



RTPI

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22nd April 2008

Dear Frances

The Future of Flood Risk Management in Scotland

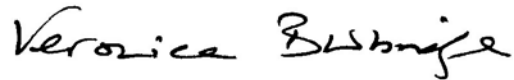
The Royal Town Planning Institute in Scotland (RTPI) is grateful for the opportunity to respond to this consultation which sets out proposals for the Flooding Bill as we consider that the planning system has a key role to play at national, city-region and local levels in addressing Scotland's current and future vulnerability to flooding.

The RTPI is the UK body chartered to represent the planning profession and offers these comments from the point of view of a diverse and policy-neutral professional body committed to supporting devolved government in Scotland. The Institute has approximately 1900 members in Scotland, working across all sectors of central government, local government, government agencies, the voluntary sector, private consultancy, the development industry and academia.

Since devolution, the Institute has empowered its RTPI in Scotland Office, together with its Scottish Executive Committee, with the responsibility for working with government and public bodies generally for the improvement of the planning system in Scotland. This is in accordance with its charter obligation to work for the public interest.

The Institute's response to the questions raised in the consultation, is set out in the Annex 1 to this paper. Our response to the Scottish Parliament's Rural Affairs and Environment Committee's Inquiry into flooding is given at Annex 2. The Institute trusts that these comments are of assistance and has no objection to its comments being made available to the public in the usual way. Should you wish any clarification please do not hesitate to contact me at the RTPI Scotland, Edinburgh office: 57 Melville Street Edinburgh, EH3 7HL phone: 0131 226 1959, email: veronica.burbridge@rtpi.org.uk

Yours sincerely

A handwritten signature in black ink that reads "Veronica Burbridge". The signature is written in a cursive style with a large initial 'V' and 'B'.

Veronica Burbridge

National Director
The Royal Town Planning Institute in Scotland

ANNEX 1

DETAILED RESPONSE BY THE ROYAL TOWN PLANNING INSTITUTE IN SCOTLAND TO THE SCOTTISH GOVERNMENT CONSULTATION ON THE FUTURE OF FLOOD RISK MANAGEMENT IN SCOTLAND

Q1. Do you believe the definition of SFM is helpful and of practical benefit to flood risk management?

The definition is a helpful starting point however it requires further refinement, clearer recognition of the need to avoid and reduce flooding, and the need to recognise the dynamic and inter-connected nature of river systems

Q2. Do you think the definition is clear and simple to understand?

No, the definition could be reworded to incorporate the aspects identified above and to incorporate the points currently made in the footnotes.

Q3. Do you agree with the conclusion as set out in paragraph 3.17?

Yes. This is consistent with the Institute's response (copy attached) to the Parliament's Flooding and Flood Management Inquiry. A single competent body with a national remit for implementing the Flood Directive is required, supported by local co-ordination.

Q4. Do you agree that there should be a single competent authority with a national remit for implementing the Floods Directive, and that it should be SEPA?

Yes.

Q5. Do you agree that this is a sound basis for the development of Local Flood Risk Management Plans? If not what alternative do you propose?

Yes. All elements in paragraph 3.27 should be included and arrangements secured for input by all the responsible bodies and associated funding streams.

Q6. Should Ministers or SEPA have the power to designate a lead authority within a local area, or should it be left to the partners?

The local authority should be the lead authority within a local area. There should be provision for Scottish Ministers to designate a lead body if disagreement arises.

Q7. Do you agree that Local Authorities, Scottish Water, the Forestry Commission, and SNH should be identified as responsible authorities?

Yes

Q8. Which other bodies should be identified as responsible authorities?

The Institute suggests the addition of bodies such as hydro generating companies, canal and waterway authorities, railway operators, and Historic Scotland as locally appropriate.

Q9. Do you agree that responsible authorities should have a duty to work together within Flood Advisory Groups to produce plans?

Yes

Q10. Do you agree the proposals are sufficient to support wider stakeholder and community engagement in the flood risk management planning process?

Yes. Presumably SEA would require public participation in any event.

Q11. Do you agree that the Bill should set out a process similar to that for River Basin Management Planning for the preparation by SEPA of area flood risk management plans?

Yes

Q12. Do you agree that Ministers have the power to approve, reject or modify Area Flood Risk Management Plans?

Yes

Q13. Do you think that integrated urban drainage plans should be included as part of a Local Flood Risk Management Plan?

Yes, otherwise the risk from all sources cannot be addressed.

Q14. Should Flood Risk Management Plans inform the way that development plans are prepared, or should there be a stronger linkage such as a requirement on planning authorities to show that they have regard to the FRMPs?

Yes there should be strong links with the Development Plan which should address flooding issues raised by the Flood Risk Management Plan process.

Q15. Do you think that the granting of deemed planning permission at the end of the statutory process for flood risk management will deliver a more streamlined approach to the delivery of flood risk management?

Yes, this should avoid unnecessary duplication.

Q16. Should Ministerial confirmation be made necessary even where features of a scheme do not require planning permission?

