



The Rt Hon Hilary Benn MP
Secretary of State for
Environment, Food and Rural Affairs

The Rt Hon John Healey MP
Minister for Local Government

Dear Council Leader

IMPROVING LOCAL LEADERSHIP FOR FLOOD RISK MANAGEMENT

Summary

This letter draws your attention to the Government response to the Pitt Review of the Summer 2007 floods. In particular it sets out the work we are undertaking to support a new leadership role for local government in local flood risk management. Legislation to underpin this new role, and for those with whom local authorities will need to work closely, is in the pipeline; we intend to consult on a draft Bill next Spring. We are, however, providing funding for local authorities to take action in advance of legislation. This funding will enable those local authorities most at risk of flooding to begin work straight away to build local partnerships, recognising that in doing so there are substantial benefits to be gained from fewer flooding incidents and less severe consequences if flooding does happen.

Early action to assess local capabilities, and build local partnerships, would also help ensure that authorities are fully geared up for their new roles. The current planning system provides for local planning to be underpinned by Strategic Flood Risk Assessments; ensuring that effective risk assessments of this kind are in place will provide a strong basis for assessing future priorities and shaping action. In line with the Government's new burdens doctrine, the net additional cost for local authorities (including police and fire authorities) will be fully funded, with additional money being made available on top of the funds for local flood risk already provided within the current three-year local government finance settlement. The transfer of responsibility for private sewers which relates to recommendations in the Pitt Review was announced on Monday 15 December.

Introduction

The Government's response to Sir Michael Pitt's Independent Review of the Summer 2007 floods was published on 17 December. Please see the webpage: <http://archive.cabinetoffice.gov.uk/pittreview/thepittreview.html>. The Government supports changes in response to all of Sir Michael's recommendations and we have published an action plan for Government, local authorities and others to implement these recommendations. Taken together, these measures will help ensure that as a country we are much better prepared for flooding than we were in Summer 2007, with greatly improved and more comprehensive arrangements in place for flooding before, during and after it happens.

Arrangements are being put in place to monitor delivery of the Action Plan. This will include six-monthly assessments of progress beginning in June 2009; and a new Cabinet Committee on Flooding to drive forward the improvements in flood planning. Sir Michael Pitt and the Local Government Association will be invited to attend meetings of this Committee as appropriate. Sir Michael will also publish his own assessment of progress. The Government has committed to publish for consultation and Pre-Legislative Scrutiny a draft Floods and Water Bill, in Spring 2009, to implement relevant recommendations from the Pitt Review. This will provide a full opportunity for Parliament, and all other interested parties, to comment on the proposals in advance of the final Bill being introduced in a future Legislative Session.

Local authority roles in flood risk management

Sir Michael recommended, and we agree, that local authorities should have a local leadership role for flood risk management. This includes ensuring that flood risk from all sources, including from surface run-off, groundwater and ordinary watercourses, is identified and managed as part of locally agreed work programmes. This enhanced role for local authorities, leading new local partnerships, will be pivotal to success of the much stronger and more comprehensive approach to flood risk management that we want to achieve following Pitt.

The responses to Pitt's Recommendations 14-20, and 90-91, set out the roles that we wish local authorities to play in future. Please see link: <http://www.defra.gov.uk/environ/fcd/floods07.htm>

Local authorities' responsibilities for flood risk management locally will complement the national strategic overview role that the Environment Agency will have for understanding and assessing risk from all forms of flooding and coastal erosion as well as taking the lead in delivering work to manage risk from coastal erosion and of flooding from main rivers and the sea. The Agency will be there to support local authorities in their new role, and are developing tools and methods for mapping and managing flood risk for the benefit of everyone. The Agency is also enhancing their forecasting and warning capabilities, together with the Met Office, to look at flooding from all sources.

Sir Michael makes it clear that success will depend on greater coordination and cooperation between local partners. The Government believes that our aims of improved local flood risk management will be best met if new partnership arrangements are established to bring together county, unitary and district authorities, the Environment Agency, water companies and sewerage undertakers and other players including internal drainage boards to work together to secure effective and consistent management of local flood risk in their areas. It will be

important that these partnerships are underpinned by a new duty on all partners to co-operate and share information. We would expect these organisations to work together to decide the best arrangements for delivery on an area by area basis, taking account of their current roles and capacities. Local authorities working together will have specific responsibilities for effective management of local flood risk from surface water run-off, groundwater and ordinary water courses.

