

# Co-operation and requesting information in flood and coastal erosion risk management: statutory guidance on the implementation of the Flood and Water Management Act 2010 sections 13(1) and 14 in England

Session: 2010-2012

Unnumbered Act Paper

Laid before Parliament 23/05/11

## **CORRECTION**

Correction required for the inside front page. The correction regards the power the guidance is issued under.

A correction from:

Presented to Parliament pursuant to Section 13(1) and 14 of the Flood and Water Management Act 2010.

A correction to:

Presented to Parliament pursuant to Section 7 of the Flood and Water Management Act 2010.

September 2011

LONDON: THE STATIONERY OFFICE

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Statutory guidance on the implementation  
of the Flood and Water Management Act  
2010 Sections 13(1) and 14 in England

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**Presented to Parliament pursuant to Section 13(1) and 14 of the Flood and Water Management Act 2010**

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# 1 What is this guidance for?

**This part outlines the purpose of this guidance, who it is aimed at, and explains the wider context around managing flood risk.**

- 1.1 The Pitt Review of the extensive floods across England in 2007 highlighted that the authorities responsible for managing flood risk should co-operate better. The Flood and Water Management Act 2010 (the Act) identifies new responsibilities for flood and coastal erosion risk management authorities. It also puts a duty on all relevant authorities involved to co-operate. The Act also gives lead local flood authorities (see Annex A) and the Environment Agency the power to request information from other parties ('persons' in the Act) in connection with their flood and coastal erosion risk management functions.
- 1.2 This guidance sets out what co-operation means for the purposes of the Act in England and how the power to request information should be used in a reasonable way.
- 1.3 The aim of the guidance is to allow risk management authorities to work together constructively to manage flood and coastal erosion risk. It also makes sure that when information is requested, it is done in an appropriate way. Although this will primarily apply to the authorities mentioned, other organisations and people may have an interest, particularly if they are asked, or are likely to be asked, for information that they possess.
- 1.4 Co-operation between flood and coastal erosion risk management authorities is important because of the mutual benefits they can gain from working together and sharing information. The causes of flooding or coastal erosion can cross organisational boundaries and responsibilities (of Local Authorities or water companies for example). Innovative, co-ordinated and sustainable solutions will come from a willingness to co-operate and from active partnerships between risk management authorities, private landowners, businesses, planning authorities and communities affected.

## *Context*

- 1.5 Under the Act, the Environment Agency is responsible for developing a national strategy for managing flood and coastal erosion risk in England. This strategy provides a framework for local flood and coastal erosion risk management. It sets out national objectives to manage all forms of flood and coastal erosion risk and how to achieve them.
- 1.6 Section 7 of the Act states that the Environment Agency may issue guidance about how the national strategy should be applied, and Section 7(6) in particular about how English risk management authorities are to comply with duties relating to co-operation and requests for information under Sections 13(1) and 14.

## *Working together*

- 1.7 Lead local flood authorities also have a duty under the Act to develop, implement and maintain a local flood risk management strategy for their area. Working together and exchanging information will be essential to develop and implement national and local strategies. It will involve all the risk management authorities concerned.
- 1.8 Responses to the consultation version of this guidance on co-operation between authorities and requesting information showed strong support and a genuine need for it being made available.
- 1.9 The Environment Agency will also prepare non-statutory, 'good practice' advice in consultation with others, to support this guidance. This advice will build on the principles in this guidance and could include information such as case studies, model agreements and data standards.

## 2 Co-operation guidance for Section 13(1)

**This part details which authorities need to co-operate, what roles they carry out in managing flood and coastal erosion risk, and the benefits of co-operating and sharing information.**

- 2.1 Section 13(1) of the Act states that ‘A relevant authority must co-operate with other relevant authorities in the exercise of their flood and coastal erosion risk management functions’.

### *Who are relevant authorities?*

- 2.2 In England, relevant authorities means risk management authorities, which include:
- (a) the Environment Agency;
  - (b) lead local flood authorities;
  - (c) district councils for an area for which there is no unitary authority;
  - (d) internal drainage board;
  - (e) water companies;
  - (f) highway authorities.

