

# Transport and Environment Committee

10am, Tuesday, 19 March 2013

## Response to SEPA Statement on Consultation Arrangements for Flood Risk Management Planning

Item number	7.14
Report number	
Wards	All

### Links

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Coalition pledges	<a href="#">P33</a>
Council outcomes	<a href="#">CO26</a>
Single Outcome Agreement	<a href="#">SO4</a>

### Mark Turley

Director of Services for Communities

Contact: Alvin Barber, Senior Professional Officer

E-mail: [alvin.barber@edinburgh.gov.uk](mailto:alvin.barber@edinburgh.gov.uk) | Tel: 0131 469 3748

# Executive summary

## Response to SEPA Statement on Consultation Arrangements for Flood Risk Management Planning

### Summary

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This report describes the response to be made to the consultation by SEPA entitled Flood Risk Management (FRM) Planning in Scotland: Statement of Consultation Arrangements.

### Recommendations

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It is recommended that Committee approve the issue of a response to SEPA reflecting the observations and comments outlined in this report.

### Measures of success

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The incorporation by SEPA, of the Council's views in Flood Risk Management Planning.

### Financial impact

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There are no immediate implications for budgets. In the longer term, the development of the Flood Risk Management Plan is likely to have implications for revenue and capital budgets.

### Equalities impact

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Consideration has been given to the Equalities Act 2010. There are no adverse impacts from this report. The proposed consultation will help ensure proper public scrutiny and transparency in the development of the proposed flood risk management plans.

## **Sustainability impact**

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The strategies developed will include proposals to appraise the sustainability of flood risk management measures generally. Development and future implementation of the plan will help to reduce the likelihood of flooding and improve the sustainability of affected communities.

## **Consultation and engagement**

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This is a response to consultation received by the Council.

## **Background reading/external references**

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[Flood Risk Management in Scotland: Statement of Consultation Arrangements. December 2012.](#)

## Response to SEPA Statement on Consultation Arrangements for Flood Risk Management Planning

### 1. Background

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- 1.1 The Flood Risk Management (Scotland) Act 2009 requires SEPA to produce Flood Risk Management (FRM) Plans by December 2015. The Plans are to set objectives for the management of flood risk in potentially vulnerable areas and to identify measures to achieve those objectives in a sustainable way.
- 1.2 SEPA has submitted a document “Flood Risk Management in Scotland: Statement of Consultation Arrangements” to the Council for comment.
- 1.3 The statement sets out the consultative actions SEPA intends to take to inform production of it’s flood risk management strategies.
- 1.4 SEPA has invited the Council to respond to the statement with any comment by 22 March 2013.

### 2. Main report

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- 2.1 The Council has a number of concerns regarding this statement as outlined below.
- 2.2 The consultation statement also indicates that Lead Local Authorities are required to launch a consultation process on draft Local FRM plans on 22 December 2014 and that this should be aimed primarily at public bodies and stakeholders. The Flood Risk Management (Scotland) Act 2009 states that both the SEPA draft plans and the local draft plans must be made available for public inspection. It is considered imperative that the public are involved in the development of these plans and there is a concern that the importance of public consultation is not given sufficient emphasis in this document. This needs to be raised with SEPA.

- 2.3 It is considered that draft FRM strategies should be agreed with Local Authorities and other public bodies and stakeholders considerably earlier than December 2014, in order that the content of the Local FRM plans can be agreed by SEPA and Local Authorities prior to consultation on the plans commencing. This will be raised with SEPA and related assurances sought.
- 2.4 The consultation statement indicates that SEPA intends to launch a consultation process on the draft FRM strategies, aimed primarily at public bodies and stakeholders, with a commencement date of 22 December 2014. The Flood Risk Management (Scotland) Act 2009 states that SEPA must publish, and invite responses on, a draft of the flood risk management plan. It is not clear whether “draft FRM strategies” refers to the draft plan or to the strategies upon which the plan is based. This needs to be clarified with SEPA.
- 2.5 Subject to approval by Committee, it is proposed that the above observations and comments should be reflected in a letter to SEPA requesting amendment of their statement in order to clarify it and to improve the process for public consultation.

### **3. Recommendations**

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- 3.1 It is recommended that the Committee approves the issue of response to SEPA reflecting the observations and comments outlined in this report.

