

## **Flood Risk Management Duties**

Argyll and Bute Council's duties in respect of flood risk management are government by three principle sources:-

### **1. Scottish Planning Policy**

Scottish Planning Policy sets the current planning policy on flooding. It requires planning authorities to take the probability of flooding from all sources - (coastal, fluvial (water course), pluvial (surface water), groundwater, sewers and blocked culverts) and the risks involved into account when preparing Development Plans and determining planning applications. Prospective developers should take flood risk into account before committing themselves to a site or projects.

The key aims of Scottish Planning Policy in relation to flooding are to prevent:

- Developments which would be at significant risk of being affected by flooding;
- Developments which would increase the probability of flooding elsewhere.
- To provide a basis for planning decision making related to flood risk, the SPP provides a risk framework which divides flood risk into three categories and outlines an appropriate planning response.

### **2. The Roads Scotland (Act) 1984**

Local authorities have a duty under the Roads (Scotland) Act 1984 to maintain road drainage systems and to clear roads of flooding.

### **3. The Flood Risk Management (Scotland) Act 2009**

The Flood Risk Management (Scotland) Act 2009 repeals the 1961 Act as amended and makes provisions and enables provision to be made for or in connection with implementing the EC Floods Directive 2007/60/EC. The Act makes provision in relation to five main areas; (i) coordination and cooperation within the domain of flood risk management (ii) assessment of flood risk and preparation of flood risk maps and flood risk management plans, including implementation of the EC Flood Directive; (iii) amendments to local authority and SEPA functions for flood risk management; (iv) a revised statutory process for flood protection schemes; and (v) amendments to the enforcement regime for the safe operation of reservoirs.

The Act recognises SEPA as the Competent Authority, and Local Authorities and Scottish Water as Responsible Authorities.

#### **SEPA will fulfil a strategic, co-ordinating role producing:**

- Preliminary flood risk assessments by December 2011
- Flood Hazard and Flood Risk maps by December 2013
- Flood Risk Management Plans – which shall provide a high level strategic framework for flood Risk Management in Scotland which will identify national

priorities and establish a framework for delivering or planning measures at a local level – Draft plan by December 2012 – completed plans by December 2015

- Prepare maps of artificial structures and natural features and assess possible contribution of alteration etc. of natural features and characteristics.
- assess and make available flood warnings

All assessments and plans will be developed through a collaborative approach with responsible authorities and shall be guided by the principles set out in the Scottish Government guidance ‘Delivering Sustainable Flood Risk Management’ published June 2011.

Scottish Water will assess flood risk from Sewerage Systems and identify potentially vulnerable areas as well as performing their general duties under the Act such as working with local authorities and SEPA in managing overall flood risk and participating in the Flood Risk Management Plans.

Local authorities require to produce local flood risk management plans which shall translate the strategic objectives and measures in the flood risk management plan into locally focused sets of measures to address flood risk. The local plans shall be developed through a collaborative partnership with SEPA and Scottish Water. Local plans are unlikely to vary much from the flood risk management plan produced by SEPA.

#### **Scottish Water Must:**

- Work with Argyll & Bute Council in developing Surface Water Management Plans for the Potentially Vulnerable Areas in Argyll and Bute.
- Carry out an assessment of flood risk from sewers located in Potentially Vulnerable Areas identified in the National Flood Risk Assessment.

#### **Local authorities are required to:**

- To assess, from time to time, the relevant bodies of water (other than canals) in its area for the purpose of ascertaining whether the condition of any such body of water gives rise to a risk of flooding. Where a relevant body of water gives rise to a risk of flooding, and the Council considers that clearance and repair works would substantially reduce that risk, prepare a schedule of those clearance and repair works and carry out the works described in that schedule if it considers that the works will contribute to the implementation of current measures in local flood risk management plan or will not affect the implementation of these measures. The schedule of clearance and repair works prepared by the Council is to be made publicly available
- Identify and map all water bodies within their area including surface water and sustainable urban drainage systems.
- Assist SEPA in preparing flood risk assessments, maps and plans as required under the Act
- Prepare a Local Flood Risk Management Plan and consult on it

- Publish an interim report 2-3 years after the local plan is published and a final report 5-6 years after publication

- Exercise its flood risk related functions with a view to reducing overall flood risk and:

- act in the best way calculated to manage flood risk in a sustainable way
- promote sustainable flood risk management
- act with a view to raising public awareness of flood risk
- act in a way best calculated to contribute to the achievement of sustainable development
- so far as practicable, adopt an integrated approach by co-operating with SEPA and other Responsible Authorities

- Create a register of flood protection schemes which it is taking forward, or which another local authority is taking forward but will involve operations in its area.