See Annex A for definitions of these authorities.

### *What are flood and coastal erosion risk management functions?*

- 2.3 Flood and coastal erosion risk management functions are legally defined in the Flood & Water Management Act and various preceding Acts which remain in force or are modified by the Act. Annex A lists these in more detail. Typical activities which might be carried out to deliver the functions are listed in Annex B. Therefore the new duty on organisations to co-operate applies to all aspects of flood and coastal erosion risk management in England.

### *The aims of co-operation*

- 2.4 The aim of the duty to co-operate between risk management authorities is to make sure that constructive and active engagement takes place. Government expects that all risk management authorities will co-operate in a reasonable way. Co-operation is essential to help build local relationships between relevant authorities within and across operational boundaries.

- 2.5 Co-operation involves organisations and individuals working together to achieve more effective results than they could achieve through working alone. Co-operation is built on trust, good communication, sharing information and resources, and an improved understanding of the mutual benefits it can bring. Co-operation respects the interests of those concerned, while at the same time promoting the wider interests of the group and its stakeholders. Often, clear leadership will be needed to establish the goals to work to, but co-operation is then essential to achieve those goals. Paragraph 5.1 gives more detail if advice and information is required as part of the work.
- 2.6 The Environment Agency and lead local flood authorities will often take the lead for flood and coastal erosion risk management. They will develop, implement and maintain national and local risk management strategies. It is essential that other flood and coastal erosion risk management authorities offer their support if these strategies are to produce effective results.
- 2.8 Local strategies in particular will often involve managing different types of flooding. Working together, co-operating and understanding objectives will help all risk management authorities buy-in to the local strategies and the desired results.
- 2.9 Other risk management authorities (including district councils, water companies and internal drainage boards) can also take a lead role in cases where managing flood or coastal erosion risk is focused on their responsibilities.

# 3 Achieving improved flood and coastal erosion risk management through co-operation and partnership working

**This part looks at how partnerships help to share information and resources to improve the management of flood and coastal erosion risk. It also highlights their importance in meeting local needs.**

## *Sharing information and resources*

- 3.1 Working in partnership can help improve co-operation between risk management authorities. Partnerships can also help authorities improve their understanding of flood and coastal erosion risk. This will enable them to better co-ordinate delivery in order to achieve multiple benefits. Where one authority may not be able to deliver a solution on their own, another authority may be able to help. For example, an upstream authority could carry out work in agreement with a downstream one.
- 3.2 To manage flooding and coastal erosion risks, it is essential to thoroughly understand their causes and to assess feasible solutions. It is more likely that the most relevant information will be identified when everyone concerned clearly understands the objectives and potential benefits of a study or project, and willingly contributes information to support it. Discussions over objectives should take place at an early stage of the work.
- 3.3 Risk management authorities should look to the future when planning work. This will enable them to easily share the information they collect, and help them work better. For example, extending information collection or surveys by a small extent can sometimes offer benefits to other areas of work.
- 3.4 Partnerships are a good way of formalising co-operation and collaboration arrangements between risk management authorities and others. Documents such as memoranda of understanding and information-sharing protocols can support these arrangements.

## *Meeting local needs*

- 3.5 Partnerships need to be set up so that they meet local needs in the best way. They can be strategic or project specific. They can build on existing arrangements (such as sustainability forums, local resilience forums, or coastal partnerships), but any widening of the brief must be taken into account. They can cover a range of activities before, during and after a

flood, such as sharing information, ways of working, communications, incident response, developing strategy, and designing new works. Partnerships can also be put into practice via Section 13(4) in the Act. This allows one authority to carry out the functions of another, either generally or for a particular project, location or duration.

3.6 Risk management authorities should consider the following aspects when setting up partnerships:

- agreeing roles and responsibilities;
- governance and accountability for decision making;
- communication and engagement plans;
- what information to share, and how to share it;
- sharing resources, including clearly identifying roles of staff and use of funding;
- co-ordinating delivery to gain efficiencies;
- confirming legality of agreements and works established by the partnership;
- ensuring compliance with other legal requirements covering procurement, habitats etc.

