Risk Management Plans – The final stage is for the production of a Flood Risk Management Plan for the indicative Flood Risk Areas by 22nd December 2015.

The Flood Risk Regulations gave responsibility for the production of these to:

- The Environment Agency for Main Rivers and reservoirs; and
- Lead local flood authorities for all other forms of flooding (excluding sewer flooding which is not caused by rainfall).

The Land Drainage Act 1991

The Land Drainage Act details the duties and powers to manage land drainage for a number of bodies and groups, including local authorities, the Environment Agency, Internal Drainage Boards and riparian owners. The Flood and Water Management Act updates a number of elements of this legislation.

The key powers and duties provided to Warwickshire County Council by the Land Drainage Act are as follows.

-
- A general duty to the environment when exercising powers.
 - Powers to maintain, improve and build new drainage related works.
 - Consenting and enforcement powers for ordinary watercourses.
 - Powers to create byelaws.
 - General powers of entry onto land for water level management so that statutory authorities can exercise flood risk management for the common good.

Water Resources Act (1991)

The aim of the Water Resources Act is to prevent and minimise the pollution of water. Under the Act it is an offence to cause or knowingly permit any poisonous, noxious or polluting material, or any solid waste to enter any controlled water. The Environment Agency is responsible for policing this Act.

The definition of polluting material includes silt and soil from eroded areas. If silt or soil from eroded areas is found to be polluting a water body or watercourse, the Environment Agency has the power to prevent or clear up the pollution and recover the damages from the landowner or responsible person.

The Localism Act (2011)

The Localism Act introduces a number of proposals to provide new freedoms and flexibilities for local government. With regards to flood risk management the Localism Act requires Lead Local Flood Authorities (LLFAs) to establish processes to enable overview and scrutiny committees to review and scrutinise risk management authorities in their area. Risk management authorities have a duty to comply with a request made by an overview and scrutiny committee for information or a response to a report in relation to its flood or coastal erosion risk management functions.

The Localism Act introduces the 'duty to cooperate', which requires all risk management authorities to work together. It is important these organisations work together across administrative boundaries when working in relation to flood and coastal erosion risk management.

Highways Act 1980

The Highways Act provides powers to Warwickshire County Council as the Highway Authority for the creation, improvement and maintenance of roads and for acquisition of land. Under the Act Warwickshire County Council, as the Highway Authority, are able to enter into Section 38 and Section 278 agreements with developers, allowing the adoption of new roads (Section 38) and the provision of off-site highway works in conjunction with a development (Section 278). The Act also provides legislation on navigable rivers and watercourses, with

regards to construction bridges over and tunnels under water bodies and diverting watercourses. Section 100 of the Act gives Highways Authorities powers to undertake drainage works off the highway. Section 163 of the Act gives Highways Authorities powers of enforcement against water entering the highway from neighbouring land.

Civil Contingencies Act 2004

The Civil Contingencies Act details the framework for civil protection in the UK and sets out the actions required in a flood event. In order to provide protection in the event of a flood the Civil Contingencies Act is arranged in two sections: Part 1: local arrangements for civil protection; and Part 2: emergency powers.

Warwickshire County Council has a number of responsibilities under Part 1.

- Undertaking risk assessments.
- Developing Emergency Plans.
- Developing Business Community Plans.
- Arranging to make information available to the public about civil protection matters and maintain arrangements to warn inform and advise the public in the event of an emergency.
- Share information with other local responders to enable greater co-ordination.
- Co-operate with other local responders to enhance greater co-ordination and efficiency.
- Provide advice and assistance to businesses and voluntary organisations about business continuity management.

Reservoirs Act 1975

The Reservoirs Act is applicable to all reservoirs classified as 'large raised reservoirs', meaning all those which hold a volume of water greater than 25,000 cubic meters above the natural level of any part of the surrounding ground level, and regulates the responsibility for their management and supervision.