**Mark Turley**

Director of Services for Communities

## Links

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<b>Coalition pledges</b>	P33: Strengthen Neighbourhood Partnerships and further involve local people in decisions on how Council decisions are used.
<b>Council outcomes</b>	CO26: The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives
<b>Single Outcome Agreement</b>	SO4: Edinburgh's Communities are safer and have improved physical and social fabric.
<b>SEPA Consultation Document</b>	Flood Risk Management in Scotland: Statement of Consultation Arrangements. December 2012.

# **Flood Risk Management Planning in Scotland: Statement of Consultation Arrangements**

**December 2012**

## Foreword

Flooding, as witnessed once again this winter, has devastating impacts on people, communities and business.

How floods are managed in Scotland is changing.

Government and public bodies are developing a new plan-led approach to better manage current and future flood risk. This approach to flood risk management will encourage Scotland to invest and take action where the greatest risks and benefits have been identified.

SEPA has a central role in this new approach. In addition to pre-existing statutory roles in delivering flood risk planning advice and flood forecasting and warning, SEPA has a new strategic oversight role in flood risk management. Our aim in developing this new role is to work closely and collaboratively with flood risk management authorities and wider stakeholders.

The purpose of this statement is to outline the consultation arrangements for the production of the first Flood Risk Management Strategies 2015-2021, which are one of the key deliverables of the new approach. In setting out these arrangements we hope that those with an interest in flood risk management get in touch with their views and begin to plan their work accordingly.



**David Pirie**  
**Director of Science and Strategy**  
**SEPA**



# 1. Statement of consultation measures for the preparation of Flood Risk Management Strategies

This statement has been produced by SEPA to fulfil requirements set out under Section 30 of the Flood Risk Management (Scotland) Act 2009. It outlines the consultative actions SEPA will take in the preparation of the first Flood Risk Management Strategies (FRM Strategies).

Preparation of the FRM Strategies must not happen in isolation. There are close links with the preparation of Local Flood Risk Management Plans (Local FRM Plans) and a need to coordinate with river basin management planning. Proposals for linking the consultation arrangements for FRM Strategies with these associated areas of work are described in this document.

## **What is this statement about?**

This statement outlines the consultative actions SEPA will take to prepare the FRM Strategies. This should enable stakeholders and responsible authorities to identify where best they can input into the flood risk management planning process. It also provides an opportunity to inform SEPA of views or any suggestions you may have to improve the proposed consultation arrangements.

## **Who do we want to respond?**

This statement, as required under legislation, is aimed primarily at public bodies and stakeholders involved in the management of flood risk.

## **How and when to respond**

Please submit a response to SEPA on this statement by **Friday 22 March 2013** in one of the following ways:

- By email: [floodactconsultation@sepa.org.uk](mailto:floodactconsultation@sepa.org.uk)
- In writing to: FRM Act Consultation, SEPA, Clearwater House, Heriot Watt, Research Park, Avenue North, Riccarton, Edinburgh, EH14 4AP
- If you have a query about how to respond to this statement or need any further information, you can also contact the flood risk management planning team on: 01738 448194.

If you wish your response to remain anonymous, please state this clearly as part of your submission. In line with the requirements of the Data Protection Act 1998 the information you provide will only be used for the purpose of this consultation. It will not be used, retained or distributed for any other purpose. Public authorities, including SEPA, are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made under the Act for information relating to responses made to this statement.

This statement can be made available in other formats or hard copy on request. To request this document in another format or hard copy please write to, or email, the above addresses, or dial: 01738 448194.

## 2. SEPA consultation actions to date

SEPA has undertaken a consultative, partnership-based approach with responsible authorities and the Scottish Government in the work to date to develop the FRM Strategies and Local FRM Plans. These are outlined in table 1.

National and local advisory groups have been set up during 2011-2012. The establishment of these groups is a key step to engage and consult with responsible authorities and stakeholders involved in flood risk management. These groups are listed in Annex 2.

Guidance documents have been produced by SEPA and the Scottish Government to inform the preparation of FRM Strategies and Local FRM Plans. These guidance documents include:

- **Delivering Sustainable Flood Risk Management** (June 2011);
- **Sustainable flood risk management – Principles of Appraisal: a policy statement** (August 2011);
- **Flood Risk Management Strategies and Local Flood Risk Management Plans** (December 2011);
- **Flood Risk Management Planning in Scotland: Arrangements for 2012 – 2016** (February 2012).