3.7 Under the principles of co-operation and partnership, risk management authorities are expected to readily exchange information under Section 13 that will assist in flood and coastal erosion risk management without making charges. Memoranda of understanding or data sharing agreements will support this.

# 4 Power to request information under Section 14

**This part looks at which authorities have the power to request information, describes what is covered by the term information, and identifies issues to consider before using the power.**

## *Who does Section 14 apply to?*

- 4.1 Section 14 of the Act states that the Environment Agency and lead local flood authorities in England may request a person to provide information in connection with the authority's flood and coastal erosion risk management functions. A person means a legal person. This is any entity that has a legal status and includes a natural person, a company, a trust or a public body, and includes a risk management authority.
- 4.2 At all times, those authorities making requests should act reasonably. Whether a particular request is reasonable would ultimately be a matter for legal decision. However, the authority should remain aware of this principle at all times. What is reasonable depends on the details of the particular case and can differ, even in apparently similar circumstances.
- 4.3 A request made under Section 14 starts a process that the person receiving must comply with. In the event that they do not, the Environment Agency or lead local flood authority should further explain their power to make the information request under Section 14. They should also highlight that the information must be provided both in the form or manner and within the period specified in the request.
- 4.4 Section 15 of the Act provides the ability for the Environment Agency or lead local flood authority to issue an enforcement notice against a person in the event of them not complying with a request to provide information. If this notice is not complied with, then civil sanctions may be pursued. The civil sanctions take the form of a penalty notice and possible fines. At the time of issue of this guidance, Section 15 of the Act has not been commenced. The Government is reviewing the need for civil sanctions and any decisions on commencement will be taken in the context of the review.