The Reservoirs Act is amended by the Flood and Water Management Act, with the introduction of new arrangements for reservoir safety and the redefining of 'large raised reservoir' to include any reservoir with a volume of more than 10,000 cubic meters above the natural level of any part of the surrounding ground level. Under the changes provided by the Flood and Water Management Act all large raised reservoirs that are assessed as 'high risk' will be subject to full regulation and any large raised reservoirs not at 'high risk' will need to be registered. In addition, all incidents at reservoirs will need to be reported.

The Flood and Water Management Act defines a 'high risk' reservoir as any reservoir for which the Environment Agency considers that "*in the event of an uncontrolled release of water from the reservoir, human life could be endangered, and the reservoir does not satisfy the conditions (if any) specified in regulations made by the Minister*". These conditions may include conditions as to:

- the purpose for which the reservoir is used;
- the materials used to construct the reservoir;
- the way in which the reservoir is constructed; and
- the maintenance of the reservoir.

If a reservoir is subject to 'full regulation' a qualified (panel) civil engineer must be appointed to supervise the design and construction, the reservoir must be continually supervised once constructed, an inspection must be undertaken every ten years, and any measures recommended in the interests of safety must be supervised.

Habitats Directive (The Conservation of Habitats and Species Regulations) 2010

These regulations transpose the European Habitat Directive into English and Welsh law. The regulations focus on the importance of conserving natural habitats in order to help maintain and enhance biodiversity. The primary tool within the regulations for achieving this is the establishment of a network of protected areas and strict protection measures for particularly rare and threatened species.

Eel Regulations 2009

These regulations afford powers to the Environment Agency to implement measures for the recovery of European eel stocks and have important implications for operators of abstractions and discharges. The relevant requirements of the regulations are:

- to notify the Environment Agency of the construction, alteration or maintenance of any structure likely to affect the passage of eels;
- where any such structure exists, to construct and operate an eel pass to allow the free passage of eels;
- the removal of any obstruction, if deemed necessary;
- the use of eel screens to exclude eels from water abstraction and discharge points;
- if necessary, the use of a by-wash to return excluded eels to the waters they came from.

The Strategic Environmental Assessment (SEA) Directive 2001

This legislation aims to increase the consideration of environmental issues during decision making related to strategic documents. It aims to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development.

It sets out the requirement for preparation of an environmental report in which the likely significant effects on the environment of implementing the plan or programme, and reasonable alternatives taking into account the objectives and geographical scope of the plan or programme, are identified, described and evaluated.

Water Framework Directive 2000

Introduced in December 2000 and transposed into UK law in 2003, this piece of European water legislation is designed to improve and integrate the way waterbodies are managed throughout Europe. European Member States must aim for inland and coastal waters to be at 'good' chemical and ecological status by 2015.

The Environment Agency is the coordinating authority for the Water Framework Directive in England. In order to address the requirements of the Directive, the Environment Agency has produced river basin management plans, which develop new ways of protecting and improving the water environment.

Forestry Act 1967

Under this act the Forestry Commission runs a system of control over the felling of trees protected by means of a Tree Preservation Order. Where the Forestry Commission grants a felling licence in respect of such a tree this does away with the need for consent from the local planning authority

The Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999

The Forestry Commission is responsible for administering the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999. These regulations affect afforestation, deforestation, forest roads and forestry quarries. These regulations set out how environmental impact assessments should be undertaken for forestry projects.

Plans and Policy

River Basin Management Plans (RBMP)

These plans have been prepared under the Water Framework Directive, which requires all countries throughout the European Union to manage the water environment to consistent standards. River Basin Management Plans assess the pressures facing the basin and set out potential actions to address them. The Plans are produced in a continuous process of planning and delivery. The Water Framework Directive introduces a formal series of six year cycles for River Basin Management Plans.

Warwickshire is primarily located in the Severn River Basin District and its' RBMP identifies the following key issues for management of the water environment:

- diffuse pollution from agriculture and other rural activities;
- point source pollution from water industry sewage works;
- physical modification of water bodies; and
- diffuse pollution from urban sources.

