

<b>Report to:</b>	Cabinet Council	<b>Date of Meeting:</b>	9 <sup>th</sup> March 2017 20 <sup>th</sup> April 2017
<b>Subject:</b>	Flood and Coastal Erosion Risk Management Policies	<b>Wards Affected:</b>	(All Wards);
<b>Report of:</b>	Head of Locality Services - Commissioned		
<b>Is this a Key Decision?</b>	Yes	<b>Is it included in the Forward Plan?</b>	Yes
<b>Exempt/Confidential</b>	No		

### Purpose/Summary

A number of new policies have been developed to support the delivery of Flood and Coastal Erosion Risk Management within Sefton. These cover issues which are relevant to the Council as Lead Local Flood Authority and are distinct from Local Plan policies for management of flood risk, surface water and coastal change in relation to the planning application process.

### Recommendation(s)

Cabinet to recommend to Council the adoption of the policies for Flood and Coastal Erosion Risk Management.

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

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
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:**

The Flood and Water Management Act 2010 (FWMA 2010) recommends that the activities of the Lead Local Flood Authority (LLFA), Sefton Council, be scrutinised. These policies clarify and support the activities of the LLFA under this act. These policies will allow the LLFA to effectively prioritise demand on the service area ensuring our communities receive an effective and efficient service.

**Alternative Options Considered and Rejected:**

Policies not developed leading to less transparency and clarity of the service the Council delivers. This will increase the amount of unnecessary correspondence and complaints due to a lack of clarity on the position of Council in relation to flood and coastal erosion risk management. The service will be inefficient and poorly delivered as conflicting demands are made.

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

**(A) Revenue Costs**

Contained within existing revenue budgets.

**(B) Capital Costs**

**Implications:**

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

<b>Financial</b>		
<b>Legal</b>		
Production of these policies ensures that the Council complies with various duties and responsibilities contained in the following legislation and directives:		
<ul style="list-style-type: none"> <li>• Coast Protection Act 1949 (CPA 1949)</li> <li>• Land Drainage Act 1991 (LDA 1991)</li> <li>• Flood Risk Regulations 2009 (FRR 2009)</li> <li>• Flood and Water Management Act 2010 (FWMA 2010)</li> <li>• Water Framework Directive 2000/60</li> <li>• Habitats Directive 1992/43</li> <li>• Environment Act 1990</li> <li>• Wildlife and Countryside Act 1981</li> </ul>		
<b>Human Resources</b>		
<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 of the Proposals on Service Delivery:**

Improved clarity and support for staff when delivering the service, resulting in a better service to our communities

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

The Head of Planning Services has been consulted and any comments have been incorporated into the report.

The Head of Corporate Resources has been consulted (FD 4455/17) and notes the report indicates no direct financial implications. Costs can be contained within existing revenue budgets.

The Head of Regulation and Compliance (LD 3738/16) has been consulted and any comments have been incorporated into the report.

**Implementation Date for the Decision**

Following the Council Meeting

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**Appendices:**

The following papers are attached to this report:

- 1 - Sefton Council - Culverting of Ordinary watercourses Policy
- 2 - Sefton Council - Diverting Ordinary watercourses Policy
- 3 - Sefton Council - Enforcement Policy
- 4 - Sefton Council - Flood Investigation Policy

**Background Papers:**

None.

## **1. Introduction/Background**

1. Flood and Coastal Erosion Risk Management (FCERM) is primarily subject to legislation under the following acts:
  - Coast Protection Act, 1949 (CPA)
  - Land Drainage Act, 1991 (LDA)
  - Flood Risk Regulations, 2009 (FRR)
  - Flood and Water Management Act, 2010 (FWMA)
2. In addition to these acts Sefton Council, in delivering FCERM, must comply with a number of directives and other acts; such as the Water Framework Directive, the Habitats Directive, the Environment Act and the Wildlife and Countryside Act.
3. The introduction of the FWMA 2010 and amendments to the Land Drainage Act 1991 (LDA 1991) has introduced a number of new duties and permissive powers which are now the responsibility of Sefton Council. Several of these allow Sefton Council to define specific local criteria which are the subject of the policies. Under these acts Sefton Council is defined as a Lead Local Flood Authority (LLFA).
4. The emerging Local Plan for Sefton includes a new designation of a Coastal Change Management Area (CCMA) for part of the Sefton Coast that supports the delivery of the Coastal Protection Act 1949 (CPA 1949). In the CCMA development must take into account the risk of coastal change and the vulnerability of the development, and must fulfil specified criteria, in line with the National Planning Policy Framework and national Planning Practice Guidance. In practice any development in the CCMA is referred to the FCERM team for comment in relation the CPA 1949. Consequentially no separate policies have been developed for the CPA 1949 at this point in time.