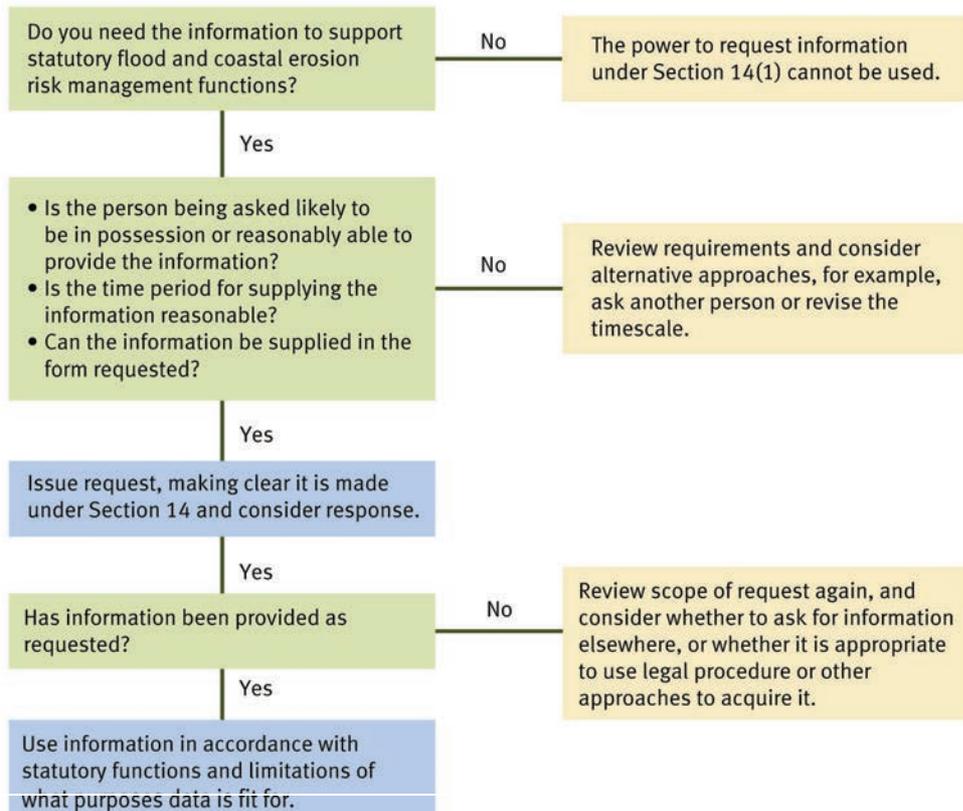
## *What is information?*

- 4.5 Information means data, documents, facts, intelligence or advice in any recorded form, and is intended (for the purposes of this guidance) to have the same meaning as 'document' in the *Reuse of Public Sector Information Regulations 2005*. It includes:
- paper files, notes, reports and other hard copy documents;

- public registers;
- databases, spreadsheets;
- electronic documents;
- e-mails;
- drawings and plans;
- photographs, video or microfilm;
- data and information, which may be included in or with software;
- methodologies.

### How to request information under Section 14

- 4.6 When the Environment Agency or lead local flood authority request information they should follow the principles in paragraph 5.1. When making a request for information the requesting authority should explain the context of the request, how the information will be used, and (to a level appropriate for the recipient) the overall objectives of the authority's work. For example, a member of the public may benefit from greater explanation of the reasons for a request than another authority.
- 4.7 Requests for information under Section 14 cannot be charged for, nor any costs recovered on the part of those asked. The obligation under Section 14 to provide information is unconditional and there are not normally exceptions to this.
- 4.8 Authorities must always consider if it is appropriate to request information. The flow chart below will help with this decision.



4.9 All flood and coastal erosion risk management authorities are expected to follow the principles set out in paragraph 5.1 below when exchanging information, and to work in co-operation with each other as set out in Section 13 of the Act. Other persons (see paragraph 4.1 above) do not have the same duties and will not necessarily have the same priorities as a risk management authority. Extra considerations for these are set out in paragraph 5.2 below.

# 5 General principles of information requests and responses

This part sets out good principles to follow when information is sought. It applies to sharing information between risk management authorities as part of Section 13 of the Act, and where requests for information are made under Section 14.

## *Following good principles for information requests and responses*

5.1 The following principles are set out to help ensure information requests and responses from flood and coastal erosion risk management authorities are reasonable. Where a request for information is made of a person or organisation that is not a risk management authority, there are some additional considerations listed in paragraph 5.2 below. Prior contact with those being asked for information is more likely to lead to reasonable requests being made.

Principles	Requesting relevant authority should:	Responding relevant authority or person should:
1	<ul style="list-style-type: none"> <li>Ensure that anyone requesting information can confirm that they do not already hold the data within their organisation.</li> </ul>	
2	<ul style="list-style-type: none"> <li>Follow up all oral requests for co-operation and information in writing (email is sufficient) so that the request is clear;</li> <li>Identify if the request is being made during a genuine emergency, and that written requests may not always be possible;</li> <li>Follow up with confirmation once emergency has passed.</li> </ul>	<ul style="list-style-type: none"> <li>Ask that all oral requests for co-operation are followed up in writing (e-mail is sufficient) so that the request is clear;</li> <li>Accept that during periods of genuine emergency written requests may not always be possible.</li> </ul>
3	<ul style="list-style-type: none"> <li>Explain in non-technical terms why they are asking for the information and how it will be used in the context of their overall flood and coastal erosion risk management functions;</li> </ul>	<ul style="list-style-type: none"> <li>Acknowledge request and advise as soon as practicable:               <ul style="list-style-type: none"> <li>on any areas of overlap with other work;</li> <li>if there are any issues and seek further explanation, if necessary;</li> </ul> </li> </ul>