Because of these issues when the plan was written in 2009 only 29 per cent of surface waters are currently classified as good or better ecological status. By 2015 the plan predicted that 34 per cent of surface waters would be at good or better ecological status/potential and 65 per cent of groundwater bodies would be at good status by 2015. The Severn RBMP lists a number of actions to help address the above issues and achieve these improvements. The areas of Warwickshire covered by this RBMP are located within the Warwickshire Avon catchment.

Northern Warwickshire has areas that fall within the Humber River Basin District, these are located within the Tame, Anker and Mease sub-catchment of the RBMP. Although the River Basin Management Plan (RBMP) focusses mainly on pollution measures and water quality, due to the nature of the surface water flooding issues there are some crossovers. For example, there are cases of foul water entering the surface water network at times of flood and therefore having a negative impact on the water quality of the Tame, Anker and Mease sub-catchment.

Some key actions for this sub-catchment are:

- Improve sewage treatment works at a number of locations to reduce the levels of phosphate, for the River Trent designation.
- Target pollution prevention campaigns around industrial areas in the urban areas, particularly around Birmingham and the Black Country.

Part of Southern Warwickshire in Stratford-upon-Avon District has some small areas that are locate within the Thames River Basin District. These areas are located within the rural part of

the Cherwell catchment. The key interaction between this RBMP and local flood risk management is in promoting best practice for rural land management to control flood risk and pollution.

Catchment Flood Management Plans (CFMP)

CFMPs provide an overview of flood risk across a river catchment; they consider all types of flooding and consider the impacts of climate change. Key policies and actions at the catchment scale are provided in order to assist in the management of flood risk. CFMPs have been produced by the Environment Agency and are to be used as a tool that informs the management of flood risk on a river catchment basis.

The strategic policy for flood risk management in Warwickshire is outlined in three separate CFMPs, the Severn CFMP (2009), the River Thames CFMP (2009) and the River Trent CFMP (2010).

Each of the CFMPs aims to identify flood risk management policies for the catchments and sets out the preferred plan for sustainable flood risk management over the next 50 to 100 years. The Severn CFMP includes the catchment of the River Avon which dominates the southern part of the Warwickshire County Council area. The Trent CFMP covers the northern part of the Study Area including the River Tame. The Thames CFMP covers the southern and western extents of Stratford-on-Avon BC with the Sor Brook and Hanwell Brook draining to the Thames catchment.

The following policies for the approach to flood risk management are the same across the CFMPs and are as follows.

- Policy 1 – No active intervention (including Flood Warning and Maintenance). Continue to monitor and advise.
- Policy 2 – Reduce existing flood risk management actions (accepting that flood risk will increase over time).
- Policy 3 – Continue with existing or alternative actions to management flood risk at current level.
- Policy 4 – Take further action to sustain the current level of flood risk into the future (responding to the potential increases in risk from urban development, land use change and climate change).
- Policy 5 – Take further action to reduce flood risk.
- Policy 6 – Take action with others to store water or manage runoff in locations that provide overall flood risk reduction or environmental benefits, locally or elsewhere in the catchment.

The policies for each of the CFMPs and sub regions are summarised in Table 1 below.

Table 1: CFMP Polices in Warwickshire

CFMP	Sub Region	Policy	LPA
Severn	Middle Avon, Tributaries, Arrow & Alne, Redditch, Rugby & Teme.	Policy 3	Stratford-on-Avon DC & Rugby BC
	Upper Avon	Policy 6	Stratford-on-Avon DC & Rugby BC
	Coventry Cluster.	Policy 5	Warwick DC
Thames	Upper Thames	Policy 6	Stratford-on-Avon DC
Trent	Mid Staffordshire and Lower Tame	Policy 6	Stratford-on-Avon DC & North Warwickshire BC
	Upper Soar & Upper Anker	Policy 4	North Warwickshire BC & Nuneaton and Bedworth BC
	Birmingham and Black Country	Policy 5	North Warwickshire BC

National Planning Policy Framework (Department for Communities and Local Government, 2012)

The National Planning Policy Framework (NPPF) is the Government’s strategy for planning in England. It states that “inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere”.