The above guidance documents are available on the Scottish Government website: <http://www.scotland.gov.uk/Topics/Environment/Water/Flooding/FRMAct/guidance> or SEPA's website: [http://www.sepa.org.uk/flooding/flooding\\_publications.aspx](http://www.sepa.org.uk/flooding/flooding_publications.aspx)

**Table 1: Examples of consultative actions undertaken by SEPA to date on flood risk management planning (not exhaustive).**

Date	Consultation	Deliverables
August to October 2010	Formal Consultation: <b>Planning for Floods – Planning for the Future: Delivering partnership approaches to implementing the Flood Risk Management Act.</b>	<ul style="list-style-type: none"> <li>• Agreement on the principles for defining Local Plan Districts.</li> <li>• Agreement of the broad remit, membership and procedures of the National Flood Management Advisory Group (NFMAG).</li> </ul>
September 2010	Initial workshop with stakeholders themed on the proposals outlined in the <b>Planning for Floods – Planning for the future</b> consultation document.	<ul style="list-style-type: none"> <li>• Support for the temporary use of the River Basin Management Planning Area Advisory Groups (RBMP AAGs) in 2011 to engage with local stakeholders.</li> <li>• Agreement for the consultation activities proposed in this formal consultation document, including thematic workshops.</li> </ul>
April to May 2011	Meetings with local authorities to review Local Plan District boundaries in view of responses to previous consultation.	<ul style="list-style-type: none"> <li>• Agreement of Local Plan District boundaries.</li> <li>• Agreement of the flood risk significance threshold for Potentially Vulnerable Areas.</li> </ul>
May 2011	Workshops held with local authorities and key stakeholders e.g. Transport Scotland, Scottish Natural Heritage etc on the National Flood Risk Assessment and Potentially Vulnerable Areas.	<ul style="list-style-type: none"> <li>• Agreement on the location of Potentially Vulnerable Areas.</li> <li>• Agreement of the broad remit, membership and procedures of the Flood Risk Management Local Advisory Groups (FRM LAGs).</li> </ul>
June to August 2011	Formal Consultation: <b>Flooding in Scotland: a consultation on Potentially Vulnerable Areas and Local Plan Districts</b>	<ul style="list-style-type: none"> <li>• Agreement to use RBMP AAG boundaries as the basis to establish FRM LAGs.</li> </ul>

### 3. Next steps: proposed consultative actions

In drafting the FRM Strategies for formal consultation in December 2014, SEPA will take advice from the local partnerships, established between SEPA, Scottish Water and local authorities for each Local Plan District, throughout 2013 and 2014. Advice will also be sought from the National Flood Management Advisory Group and the Cross Border Advisory Group. Table 2 outlines the key consultative actions SEPA will take to produce the first FRM Strategies. In addition, SEPA will publish a summary of the actions carried out to take account of any views or comments made on the formal consultation in December 2014.

The formal consultation on the FRM Strategies will be made publicly available on the SEPA website at the following link: [http://www.sepa.org.uk/about\\_us/consultations.aspx](http://www.sepa.org.uk/about_us/consultations.aspx).

When SEPA launches the formal consultation on the FRM Strategies or modifies the FRM Strategies in response to ministerial recommendations the following actions will be taken:

- an email will be sent to inform key stakeholders and partnership groups listed in table 5, Annex 2;
- a notice will be published in one or more national newspapers to advertise this fact (for example, The Herald, The Scotsman and The Edinburgh Gazette);

It will be possible to request a copy of the consultation document in hard copy or an alternative format e.g. large scale print if required.

**Table 2: Key dates for the consultation and preparation of FRM Strategies.**

<b>Key dates</b>	<b>Consultation and preparatory actions</b>
22 March 2013	Opportunity closes to make comments on the <b>Statement of consultation arrangements</b> (this statement): aimed primarily at public bodies and stakeholders involved in the management of flood risk.
22 December 2013	Flood risk and flood hazard maps published.
22 December 2014	SEPA launches a formal consultation on the draft FRM Strategies: aimed primarily at public bodies and stakeholders involved in the management of flood risk. <b>Three month consultation period.</b>
22 March 2015	Opportunity closes to make comments on the draft FRM Strategies.
22 May 2015	SEPA to receive from Lead Local Authorities any comments relevant to the FRM Strategies made on the Local FRM Plan consultation (the consultation carried out by Lead Local Authorities).
October 2015	SEPA submit FRM Strategies to Ministers for approval. Modifications made to FRM Strategies to be publicised prior to 22 December 2015.
22 December 2015	First FRM Strategies published.

#### **4. Coordination between Flood Risk Management Strategies and Local Flood Risk Management Plans**

SEPA will work in partnership with local authorities throughout 2013 and 2014 to ensure consistency between the two sets of complementary plans. Lead Local Authorities will engage with stakeholders through local partnerships and Flood Risk Management Local Advisory Groups (FRM LAGs) to develop the Local FRM Plans. Each local authority will also be responsible for engaging with the wider public on the development of the plans.