Principles	Requesting relevant authority should:	Responding relevant authority or person should:
	<ul style="list-style-type: none"> <li>• Include where relevant, reference to any legislation that the request is linked to;</li> <li>• Indicate that the information will only be used for specified flood and coastal erosion risk management functions;</li> <li>• Make sure that the information will only be used for purposes within the remit of flood and coastal erosion risk management.</li> </ul>	<ul style="list-style-type: none"> <li>- what information is likely to be provided;</li> <li>- when a full response will be available;</li> <li>- if they do not hold this information or consider they are not able to provide it for legal reasons;</li> <li>- indicate other possible sources for it, if this is the case.</li> </ul>
4	<ul style="list-style-type: none"> <li>• Discuss the specific quantity, quality and format of information needed with the responding authority or person before asking for it to make sure the request is reasonable;</li> <li>• Consider and list the specific form and format of information requested, making sure to avoid blanket requests for all data;</li> <li>• Decide whether to proceed and confirm request or cancel request;</li> <li>• Assess if information received is fit for purpose before using it;</li> <li>• Before using information, take account of any licence conditions, limitations etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide the specific information: <ul style="list-style-type: none"> <li>- as requested, where they are able after checking that they have not already provided the information;</li> <li>- in the format requested where it is held in that format or where it can be converted without unreasonable amounts of work.</li> </ul> </li> <li>• Explain early on if there are any issues about providing the information, such as where it is in draft and subject to modification, or format changes are not practicable;</li> <li>• Explain whether there are any issues around third party rights or confidentiality that may affect providing the information;</li> <li>• Explain how long the information will remain valid for and frequency of any updates;</li> <li>• Explain any limitations on using the data, such as intellectual property, Data Protection Act, and fitness for purpose.</li> </ul>
5	<ul style="list-style-type: none"> <li>• Highlight where specific advice might be requested on a topic, or regarding the use of data requested. When requesting advice, ensure this is focussed on the key areas of interest.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide the advice and explain early on if there are any issues, after checking that they have not already provided the advice elsewhere.</li> </ul>
6	<ul style="list-style-type: none"> <li>• Request information within reasonable timescales, which will depend on the nature and circumstances of the request, and of the authority or person responding;</li> </ul>	<ul style="list-style-type: none"> <li>• Co-operate within reasonable timescales, which will depend on the nature and circumstances of the request;</li> <li>• During periods of genuine emergency, the authority should co-operate as soon as possible to</li> </ul>

Principles	Requesting relevant authority should:	Responding relevant authority or person should:
	<ul style="list-style-type: none"> <li>List and explain basis of the timescales;</li> <li>Reasonable should be taken to mean the same as under Environmental Information Regulations (Section 5(2)). This usually allows a maximum of 20 working days to provide the response;</li> <li>During periods of genuine emergency, seek co-operation as soon as possible to meet needs.</li> </ul>	<ul style="list-style-type: none"> <li>meet needs;</li> <li>Explain early on if there are any issues in meeting them.</li> </ul>
7	<ul style="list-style-type: none"> <li>Explain what will happen next and where and when further co-operation is likely to be requested.</li> </ul>	<ul style="list-style-type: none"> <li>Raise any issues about future plans to use the information and highlight opportunities for possible co-operation in future working.</li> </ul>
8	<ul style="list-style-type: none"> <li>Provide further details, if requested.</li> </ul>	<ul style="list-style-type: none"> <li>Ask for further details to understand the request as early as possible.</li> </ul>
9	<ul style="list-style-type: none"> <li>Meet and discuss (virtually or in person) to explain further, if asked to do so, within a reasonable timescale.</li> </ul>	<ul style="list-style-type: none"> <li>Be prepared to meet and discuss (virtually or in person), if requested, within a reasonable timescale.</li> </ul>

5.2 The following extra considerations apply when requesting information from persons or organisations who are not risk management authorities:

Principle 2 (above) - a request should:

- be made via a letter or from an official email account within the authority, to confirm its legitimacy;
- clarify that the authority is able to ask for the information under the Act, and that it relates to its flood and coastal erosion risk management functions;
- make clear that the request is being made under Section 14, using such wording as 'This authority is / I am requesting information under Section 14 of the Flood & Water Management Act 2010';
- include supporting information to act as background to (b) and (c) by referring to the Act, this guidance, or pre-prepared explanations.