Yes.

Q17. Is the present procedure for Ministerial confirmation satisfactory for this new purpose or are there revisions e.g. to timescales which should be considered?

It is considered that the present procedure is satisfactory.

Q18. Do you think that the option to rely on a local authority based process in a similar way as other local authority development activity should be taken forward?

Yes.

Q19. What would be the appropriate timescales for notification and response?

They should be equivalent to planning procedures.

Q20. Would it be appropriate for such a process to carry deemed planning consent?

Yes.

Q21. How should the issue of technical expertise and capacity to ensure the necessary technical standards are observed, be addressed?

Proposals will need to comply with the Flood Risk Management Plan. Technical standards could be set out in government guidance.

Q22. Are there any additional alternatives to the options outlined above which would simplify procedures?

Minor schemes and unanimously supported schemes might be fast tracked

Q23 Do you consider local authorities' powers are sufficient to take necessary action to avert danger to life and property?

We agree that the local authorities should be fully empowered (para 3.77) to take action and recover costs later.

Q24. Do you agree that streamlining the CAR and flooding/planning processes can be managed through better guidance?

There may be parallels here with Listed Building Consent and Historic Scotland. Better guidance will help, but will not be a universal panacea.

Q25. Do you think there is anything further SEPA, the Scottish Government or others should be doing to promote joined-up regulation?

Perhaps all of the CAR applications should be made to the local planning authority in the first instance, just like Listed Building Consent applications.

Q26. Do you think that there is an alternative approach to simplifying the process of promoting flood measures to those discussed above which the Government should consider?

See above.

Q27. Do you agree that the form and content of the biennial reports should be more systematic, and subject to direction from Ministers?

Perhaps quinquennial reports would be better (inspections would still be twice-yearly or more frequent, it is assumed), and would allow flooding issues to be reviewed and dealt with in Local Development Plans. Standard templates could be developed.

Q28. Do consultees agree that the proposals as outlined will improve flood risk management and ensure Scotland is equipped to implement sustainable flood management?

Yes, if taken with other measures to address the proper planning of areas and responses to climate change.

Q29. Do consultees feel that this is enough to ensure that flood risk is addressed or should local authorities have a new duty to promote measures to alleviate flooding?

Where flooding has taken place or is anticipated, measures to minimise and alleviate should be promoted – the Institute considers these should be key parts of (Local) Development Plans.

Q30. Do you believe enforcement responsibilities under the Reservoirs Act 1975 should be transferred to a single national body?

Yes

Q31. If so, should it be SEPA or another as yet unidentified body?

SEPA.

Q32. Are you content with the proposals for dealing with reservoir flood maps under the provisions of the Floods Directive, or do you think that there should be a statutory duty on reservoir undertakers to prepare reservoir inundation maps and plans, similar to the duty in the 2003 Water Act for England and Wales?

The possibility of inundation should be an element of a Flood Risk Management Plan, and thus the IMP should be prepared by SEPA/the LA, and not under Civil Contingencies legislation. Notwithstanding the current biennial reporting, it is suggested that inspection by an Inspecting Engineer should be no less than twice yearly.

Q33. Do you agree that enforcement powers be extended and post incident reporting included as an additional requirement?

Yes. Each reservoir should have a logbook where this material, along with inspection reports and so on, is retained: this should be produced and kept open to the public under FoI as a duty on reservoir owners.

Q34. Views on Crown application and any other comments?

There should be no Crown Exemption from the provisions of the Act.

Annex 2: RTPI response to Scottish Parliament Rural Affairs and Environment Committee consultation.



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Registered Charity No: 262865
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12th December 2007

Email to: Vikki.Little@scottish.parliament.uk

Dear Vikki

Scottish Parliament Rural Affairs and Environment Committee Flooding and Flood management Inquiry

The Royal Town Planning Institute (RTPI) welcomes the opportunity to respond to this consultation as we consider that the planning system has a key role to play at national, city-region and local levels in addressing Scotland's current and future vulnerability to flooding.

The RTPI is the UK body chartered to represent the planning profession and offers these comments from the point of view of a diverse and policy neutral professional body committed to supporting devolved government in Scotland. The Institute has approximately 2000 members in Scotland working across all sectors of central government, local government, government agencies, the voluntary sector, private consultancy, the development industry and academia. Since devolution, the Institute has empowered its RTPI in Scotland Office, together with its Scottish Executive Committee, with the responsibility for working with government and public bodies generally for the improvement of the planning system in Scotland. This is in accordance with its charter obligation to work for the public interest.

Our comments are set out below under the headings of the questions posed in the consultation paper. The Institute does not wish to respond to questions regarding flood warning systems or responses to flooding events.

What is the potential impact of climate change on the frequency and severity of all types of flooding in Scotland?

