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**Report to:** Overview and Scrutiny  
(Regeneration and Environmental Services)

**Date of Meeting:** 20<sup>th</sup> September 2011

**Subject:** Flood and Coastal Erosion Risk Management – Forward Plan for 2011-12

**Report of:** Alan Lunt – Director of Built Environment      **Wards Affected:** All

**Is this a Key Decision?** No

**Is it included in the Forward Plan?**

No

**Exempt/Confidential**

No

**Purpose/Summary**

To request Members to recommend for approval the forward plan for the next twelve months and its use as the basis for reporting against in the first annual report to this committee that will be presented in October 2012.

**Recommendation(s)**

That Overview and Scrutiny (Regeneration and Environmental Services);

1. Recommend the forward plan for approval by the Cabinet Member for Environment
2. Agree the forward plan is used as the basis for the first annual report to them to be delivered in October 2012.

**How does the decision contribute to the Council's Corporate Objectives?**

	<b><u>Corporate Objective</u></b>	<b><u>Positive Impact</u></b>	<b><u>Neutral Impact</u></b>	<b><u>Negative Impact</u></b>
1	Creating a Learning Community	√		
2	Jobs and Prosperity		√	
3	Environmental Sustainability	√		
4	Health and Well-Being	√		
5	Children and Young People		√	
6	Creating Safe Communities	√		
7	Creating Inclusive Communities		√	
8	Improving the Quality of Council Services and Strengthening Local Democracy		√	

**Reasons for the Recommendation:**

To comply with the requirements of the Flood Risk Management Act 2010 that requires Lead Local Flood Risk Authorities to report on progress on an annual basis to their Overview and Scrutiny Committees.

**What will it cost and how will it be financed?**

There is no direct financial implication with this report other than the cost of preparing the report itself.

**Implications:**

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

<b>Legal:</b> None	
<b>Human Resources</b> None	
<b>Equality</b>	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

**Impact on Service Delivery:**

None at the moment

**What consultations have taken place on the proposals and when?**

**FD 955** The Head of Corporate Finance and ICT has been consulted and would comment that there are no costs arising from this report but any future costs associated with gully maintenance, drainage improvements, coast protection, and flood defence through the forward plan will need to be contained within the existing budgets for these services.

The Head of Legal Services has been consulted and has no comments. **LD315/11**

**Are there any other options available for consideration?**

The Council could choose not to undertake its duties as set out in the Flood Risk Management Act 2010. This would reduce the Councils ability to manage flood risk in the Borough and may result in sanctions from Government for failing to delivery statutory functions.

**Implementation Date for the Decision**

Following the expiry of the "call-in" period for the Minutes of the Cabinet/Cabinet Member Meeting

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**Background Papers:**

None

## **1. Introduction/Background**

- 1.1 The Flood Risk Management Act 2010 has placed a number of new duties on the Council as the Lead Local Flood Risk Authority. One of these is the requirement to report to Overview and Scrutiny Committee on an annual basis to aid them in their role of scrutinising the manner in which the Council is managing flood and coastal erosion risk within the borough.
- 1.2 Overview and Scrutiny Committee have previously reviewed flood and coastal erosion risk management within the borough and made a number of recommendations in relation to this function.

## **2.0 Current Position**

- 2.1 The Council already undertakes a range of activities in relation to flood and coastal erosion risk management and these have been briefly summarised in appendix 1 which sets out the statutory need for undertaking the activities, what is undertaken and an indication of the cost for each activity.
- 2.2 The figures indicated against each activity in Appendix 1 are those at outturn 2010/11 and fall as part of works and staffing budgets held within Highways Works (gully cleansing, drainage Improvements); Coast Protection and Flood Defence. All costs shown were contained within their respective budgets last year.

## **3.0 Forward Plan**

- 3.1 Appendix 2 provides an outline of strategic activities planned for the next year. It has not been possible to specify timings for these activities as most depend on input from other teams and external agencies.
- 3.2 It is recognised that Overview and Scrutiny Committee have previously made recommendations for this service area and appendix 3 sets out how these prior recommendations are taken into account within the forward plan.

## **4.0 Next step**

- 4.1 Subject to the recommendation of this committee this report will be presented to the Cabinet Member for Environment for approval.

### **Flood Risk Management and Coastal Erosion Risk Management – Management, Maintenance and Repair activities**

Flooding is identified as a corporate risk and has the potential to cause significant damage to homes and infrastructure as well as in more extreme cases threatening people's wellbeing. As a Borough Sefton Council have acknowledged this risk and sought to manage it, the following sets out what we are doing and why in the context of corporate risk.