Principle 2 (above) - timescales for requests made in an emergency need to acknowledge that the person it is made to may not have an emergency role, or conversely may be dealing with an emergency themselves.

Principle 6 (above) - reasonable timescales will depend on the amount and type of information being requested. Timescales should note that information may not be kept in the form requested. They also need to take

account of the business or other needs of the person to whom the request is made.

# 6 Issues to consider when requesting information or responding to information requests

**This part highlights some of the other general legal provisions about requesting and providing information.**

- 6.1 Requests for information or responses are subject to the general principles of information law. Everyone involved must adhere to this. Depending on the circumstances, specific legal advice should be sought. This guidance is not a definitive statement of information law, but consider the following when seeking information from others:
- 6.2 Any information provided under Section 13 or 14 should only be used for flood and coastal erosion management risk functions, unless the person providing the information explicitly permits it to be used for other activities.
- 6.3 Information that might identify individuals must comply with the Data Protection Act and therefore it may be legitimately withheld. In such a case however, information may be amended by de-personalising it so that it can be provided without infringing the Data Protection Act. It is not justification for a blanket refusal to provide anything when requested.
- 6.4 The responding authority or person should indicate what restrictions or sensitivities are in the information when it is provided. This includes metadata (information about the nature of a data set) associated with detailed data which must include the currency of the information and frequency of any updates. They should let the person receiving the information know about any data quality problems, its fitness for purpose and other related issues; for example, if data is only valid for a certain period of time and if it is subject to being updated in the future. The authority asking for the information should not presume that if this supporting information is not provided, then there are no limits on using it. These issues should be discussed and confirmed between the two parties.
- 6.5 The authority or person providing the information may need to be reassured that it will not be used or released inappropriately, particularly if it is sensitive. They may provide the information under a licence containing terms and conditions of use. For example, including a condition that allows the data owner an opportunity to comment on information before it is published.
- 6.6 Under the Environmental Information Regulations (EIR), a public authority receiving the information may be asked to disclose any information provided to them. Similar to Freedom of Information legislation, some information (such as commercially sensitive data), may be exempted from

release under EIR. However, there may be situations where there is still an obligation to disclose it.

- 6.7 If the information contains or has used third-party intellectual property, the responding authority or person should check whether they have the rights to provide it. If this is not clear, the recipient should check with the respondent whether they have the rights to use it.

# Annex A – Glossary

The following terms are used in the Flood and Water Management Act.

1. A relevant authority (Section 13(3)) is:
  - (a) a risk management authority, and
  - (b) the Welsh Ministers.
  
2. Risk management authority (Section 6(13)) means:
  - (a) the Environment Agency;
  - (b) a lead local flood authority;
  - (c) a district council for an area for which there is no unitary authority;
  - (d) an internal drainage board;
  - (e) a water company;
  - (f) a highway authority.
  
3. Lead local flood authority (Section 6(7)) in relation to an area in England means:
  - (a) the unitary authority for the area, or;
  - (b) if there is no unitary authority, the county council for the area.
  
4. Unitary authority (Section 6(8)) means:
  - (a) the council of a county for which there are no district councils;
  - (b) the council of a district in an area for which there is no county council;
  - (c) the council of a London borough;
  - (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly.
  
5. Internal drainage board (Section 6(10)) has the same meaning as in section 1 of the Land Drainage Act 1991.
  
6. Water company (Section 6(11)) means a company which holds
  - (a) an appointment under Chapter 1 of Part 2 of the Water Industry Act 1991, or
  - (b) a licence under Chapter 1A of Part 2 of that Act.
  
7. Highway authority (Section 6(12)) has the meaning given by Section 1 of the Highways Act 1980.
  
8. A flood risk management function (Section 4) means a function which may be exercised by a risk management authority for a purpose connected with flood risk management. The functions are:
  - (a) a function under this Part 1 of the Flood and Water Management Act;
  - (b) a function under section 159 or 160 of the Water Resources Act 1991;
  - (c) a flood defence function within the meaning of section 221 of that Act;
  - (d) a function under the Land Drainage Act 1991;
  - (e) a function under section 100, 101, 110 or 339 of the Highways Act 1980 and;
  - (f) any other function, under an enactment, specified for the purposes of this section by order made by the Secretary of State in relation to flood risk management in England.