## **Policy Overviews**

5. FCERM policies that are presented for consideration are:
  - Culverting of Ordinary watercourses Policy
  - Diverting Ordinary watercourses Policy
  - Enforcement Policy
  - Flood Investigation Policy

## **Ordinary Watercourse Culverting Policy**

6. This policy sets out the Council's position in opposing culverting or piping of ordinary watercourses. The FWMA 2010 requires anyone wishing to alter an ordinary water course to obtain consent from the Council prior to undertaking the work. Sefton commonly experiences flooding as a result of poorly designed culverts or inadequately maintained culverts. These are often in the gardens of residents who may be unaware that they exist or are struggling to maintain them correctly. The opposing of culverting may help reduce the potential risk of any future flooding incidences.
7. It is recognised that there may be occasions where culverting may be the only option and in the overriding public interest. Specific criteria have been defined that must be met before approval to culvert will be granted.

## **Ordinary Watercourse Diverting Policy**

8. This policy sets out the Council's position in relation to diverting of ordinary watercourses. The FWMA 2010 requires anyone wishing to alter an ordinary water course to obtain consent from the Council prior to undertaking the work. The Council has concerns that inappropriate diverting of ordinary watercourses can increase flood risk and maintenance difficulties. However, if undertaken correctly it can help reduce flood risk and increase the amount of wet habitat available.
9. The policy details the criteria that must be achieved prior to consent being granted. These will ensure that capacity of flows and storage are maintained or increased bringing overall benefits to reduction in flooding and environmental improvements.

## **Ordinary Watercourse Enforcement Policy**

10. The FWMA transferred powers defined in the LDA 1991 from the Environment Agency to Sefton Council for enforcement actions relating to maintaining flows in ordinary watercourses. These powers are permissive and as such are at the Council's discretion when to use. There is a recognised process for enforcement action and undertaking the process can be long and resource intensive as it involves several periods of negotiation with riparian owners to give them opportunity to undertake action prior to formal action being undertaken.
11. The policy sets out how we will prioritise using these powers to address the potential impacts of flooding. Due to the resource required to resolve such issues we cannot undertake all enforcement actions and as such need to focus our resources on where we expect the biggest detrimental impacts to our communities will occur. Our highest priority is where internal flooding to a property is the likely outcome.

## **Flood Investigation Policy**

12. Section 19 of the FWMA 2010 requires Sefton Council to publish flood investigation reports that it has defined as 'necessary or appropriate'. The policy details what Sefton Council has defined as 'necessary or appropriate', which has been set to reflect current best practice in the industry and where the numbers affected could potentially reach cost benefit levels required for scheme development and grant in aid applications.
13. This policy has been developed to enable Sefton Council to focus resources effectively and to ensure flood incidents which have a significant impact take priority and are investigated appropriately. Sefton Council reserves the right to undertake these investigations at its discretion and as resources allow.

14. **Table 1.** Priority listing for investigating flood events

<b>Priority</b>	<b>Type of Flooding Incident</b>
1	<i>Internal flooding to the habitable space of a dwelling that affects the occupants' ability to live in that space or business property that affects the ability to run the business from the flooded property.</i>
2	<i>Flooding as a result of a structural failure of a flood or coastal defence asset.</i>
3	<i>Flooding to highways defined as part of the Sefton's Key Route Network (Appendix A) or critical infrastructure*.</i>
4	<i>Flooding to highways defined as classified roads, local distributor roads, that renders it totally impassable for a significant period (4 hours or more)</i>
5	<i>Flooding to outbuildings, gardens, open space and farmland that is not on part of the functional floodplain</i>

15. This will help us provide better support to our communities as we build a better understanding of flood risk. The policy is presented in the framework of a prioritised list to allow officers to focus their limited resource on the most significant flooding events. It must be noted that we may be unable to investigate all events due to resource limitations.

**Links to the development management process**

16. Some development sites may contain ordinary watercourses. In such cases planning applications are referred to the FCERM Team for comment.

17. In future, the FCERM Team will recommend that an 'Informative' should be added to the planning or other application Decision Notice. This would state that:

"Any changes to an ordinary watercourse must seek separate consent from the Council as Lead Local Flood Authority prior to works being undertaken, as set out in the Flood and Water Management Act 2010. Sefton Council's position on consenting and enforcement is set out in its Ordinary Watercourse Culverting, Diverting, Enforcement and Flood Investigation Policies".