In early 2013, Lead Local Authorities will work in partnership with SEPA and the Scottish Government to further develop proposals on how best to coordinate the consultation arrangements planned for December 2014 on Local FRM Plans and FRM Strategies.

**Table 3: Key dates for Lead Local Authority consultation on the preparation of the Local FRM Plans.**

<b>Key dates</b>	<b>Consultation and preparatory actions</b>
22 December 2014	Lead Local Authorities launch formal consultations on the draft Local FRM Plans: aimed primarily at public bodies and stakeholders involved in the management of flood risk. <b>Three month consultation.</b>
22 March 2015	Opportunity closes to make comments on the draft Local FRM Plans.
22 May 2015	Lead Local Authorities provide SEPA with comments relevant to the FRM Strategies received via the local FRM Plan consultation.
22 June 2016	First Local FRM Plans published.

## 5. Coordination with river basin management plans

SEPA and Lead Local Authorities will continue to work closely together and with stakeholders to ensure consistency between the FRM Strategies, Local FRM Plans and the river basin management plans. The proposed consultative actions for the development of the second river basin management plans are currently available for comment (the **Getting Involved in developing the second river basin plan**<sup>1</sup> consultation closes on 28 February 2013). Dates of the current key proposals to coordinate with flood risk management planning are outlined in table 4.

FRM LAGs have a specific role to provide advice on the coordination between flood risk management planning and other relevant plans and policies, particularly river basin management planning. The FRM Act requires consistency and coordination between river basin management planning and flood risk management planning. River basin management planning takes a catchment based approach to improve the quality of Scotland's waters. Linking the two planning processes will help identify areas with potential for multiple benefits or where conflicting objectives in flood risk management and the Water Framework Directive need to be managed. Areas for coordination include, for example, promoting land management measures that deliver coincident flooding and environmental benefits, ensuring that flood defences are designed in a way that causes least environmental damage, and managing advisory groups and consultation activities to reduce consultation fatigue.

Many of the stakeholder organisations interested in catchment issues such as flooding, the quality of the water environment and biodiversity are the same for both flood risk management planning and river basin management planning. These include, for example, Scottish Water, Scottish Natural Heritage, relevant national parks, environmental non-governmental organisations and other interest groups such as fishery trusts and land managers. SEPA therefore intends to co-ordinate advisory group arrangements for both planning processes where practical.

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<sup>1</sup> This can be viewed on SEPA's website: [http://www.sepa.org.uk/about\\_us/consultations.aspx](http://www.sepa.org.uk/about_us/consultations.aspx)

**Table 4: Key consultation and publication dates for the preparation of the river basin management plans, FRM Strategies and Local FRM Plans.**

Flood risk management planning consultative arrangements	Key dates	River basin management planning consultative arrangements
	28 Feb 2013	<b>Getting involved in developing the second river basin plans</b> consultation closes. This is aimed at public bodies involved in management of the water environment, together with land and water managers, and commercial users.
Flood Risk and Hazard maps published.	22 Dec 2013	SEPA launches <b>Current condition and challenges for the future:</b> a risk assessment of the attainment of objectives set out in the first river basin plans, description of water services, and identification of significant water management issues that should be the focus of development. <b>Six month consultation</b>
	22 Dec 2013	SEPA launches a formal consultation on proposals to designate new or make changes to existing heavily modified water bodies. <b>Six month consultation</b>
SEPA launches a formal consultation on the draft FRM Strategies. Lead Local Authorities launch formal consultations on the draft Local FRM Plans. <b>Three month consultations</b>	22 Dec 2014	SEPA launches formal consultations on the draft river basin management plans. <b>Six month consultation</b>
Opportunity closes to comment on the draft FRM Strategies and draft Local FRM Plans.	22 Mar 2015	
	22 June 2015	Opportunity closes to comment on the draft river basin management plans.
First FRM Strategies published.	22 Dec 2015	Second river basin management plans published.
First Local FRM Plans published.	22 June 2016	

## 6. Next steps

SEPA welcomes any comments or advice on the consultation arrangements proposed in this document. Your response will be used to shape any further improvements that can be made to the consultation arrangements for the flood risk management planning process.