#### **Legislative background:**

Section 41 of the Highways Act 1980 places a duty upon the authority to maintain the highway, maintain in this sense includes repair. There is a test of reasonableness that applies to this section and it is accepted that there will be some floods on the highway that we can do nothing about but if our maintenance regime is considered unreasonable and has contributed to the flooding we would be considered to be failing in our duties. There is case law that establishes that section 41 also applies to structures that support the highway or maintain its integrity such as sea defences that protect a road.

The Land Drainage Act 1991 provides the Local Authority with powers to enforce riparian duties; however these same riparian duties also apply to us. This requires us to maintain watercourses within our control.

The Floods and Water Management Act 2010 places a number of duties on the authority the prime one being that we become the lead authority for local flooding, along with this are duties relating to recording our assets, developing a local flood risk strategy, approving works to watercourses, approving and adopting sustainable urban drainage systems (SUDs) and investigating floods.

The Coast Protection Act 1949 primarily gives us powers not duties, we have the power to undertake works but only if we choose to. However, once we have constructed works we do have a duty to keep them in a safe condition as they are accessible by the public.

#### **What we do:**

In order to drain water from the highway we have approximately 48,000 gullies along with some specialist drains such as ACO and Decathlon. This is the visible element of the infrastructure with the pipework buried beneath the road; there are approximately 1,000km of roads in the borough most of which will have drainage pipework under them which include the main drain and connections. These gullies are cleaned once per year (£167K) as standard (with the exception of Marine Drive which is monthly) with about 10% being cleaned a second time on a planned basis (£15k) and 10% getting a second visit on a reactive basis (£19k) when flooding occurs. The first 1.5m of connecting pipework requires some cleaning to remove blockages, tree roots and the like (£18k) and we also clear the drainage screens on a twice weekly basis (£4k).

There is further cleansing work undertaken on the connecting pipework (beyond 1.5m from the gully) which includes desilting and tree root cutting (£27k). There is a significant cost for investigation of flooding problems as it is difficult to undertake sometimes requiring cameras and sometimes requiring excavation (£25k). There are approximately

90 gullies repaired or replaced each year due to them failing or being substandard (£75k) and 2 or 3 a year that are new (£4k), introduced to deal with low spots. The pipework requires repair where it has failed either at the joints or through a collapse (£35k).

Outside of the highway we investigate other flooding issues (£10k) and maintain the watercourses in our ownership (about 18km) of which there is a significant focus on Formby (£49k), other areas requiring maintenance works such as headwalls (£17k). There is generally an unallocated balance maintained to deal with floods as they happen both in terms of investigation and remediation (£40k).

On the coast we maintain our hard defences both in terms of their integrity (£15K) and safety (£35k). We undertake some small scale works on the sand dunes to slow the rate of erosion (£15k) and have to maintain navigation markers in our ownership (£5k).

We work with Capita who undertake core work (£245k) for the Council relating to drainage services dealing with all the day-to-day issues whilst the Flood and Coastal Erosion risk Management Team (3 full time equivalents,£100k) deal with the majority of the coastal defence issues and the strategic elements for flood and coastal erosion risk management. This is under review to ensure that the roles and responsibilities in relation to the recent legislation are clear and new duties accounted for. Elements of this staff time are used to build the case for drawing in grant aid for undertaking works within the borough.

The costs indicated above (£1,000k) are based on last years contract rates (for works) and the new contracts show an increase on two areas and reduction on one but the overall implications of this have yet to be assessed.

## **Appendix 2**

### **Forward plan - strategic elements planned to be completed by October 2012:**

#### **Draft Local Flood Risk Strategy including:**

- Vision, aims and objectives
- Overview of risk including implications of climate change
- Assets and overview of condition
- Options for management of risk
- Roles and Responsibilities
- Legislation
- Funding
- Action Plan
- Review process

Clearly the above headings only give an indication of the content and progress on this item will be reported on a regular basis to overview and scrutiny in order to ensure that the end product is satisfactory.

#### **Policies will be developed for the following:**

- Culverting
- Enforcement
- Asset management

#### **Communications:**

A key element of work over the next twelve months will be developing a draft communications strategy that will clarify how we communicate the risk of flooding, who to and why.