**A brief outline of the Duties and Responsibilities of the Scottish Ministers, SEPA and Responsible Authorities under the Flood Risk Management (Scotland) Act 2009 is provided in the table below**

Section of the Act	Title	Comment	Responsible Body
1	General Duties	Scottish Ministers, SEPA, and responsible authorities must exercise their flood risk related functions with a view to reducing overall flood risk and, in particular, must exercise their functions under Part 3 of the Act so as to secure compliance with the EC Floods Directive 2007/60EC	Local Authority (LA), Scottish Ministers (SM), SEPA, Scottish Water (SW)
5	Responsible Bodies		LA and SW and other local public bodies as the SM may determine by order
9	Flood Risk Assessment	To be based on reliable information for any flood risk for each district by December 2011	SEPA
10	Flood Risk Assessment Review	To be reviewed on a six year cycle	SEPA

13	Vulnerable Areas and Local Plan District	SEPA to identify vulnerable areas and local plan Districts	SEPA
14	Review of Vulnerable Areas	To be reviewed on a six year cycle	SEPA
16	Assessment of Sewers	Assessment of flood risk from sewers for vulnerable areas – to be reviewed on a six year cycle	SW
17	Maps of Bodies of Water	All bodies of water and Sustainable Urban Drainage schemes (but not coast or sewers) are to be mapped by LA. To be made available to the public	LA
18	Assessment of Bodies of Water	LA have a duty to assess watercourses from ‘time to time’ as the SM may determine. Each LA requires to produce a cleansing and repair schedule and timescale for any watercourse which gives rise to a risk of flooding.	LA
19	Maps of Artificial Structured and Natural Features	No deadline for completion issued as yet.	SEPA
20	Assessment of Alteration of Artificial Structures of Natural Features	An assessment of the contribution that measures to reduce, slow or otherwise manage flood water by altering or restoring natural features may have. To be completed by December 2013 and reviewed every 6 years	SEPA
21	Flood Risk and Hazard Maps	Maps showing the probability of flooding to be completed by December 2013 – to be made available for public inspection	SEPA
23	Flood Risk Maps	Maps showing the number of inhabitants at risk, economic activity, sediment and pollution etc. To be reviewed by December 2019 and	SEPA

		thereafter on a six year cycle	
27	Flood Risk Management Plans	To be prepared by SEPA for each district and to contain a cost benefit analysis of works. To be completed by December 2015 and thereafter to be reviewed on a six year cycle	SEPA
30	Flood Risk Management Plans Publicity	A statement of intentions to consult with dated to be published by December 2012. Draft plans to be published by December 2014	SEPA
34	Local Flood Risk Management Plan (LFRMP)	Local flood risk management plan to be completed by the lead LA. To supplement the flood risk management plan produced by SEPA and comprise two parts; the supplemental part and the implementation part. The supplementary part must include amongst other things information including; maps, information about how implementing measures may alter (including enhance) or restore natural features and characteristics, and further information about those measures, as the lead authority considers relevant to flood risk management within the local plan district . The implementation part is a detailed description of how particular measures will be undertaken, including a summary of when measures will take place and who will be responsible for funding and undertaking such measure. The implementation part	Lead LA

		must be agreed by all bodies involved. Local plans must be consistent with district plans and be based upon the same objectives and measures.	
35	LFRMP publicity and consultation	To be completed by December 2014	LA
36	LFRMP publication	To be completed and published by December 2015	LA
37	LFRMP interim and final reports	To be published 2 to 3 years and 5-6 years later	LA
39	LFRMP joint working	Require to work jointly with neighbouring LA	LA
43	Provision of information to SEPA	LA must give information and assistance to SEPA to enable SEPA to perform its functions under the Act when requested	LA SEPA
44	Provision of Information to lead LA	LA must give information which is 'reasonable' to lead LA upon request. SM may determine if request is reasonable if disputed	LA SEPA
49	District Flood Risk Advisory Group	Administered by SEPA and to advise SEPA	SEPA LA etc
50	Sub – District Flood Risk Advisory Group	Administered by SEPA to advise SEPA and LA	SEPA LA etc
56	Duty to carry out clearance and repairs	LA must carry out the works contained in a schedule of works prepared under section 56 of the Act	LA
60	Flood Protection Schemes	Schemes can be promoted by the LA where agreements cannot be reached. Must be promoted in accordance with the provisions of Schedule 2 of the Act	LA
62	Register of Flood Protection Schemes	LA must keep a register of Flood Protection Schemes including those made under the 1961 Act – to be made publicly available	LA
65	Deemed Planning Permission	Upon the confirmation of a Flood Protection Scheme planning permission is deemed to be granted	LA SM