The next key consultation dates are:

- **22 March 2013:** opportunity to comment on this statement closes.
- **22 Dec 2014:** opportunity to comment on the draft FRM Strategies and draft Local FRM Plans for 3 months.
- **22 May 2015:** Lead Local Authorities provide SEPA with any comments relevant to the FRM Strategies received via the local FRM plan consultation.

## Annex 1: Background

The Flood Risk Management (Scotland) Act 2009 sets out a new approach for managing flood risk in Scotland. Key elements of the new approach are described below.

1. **National Flood Risk Assessment (NFRA):** The NFRA was published in 2011. It assessed the likelihood of flooding from rivers, groundwater and the sea, as well as flooding caused when heavy rainfall is unable to enter drainage systems or the river network. The likelihood of flooding is considered alongside the estimated impact on people, the economy, cultural heritage and the environment.
2. **Identification of Local Plan Districts:** 14 Local Plan Districts have been identified. These correspond with catchment boundaries. By 2016, these districts require the production of a FRM Strategy and a Local FRM Plan.
3. **Identification of Potentially Vulnerable Areas (PVAs):** 243 Potentially Vulnerable Areas have been identified. These are areas based on catchments, where the potential impact is sufficient to justify the further assessment and appraisal of flood risk management actions.
4. **Preparation of flood risk and flood hazard maps:** These will be produced for PVAs. Flood hazard maps are more detailed technical assessments of flooding that will show floods with low, medium and high probability along with the flood extent, depth or water level, and velocity where appropriate. Flood risk maps will show the potential adverse consequences associated with these floods.
5. **Flood Risk Management Strategies (FRM Strategies):** The FRM Strategies will identify the main flood hazards and impacts, setting out objectives for reducing risk and the best combination of actions to achieve this, such as the appropriateness of an alleviation scheme or improving flood warning arrangements. SEPA will prepare and consult on the FRM Strategies required for each of the 14 Local Plan Districts.
6. **Local Flood Risk Management Plans (Local FRM plans):** The Local FRM Plans take the agreed objectives and explain what actions will be taken, by whom and at what time, to deliver them within a six-year planning cycle. The first cycle will run from 2015 to 2021. A Lead Local Authority will prepare and consult on the Local FRM Plan for each of the 14 Local Plan Districts.

The NFRA and further information on the FRM Strategies, Local FRM Plans and work undertaken to date can be viewed on SEPA's website: [http://www.sepa.org.uk/flooding/flood\\_risk\\_management.aspx](http://www.sepa.org.uk/flooding/flood_risk_management.aspx)



## Annex 2: Consultative groups

**Table 5: Table of the consultative groups set up to facilitate the production of the FRM Strategies and the Local FRM plans.**

Group	Purpose
Scottish Advisory and Implementation Forum for Flooding (SAIFF)	SAIFF was set up by the Scottish Government and comprises of a series of working groups (called Task and Finish Groups), each with a specific remit. These are convened to help develop specific guidance or undertake further analysis of important technical issues. Membership varies between groups to ensure appropriate representation from policy, stakeholders and technical experts.
National Flood Management Advisory Group (NFMAG)	NFMAG covers the whole of Scotland and includes wider stakeholders with an interest in flood risk. It provides advice to SEPA on its new flood risk management functions.
Cross Border Advisory Group (CBAG)	CBAG covers the Solway Tweed River Basin District. It provides advice to SEPA and the Environment Agency on the delivery of cross border flood risk management issues. Membership includes the Environment Agency and local authorities in England that border Scotland.
Lead Local Authority Forum (LLAF)	The LLAF provides an opportunity for Lead Local Authorities and SEPA to discuss issues relating to their functions within the local partnerships. Membership includes Lead Local Authorities, Scottish Water and SEPA. SEPA will work with this group throughout 2013 to develop proposals on how best to coordinate the consultation arrangements for Local FRM Plans and FRM Strategies.
Flood Risk Management Local Advisory Groups (FRM LAGs)	There are currently 10 FRM LAGs. These largely correspond with the Area Advisory Groups used for river basin management planning and help provide a key link between the two processes. These groups include wider stakeholders with an interest in flood risk and provide advice to Lead Local Authorities on the preparation of the Local FRM Plans. Lead Local Authorities will take the appropriate draft Local FRM Plans to these groups.
Local Partnerships	There are 14 Local Partnerships. These correspond with the Local Plan Districts. Membership includes key partners (local authorities, SEPA and Scottish Water) to inform the production of FRM Strategies and Local FRM Plans. These groups will act as a key link to ensure consistency between the Local FRM Plans and the FRM Strategies. Membership can be widened if viewed appropriate to seek advice on a particular issue.