The NPPF puts a strong emphasis on Local Plans and localism and therefore the Local Strategy presented here helps to underpin this central framework by providing a strong steer on flood risk management within a borough wide (i.e. local) setting.

Stratford-upon-Avon District Local Plan

The District Local Plan sets out the Council's policies and proposals for the development and use of land in Stratford District. It is used as a basis for considering all planning applications, including those for new housing, industrial and commercial development. The current Local Plan Review was adopted on 14 July 2006. The Local Plan Review expired on 14 July 2009. However, most of the policies and proposals it contained have been 'saved' and can continue to be applied together with the provisions of the National Planning Policy Framework.

Stratford-upon-Avon District Core Strategy

Stratford-on-Avon District Council submitted their approved Core Strategy to the Secretary of State for independent examination in September 2014.

The Core Strategy sets out the vision, objectives and framework for managing development in the District up to 2031, contains policies on a wide range of specific subjects, and identifies a number of development site proposals.

Warwick District Local Plan (1996 – 2011)

The Local Plan is a land use plan which controls the location and nature of new development within the district. It contains policies and maps showing designations and allocations, and is primarily used to determine planning applications. It was adopted in September 2007. A new Local Plan is currently being prepared to replace this Local Plan which will guide the area's future development up to 2029.

Nuneaton and Bedworth Local Plan (2006)

The Local Plan set out land use policies and proposals for the Borough up to 2011, however it is yet to be replaced and most of the policies and proposals it contained have been 'saved' and can continue to be applied together with the provisions of the National Planning Policy Framework.

Nuneaton and Bedworth Borough Plan

The Borough Plan is currently being developed to replace the Local Plan and become the main source of planning policy for the Borough up to 2028. It is expected that the pre-submission version of the Borough Plan will be reported to Cabinet in January 2015 and will be followed by an eight week public consultation commencing in February 2015.

North Warwickshire Local Plan (2006)

The North Warwickshire Local Plan was adopted on 4 July 2006. All but Core Policies 4, 7 and 9 were saved under Direction from the Secretary of State, and will be replaced as work progresses on the new Local Plan for North Warwickshire. The Core Strategy was adopted on 9th October 2014 and replaces some of the saved Policies of the Local Plan 2006.

Rugby Borough Local Plan (2006)

The Local Plan set out land use policies and proposals for the Borough up to 2011, however it is yet to be replaced and most of the policies and proposals it contained have been 'saved' and can continue to be applied together with the provisions of the National Planning Policy Framework.

An update to the Local Plan is currently being developed. The next stage of consultation on the Preferred Options for the Local Plan is due in January 2015.

Warwickshire County Council Strategic Flood Risk Assessment for Local Development Framework – Level 1 (February 2008).

The SFRA is an evidence base used to inform the Spatial Planning process through assessing flood risk. The information collected as part of this process has been used to provide baseline information in the Strategy.

Stratford-on-Avon DC, Warwickshire CC, North Warwickshire BC & Rugby BC Level 1 Strategic Flood Risk Assessment (September 2013).

The SFRA is an evidence base used to inform the Spatial Planning process through assessing flood risk. The information collected as part of this process has been used to provide baseline information in the Strategy.

Warwickshire Preliminary Flood Risk Assessment (May 2011).

This is a high level document required under the EU Floods Directive which assesses the risk from local sources of flooding (surface water, groundwater and ordinary watercourses) within the County. The information collected as part of this process has been used to provide baseline information in the Strategy.

Draft Warwickshire Surface Water Management Plan (2014).

Warwickshire County Council (WCC) is currently developing a Surface Water Management Plan (SWMP) and Investment Strategy (see Appendix C). The SWMP is tasked with providing risk based evidence and a prioritisation process for future work, both of which will support the implementation of the Council's Local Flood Risk Management Strategy.

Therefore, the SWMP will enable WCC to take an actively managed approach to flood risk reduction in future. The SWMP will develop a greater understanding of key surface water flooding locations, associated consequences and provide guidance and deliverables that will facilitate subsequent stages of the SWMP process.