A number of recent reports such as the Stern Review, work by the UK Climate Impacts Programme, and more specific reports on Scotland such as 'Foresight Future Flooding' have reviewed the scientific evidence for climate change and have identified risks and economic impacts and the need for action. The best regional estimates for the next 70 – 100 years suggest higher rainfall totals, increased storminess, and more intense rain concentrated on

fewer days, higher consequent peak river flows, and sea level rise of 30 – 60 cms. These aspects of climate change have implications for all types of flooding across Scotland. There are particular concerns for increased storminess leading to pluvial flooding resulting from rainfall generated overland flows. It will be important to identify vulnerable areas and to improve understanding of the capacity of existing drainage infrastructure in urban areas. Regular, updated national guidance will be needed on the impacts of climate change and on the implications for policy and practice.

What changes are needed to the existing legislation?

The primary flood legislation is now 46 years old and would benefit from streamlining amendment or replacement particularly in view of the specific requirements of the EU Directive on Flooding. Other factors which support a review of legislation include changing experience in practice, increased emphasis on adaptation and mitigation, changes in related legislation regarding planning and environmental issues, the need to speed up decision making processes and to integrate statutory flood management procedures with planning procedures and Controlled Activity Regulations wherever possible, and the need to clarify responsibilities and to address funding issues including combined funding mechanisms.

The Flooding Directive will require national legislation for flood risk management plans to be drawn up by 2015. These will run alongside the second round of River Basin Management Plans, following on from the initial 2009 -2015 round. Further changes to regulations must address risk reduction and the operational implementation of WEWS should be linked with the Flooding Directive to produce a programme for flood risk reduction. Given the requirement under the Floods Directive, it is hoped that the opportunity will be taken to permit responsible authorities to integrate flood management with other land and water management objectives.

Some improvements could be addressed under existing legislation; these include improvements to information availability and monitoring systems; raising awareness of flood hazards; guidance and co-ordination of activities including stakeholder engagement in flood management. There is a need to encourage partnership working and to dovetail actions by responsible authorities in both the built and landward areas. SEPA and SNIFFER have important roles to play in co-ordinating information and in disseminating best practice.

Who should be responsible for flood management and how should it be funded?

Flood management requires a co-ordinated approach across sectors at all levels. However, a single national body is needed to act as the strategic authority and to act as the 'competent authority' under the Directive. It would appear appropriate for SEPA to undertake this role. However, given the wide range of bodies involved in work to address flooding issues, it would be useful to have national advisory group similar to the former Flood Issues Advisory Committee. The Scottish Government should support strategic partnerships in flooding issues working with local authorities and other bodies. This work should be closely related to that of Strategic Development Planning Authorities and the Area Advisory Groups formed under the Water Environment and Water Services (Scotland) Act. Primary responsibility for implementation of specific flood management measures and schemes should rest with local authorities and be closely associated with land use planning responsibilities.

What role should sustainable flood management play in mitigating the effects of flooding?

Sustainable flood management focusing more on avoidance and adaptation to the flood threat and incorporating policies of managed retreat should play a key role in mitigating the effects of flooding wherever possible. Guidance should build on the earlier work of the Flood Issues Advisory Group.

What role can land-use management, the planning system and building regulations play in mitigating the effects of flooding?

The Institute supports the view that land use management, the planning system and building regulations all have important roles to play in mitigating the effects of flooding. Greater recognition of the interaction between these roles is important. There is a strong case for flood risk mitigation through sustainable land use practices in upper and middle catchment areas for the benefit of those areas downstream. This requires spatial co-operation and co-ordination across a number of stakeholder groups and the co-ordination of funding streams to allow catchment wide land management measures.

The spatial planning system is fundamental to sustainable flood management, in exercising control over development in flood plain areas and in ensuring that planning decisions do not exacerbate problems elsewhere. At the national level, SPP7 contains strong guidance aimed at preventing further development on land which is at significant risk of flooding from all sources, or which would materially increase the probability of flooding elsewhere. The Institute supports this policy position, which seeks to work with natural systems wherever possible. The risk of flooding should also be addressed through the National Planning Framework with close links established to Catchment Management and River Basin Management Strategies.

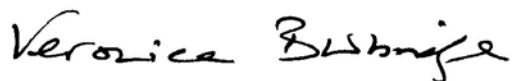
At the strategic level consideration of the possibilities afforded by more compact cities and the multi functional role of '*green infrastructure*' in safeguarding communities and infrastructure as well as providing for other objectives such as health and natural heritage should be recognised. The incorporation of flooding issues into strategic environmental assessment of policies plans and programmes at strategic and local levels should be based on robust and easily available data and monitoring and linked to work on the ameliorisation of social impacts of flooding.

With regard to building regulations, the Institute would support the introduction of measures to encourage increased resilience and resistance of buildings to flooding. Attention might also be given to protection of the historic environment and it is noted that Historic Scotland has developed advice about how to deal with particular aspects of building maintenance and the conservation of fabric and that specific guidance on the protection of historic heritage and archaeological fabric might be appropriate.

I hope that these points are helpful to you. Please do get in touch if you would like to discuss further.

Best wishes

Yours sincerely



Veronica Burbridge
National Director