It is important that there is clarity about accountability. We have accepted Sir Michael's recommendation that county and unitary authorities should have the leadership role in these partnerships. We propose they should take responsibility for ensuring that all relevant partners are engaged in developing a local strategy for flood risk management and securing progress in its implementation. They should be responsible for ensuring that effective arrangements are in place and able to answer questions from their public on the decisions made and action taken. This will build on the leadership role of county and unitary authorities in Local Area Agreements, and will allow them to develop centres of engineering and flood risk expertise alongside their existing highways functions, providing support to other partners and promoting collaboration across the whole area.

Local planning authorities (district and unitary councils) have a key role with their land use planning functions in ensuring that effective Strategic Flood Risk Assessments, as required by Planning Policy Statement 25 (PPS25), guide the location of future development (Recommendation 7). They will also continue to be responsible for the management of ordinary watercourses (as will internal drainage boards where they exist), as part of locally agreed programmes for flood risk management.

The new partnership arrangements will support greater collaboration in flood risk assessment and development of management plans, and sharing of expertise, supporting strategic engagement with the Environment Agency and water and sewerage companies and other stakeholders. We will be consulting further on how these new arrangements will work, in particular how we can best build effective partnerships and delivery, and support collaboration in two-tier areas.

It is important to stress that we do not wish to impose a "one-size-fits-all" approach to the way partnerships are developed and managed. All partners are asked to consider and agree how best to work together to manage the different sources of flooding in their area. For instance, county councils might want to develop collaborative arrangements with districts across the county area to support an effective county wide Strategic Flood Risk Assessment. A county council might want to arrange for district councils or IDBs to manage local drainage on their behalf. A county and district might want to work together on an effective surface water management plan for a high risk community. Other councils might want to join forces to manage flood risk across wider boundaries. For example, it might be more effective, organisationally and economically, if adjacent unitary authorities decide to join together (or join up with an adjacent county authority) to manage the risk across a wider area.

As part of their local leadership role, under the proposed legislation, we would also want local authorities to agree a strategic approach to managing local flood risk in their areas, and develop work programmes which set out publicly and clearly how and by whom the risks will be managed. This would include working with all parties to establish ownership of drainage systems and watercourses, their condition, and any legal responsibility that attaches to such ownership (Recommendations 15 and 16). To support local authorities in their role we intend introducing a requirement on all parties to co-operate and share information (Recommendation 17).

In line with recommendation 18, local authorities will have a particular role to play in filling the current gap which exists for managing flood risk from surface water (and groundwater). Surface water management plans (SWMPs) will assess and manage these risks and guidance on their preparation will shortly be published by Defra. Defra has announced funding for an initial series of 6 SWMPs, with more to follow.

Clear arrangements should be put in place to encourage the development, implementation and future maintenance of sustainable drainage systems (SUDS) in public areas (in line with Recommendation 20). While we propose that county and unitary authorities should take formal responsibility for adopting such SUDS, they could use normal delegation arrangements to agree appropriate funding and maintenance with other bodies. Further discussions with stakeholders are taking place on these issues in advance of the draft Floods and Water Bill.

On funding more generally, Government agrees with Sir Michael that given the significant local private benefits of better flood risk management, local communities should be able – and should be encouraged – to fund local priorities that cannot be afforded by the Exchequer. Our response to Recommendation 24 sets out our intended direction, with county and unitary authorities well-placed to help decide whether local priorities should be funded, and if so, how to raise the necessary sums, subject to normal constraints on excessive council tax increases. Local authorities and communities already have a range of options available to them to supplement national funding for flood and coastal erosion risk management, to help pay for local schemes that do not meet national priorities but would nevertheless deliver significant direct benefits to local communities in terms of property values, insurance availability and in terms of economic and environmental sustainability.

Recovery

In relation to recovery, many of the recommendations in the Pitt Report reflect current best practice and have already been reflected in the National Recovery Guidance, which was published by Cabinet Office in October 2007. In Recommendation 81, Sir Michael recommends that there should be an agreed framework, including definitions and timescales, for local-central recovery reporting. The Government supports this recommendation and work is underway to develop a reporting framework setting out the information required, and how it might be obtained. We recognise that reporting requirements will need to be flexible, to enable additional information to be collected depending on the particular nature of the incident and operational needs, particularly at the local level. The framework will be developed with other relevant government departments and the LGA. Consultation on the framework will take place as part of the revision of the Emergency Response and Recovery Guidance, due to take place in early 2009.