66	Acquisition of Land	LA may compulsorily purchase land	
72	Advice to Planning Authorities	Advice to be given to Planning Authorities by SEPA	SEPA
74	Flood Warning	To be given by SEPA	SEPA LA
80	Powers of Entry to Land	LA and SEPA may enter land to allow them to carry out flood protection works either as part of flood protection scheme or otherwise, to carry out maintenance to such works or to carry out investigations to assess, whether, or in what manner, they should carry out any of their functions under Part 4 of the Act.	SEPA LA
82	Compensation	LA to pay compensation to effected parties for works carried out under s56,59,76,79,and 81 of the Act.	
84	Reservoirs Act	SEPA are to become the enforcement authority. LA must allow SEPA to examine their records. LA requires to hand over relevant registers, records and other relevant information to SEPA within 28 days of the transfer of responsibility	LA
88	Reservoirs Incident Reporting		SM
89	Reservoir Flood Plans		SEPA
Schedule 2	Flood Prevention Scheme Procedure	Largely as set out in the 1961 Act – period for objections is now 28 days not 3 months. If objections received then Public Inquiry by SM if there are statutory objectors, otherwise LA to hold a hearing. The Flood Risk Management (Flood	SM LA

		Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulation 2010 which came into force on 24 <sup>th</sup> December 2010 apply	
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Timeline Produced by the Scottish Government showing timescales for completion of maps and assessments.

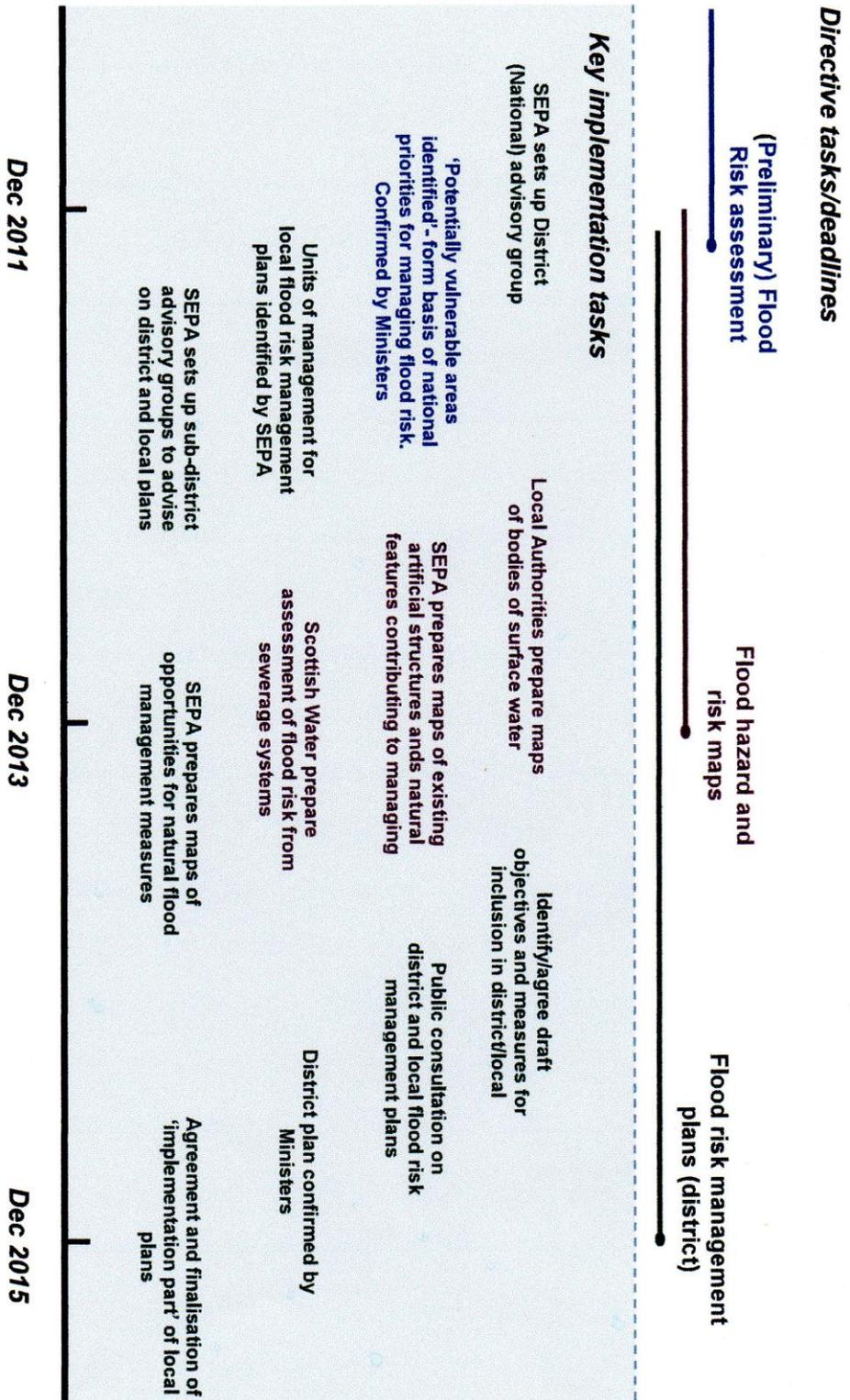


Figure 4 Key tasks under the Act and Directive and their deadlines



The Scottish Government