#### **Groundwater:**

We currently have a gap in our understanding of risk relating to the potential for either groundwater flooding or for ground conditions to contribute to flood risk. Over the next twelve months we will clarify a suitable risk based approach to addressing this gap in understanding and if appropriate progress actions required to fill this gap.

#### **Emergency Planning and Business Continuity**

These plans will be reviewed and updated.

## Appendix 3

Below are Overview and Scrutiny's previous recommendations on the left and on the right an explanation of how they fit into the proposed forward plan for the coming year.

No	Recommendation	Action
<b>A General</b>		
(i)	Cabinet and Chief Officers should note that since December 2008 the local authority has become the lead authority for flood risk management and all aspects and should make the appropriate arrangements in response to this new role.	The Coastal Defence Team has been given extra resources to take on this role and renamed the Flood and Coastal Erosion Risk Management Team.
(ii)	Sefton should immediately establish a 'Sefton Flooding Group', along the lines of the successful Group now operating in Wirral. This Working Group should take forward the recommendations set out in this report.	An officer level group has been established to co-ordinate activities both internally and with external partners. The Overview and Scrutiny Committee has a clear remit in relation to flood and coastal erosion risk management and will continue to be consulted on a regular basis. A Merseyside Flooding Partnership is being established which will involve officers and elected Members to facilitate co-ordination at a Merseyside level and ensure co-ordinated representation at the Regional Flood and Coastal Committee.
(iii)	Information should be made available to all residents and local businesses that sets out the contact details and areas of responsibility relating to flooding and what support flooded homeowners can expect.	A communications plan will be developed.
(iv)	The Council needs to make landowners aware of their riparian responsibilities in relation to watercourses which cross their land and seek to find ways to enforce action from these individuals, while ensuring that the councils' own riparian ownership responsibilities are fulfilled.	Policies relating to enforcement and culverting are being developed and the issue of communicating riparian responsibilities will be dealt with in the communications plan.
(v)	the Council should take on board the recommendations of the Pitt review, the Government's forthcoming Flood and Water Bill and the actions proposed therein and take note of the comments on the Bill made by the Drainage Services Manager as part of the consultation process.	Will be taken into account in the development of the Local Flood Risk Strategy.
(vi)	Cabinet be recommended to take note of the recently prepared Flood Risk Assessment.	Flood Risk Assessment approved by the Cabinet (Minute No. 137 - 1 October 2009 refers)
(vii)	the Council should take account of the financial and other implications of the forthcoming report on climate change to be submitted by the Drainage Services Manager.	Funding issues will be dealt with in the Local Flood Risk Strategy.

No	Recommendation	Action
<b>B Coastal / Tidal Flood Risks</b>		
(i)	The existing plans developed to protect the area between the Coastguard Station & Hightown need to be brought forward and implemented as soon as practicable.	Both the Crosby to Formby Strategy and the Shoreline Management Plan have now been approved and adopted by the Council and actions arising from these will be incorporated within the action plan for the Local Flood Risk Strategy.
(ii)	The Council needs to discuss the repair of the "Training Bank" with interested parties	This issue has been discussed with the Environment Agency and will continue to be pursued within the constraints of current grant aid rules.
<b>C Watercourse / Fluvial Flood Risks</b>		
(i)	Within the authority's budgetary constraints the funding and development of a regular maintenance programme of the strategic watercourses across the Borough should be considered and the acceleration of the production of a definitive map of all watercourses should be investigated.	The maintenance programme will be reviewed as part of the development of a Local Flood Risk Strategy and within the policy on asset management. By October 2012 we will be able to provide a programme of asset inspection alongside the policy for how these assets will be maintained.
(ii)	The Council should request the Environment Agency to install remote monitoring of water levels in the Lunt/Maghull area as a matter of urgency.	As part of our understanding of risk any opportunities to develop approaches that improve our understanding or allow us to give advance warning will be explored with partners.
(iii)	The Council should make efforts to provide assistance to residents whose properties have been subject to flooding as a result of the flooding of watercourses outside of the curtilage of their premises (for example from a neighbouring property) by way of emergency contact numbers or reporting procedures.	This will be considered within the development of a communications plan.
(iv)	The Council should consider introducing a policy prohibiting any further culverting of open watercourses.	This issue will be addressed in a policy on culverting which will be developed in conjunction with partners and in particular with planning officers.
(v)	The Council should instigate a programme to comply with its duty to inspect and maintain watercourses where culverted under the highway, firstly by compiling a comprehensive record of all such watercourses and then implementing a regular inspection and maintenance programme thereof	The maintenance programme will be reviewed as part of the development of a Local Flood Risk Strategy and within the policy on asset management. By October 2012 we will be able to provide a programme of asset inspection alongside the policy for how these assets will be maintained.