9. A coastal erosion risk management function (Section 5) means a function which may be exercised by a risk management authority for a purpose connected with coastal erosion:
- (a) a function under Part 1 of the Act;
  - (b) a function under the Coast Protection Act 1949, and;
  - (c) any other function, under an enactment specified for the purposes of this section by an order made by the Secretary of State in relation to coastal erosion risk management in England.

# Annex B – Examples of flood and coastal erosion risk management functions

## 1 *Flood and coastal erosion risk management roles*

Flood and coastal erosion risk management functions carried out by relevant authorities are many and varied. The organisations listed below will usually take the lead for evaluating and managing the different sources of flood or coastal erosion risk. The Environment Agency has a co-ordinating role as part of its strategic overview.

<b>Responsibility</b>	<b>Lead organisation</b>
The strategic overview of FCRM	The Environment Agency
Management of flood risk from main rivers	The Environment Agency
Management of flood risk from ordinary watercourses	The local Internal Drainage Board, District Councils (where they exist) and unitary authorities have works powers. The Lead Local Flood Authority includes these within their local flood risk management strategy.
Management of flood risk from the sea Management of coastal erosion risk	The Environment Agency The local Maritime Local Authority. The Environment Agency will have concurrent powers once Schedule 2 paragraphs 1-24 have been commenced.
Management of flood risk from surface water runoff	The Lead Local Flood Authority
Management of flood risk from groundwater	The Lead Local Flood Authority
Management of flood risk from highway drainage	The Highways Agency or local highway authority
Management of flood risk from sewers	The local sewerage undertaker
Enforcement of flood risk management from statutory reservoirs above 25,000m <sup>3</sup> (The Flood & Water Management Act will change this figure to 10,000m <sup>3</sup> capacity when relevant provisions are commenced)	The Environment Agency is the enforcement authority; the reservoir undertaker must comply with the Reservoirs Act and future provisions within the Flood and Water Management Act.
Flood incident management	All relevant authorities and emergency services and other utilities under the Civil Contingencies Act.
Recovery after a flood	Local authorities, working through local and regional resilience forums.

## 2 *Activities that can deliver flood and coastal erosion risk management functions*

Management of flood and coastal erosion risk by relevant authorities may involve them exercising a number of different functions at the same time to achieve the management objectives. Exercising functions may include (but are not limited to) the following activities:

<b>Activity</b>	<b>FCERM Example</b>
Building	flood or erosion defences, drainage in roads, sewers.
Cleaning	culverts, gulleys.
Co-operating	working together and co-ordinating activities.
De-commissioning	a weir, a flood defence, a reservoir.
Defending	a property, a town, a SSSI.
Development planning	ensuring development takes place without worsening flood risk.
Dredging	a watercourse.
Draining	a highway, a new development.
Forecasting	rainfall, flooding, a tidal surge.
Improving	roads, safety of structures.
Informing	provision of information or data.
Investigating	which authority has relevant functions when a flood occurs and whether they have been exercised.
Maintaining	rivers, structures, drainage systems, sea defences.
Managing	strategies, studies, schemes.
Mapping	historic or predicted flooding.
Monitoring	beach profiles, river flows, asset condition.
Planning	strategies, studies, schemes.
Protecting	people, the environment, infrastructure.
Recovery	after a flood.
Replacing	drain covers, safety signs.
Reporting	to government.
Responding	to an incident.
Supervising	site works, flood risk.
Surveying	defence levels, asset locations, flood extents.
Warning	about flooding, erosion rates.

## **Environment Agency**

03708 506 506 or

0800 807 060 (24 hour incident hotline number)

Floodline 0845 988 1188

[enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)

[www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

## **Defra**

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