No	Recommendation	Action
<b>D Land and Highway Flood Risks</b>		
(i)	Residents should be notified in good time when gully cleansing is due to take place so that they can avoid parking over gully drainage grates.	The maintenance programme will be reviewed as part of the development of a Local Flood Risk Strategy and within the policy on asset management. By October 2012 we will be able to provide a programme of asset inspection alongside the policy for how these assets will be maintained. Within this we will include the issue of how residents are advised of the service they can expect and how they can help.
(ii)	Within the authority's budgetary constraints the funding and development of a more proactive response to flooding and maintenance across the Borough should be considered.	This will be considered within the section on funding within the Local Flood Risk Strategy.
(iii)	There is a need to ensure the proper screening of gully drainage grates etc. when highway surfacing works are carried out	It is agreed that a clear statement relating to this is required and this will be included either within or alongside the policy on maintenance of assets.
<b>E Pluvial or Surface Water Flood Risks</b>		
(i)	The Planning Department should look at means of enforcing planning permission for hard landscaping across the Borough (for example flagging front and rear gardens).	<p>Noted that Planning permission is now required for most hard-surfacing of front gardens or driveways. Levels of public awareness and acceptance of this requirement are high.</p> <p>The hard-surfacing of rear of gardens is permitted development. Where Surface Water Management Plans provide the evidence to justify this in the future, options such as the removal of these permitted development rights can be considered for particular areas of Sefton. This would mean that planning permission would be required for hard-surfacing in rear gardens as well.</p>
(ii)	The Planning Department should endeavour to ensure that a flood risk assessment is included as part of the planning application process	Site flood risk assessments as part of the planning application process are already a requirement in areas where there is an identified flood risk, e.g. for all development adjacent to brooks, ditches or canals, and for all development on sites of over 1.0 hectare within Flood Zone 1 and all development within Flood Zones 2 and 3 (in line with national planning policy in PPS25) or on sites identified as requiring a site-specific Flood Risk Assessment in Sefton's Strategic Flood Risk Assessment, local plans or planning guidance.
(iii)	The Planning Department should consider methods of ensuring that building does not take place above existing watercourses	<p>The Council will continue to take this approach where it is aware of the watercourse (or culvert). For sites which include or are next to a Main River watercourse, the prior written consent of the Environment Agency is also required for any proposed works, buildings, fences, pipelines or other structures or tree or shrub planting in, under, over or within 8 metres of the top of the bank/retaining wall of the Main River watercourse.</p> <p>The Director of Planning and Economic Regeneration considers that a planning policy limiting development immediately above or adjacent to existing watercourses is best approved within the Core Strategy, which is currently being prepared, and subsequent local development documents. A policy should also require new development schemes to take appropriate opportunities to restore existing culverts to open channels. In</p>

No	Recommendation	Action
		<p>the interim, it is proposed that the 'Sustainability in Design' information note be amended to say that the Council will not look favorably on building above existing watercourses.</p> <p>In addition to the above statements relating to section E the role of planning in controlling development and avoiding inappropriate development is recognised as critical and this will be reflected in the development of the Local Flood Risk Strategy.</p>
<b>F Sewer or Foul Flood Risks</b>		
(i)	Sefton should publicise the responsibility of individuals, and private contractors, to not to dispose of certain materials down our domestic drains	This will be considered within the development of a communications plan.
(ii)	The council should consult with United Utilities with a view to agreeing a practical schedule of sewer replacements within the borough	Joint working with United Utilities, as part of the development of surface water management plans and flood risk identification will identify opportunities where sewer replacements will have combined benefits. However, United Utilities funding opportunities are tied into their 5 year plan with OFWAT
(iii)	The working group is concerned that the budget for the maintenance of gullies has been significantly reduced to the extent that gullies are now only able to be cleaned once per year and feels that the decision in respect of this budget should be revisited.	Any increase in budget needs to be considered within the context of other services that the Council delivers. In order to make informed decisions Council needs to understand the risks associated with maintaining or reducing the current budget and the benefits of increasing it. Within the Local Flood Risk Strategy funding issues will be considered and officers will set out to the best of their ability the risks associated with different levels of funding in a format that allows informed decisions to be made.