We agree with recommendation 83 that *'local authorities should continue to make arrangements to bear the cost of recovery for all but the most exceptional emergencies, and should revisit their reserves and insurance arrangements in the light of last summer's floods'*. The Chartered Institute of Public Finance and Accountancy (CIPFA) have now updated and published their guidance to provide clarity to local authorities on the need to review and assess all financial risks.

Oversight

The Government's response to Recommendations 90 and 91 set out how we believe these arrangements should be monitored and overseen. Clearly, as local authority functions, they will come under the council's existing overview and scrutiny committee arrangements and councils will wish to consider how scrutiny arrangements can best consider flooding issues. This may involve establishing a separate scrutiny committee or integration into existing scrutiny structures as appropriate. To support the overview and scrutiny, we shall consider whether other bodies involved in flood risk management should be under an obligation to co-operate and share information with scrutiny committees, in parallel with the obligation to support local authorities under Recommendation 17. We are also encouraging local authorities to produce annual reports on their actions to manage local flood risk. We will consider whether such reports should be a statutory duty, and what arrangements might be put in place for the reports being peer reviewed and views fed back.

Transfer of responsibility for private sewers to water companies

The Government has also announced the intention to transfer ownership of existing private sewers and lateral drains that drain to public sewers, to the nine statutory Water and Sewerage Companies (WaSCs) operating in England. We intend that this will take effect from April 2011. The burden of these responsibilities currently fall primarily on individuals (most of whom have no idea that they might be liable) but local authorities frequently get involved (and incur expenditure) in remediation work, resolving disputes and providing advice. Local authorities (and others, including the Association of British Insurers) have strongly supported this transfer in the consultations to date. We will also take action to prevent a new stock of private sewers growing to replace the transferred existing stock, by requiring that in future all new sewers and laterals that connect to the public system should automatically come under the WaSCs.

Floods and Water Bill

As summarised in this letter and in the more detailed response to the Pitt Review, we wish local authorities to play a significantly greater role in the future management of local flood risk. The draft Floods and Water Bill, which we will publish next Spring for consultation, will set out the powers and duties that we consider all relevant organisations should have for managing flood and coastal erosion risk. We want to put in place arrangements that are fit for the 21st Century, but which still reflect and respect the roles, responsibilities and capabilities of the organisations currently involved.

Publication of the draft Bill will allow Parliament, and the wider public, to consider and comment on the proposals. We will consider all comments in developing the final Bill for introduction to Parliament; timing of the Bill will depend on the Parliamentary timetable. As with the non-legislative actions arising out of the Pitt Review, these new statutory functions will be fully and properly funded to ensure there is no additional pressure on council taxpayers.

Funding for the new local leadership role

Local authorities are already funded to manage local flood and coastal erosion risk. In addition to historically high levels of spend, the local government settlement for the current spending review period foresaw the need for local authorities to spend increasing amounts in this area. Local authorities also stand to save financially from taking a proactive stance on local flood

risk, through fewer flooding incidents and bearing less severe consequences. The expected savings in insurance premiums and local authority response and recovery costs can be reinvested in further reducing the risk of local flooding.

But the scale and importance of the new role is such that further funds are to be made available to local authorities. As mentioned above, an initial 6 local authorities are to receive funding to prepare surface water management plans straight away. A further exercise of this kind amongst the highest priority areas will be run in 2009/10, with the aim of bringing the total number of local authorities with surface water management plans to at least 50 by the end of 2010. Once SWMPs are in place, local authorities will be invited over the current spending period to bid for additional funds to take forward priority actions within SWMPs, and to help support other local authority capital costs in taking forward the Pitt recommendations. An additional £15m in total will be delivered to local authorities between now and March 2011.

From April 2011, local authorities are expected to benefit substantially from savings arising from the transfer of private sewers to the WaSCs referred to above. Local authority expenditure released by the transfer, together with savings from better local flood risk management and the increased baseline in local floods spend available within the formula-based grant, is expected to contribute significantly to the additional activities that local authorities will be required to perform. As the Floods and Water Bill progresses, Government will keep under review the new burdens being implied by the Bill for local authorities and will ensure that the net additional cost remains fully funded.

Next steps

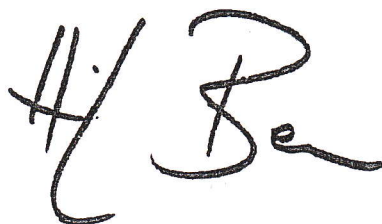
Flooding is an ever-present risk; and, with climate change, a growing one. The Government therefore considers that appropriate action must be taken without waiting for the Floods and Water Bill. Specifically we are increasing funding in the current spending review period (to 2010/11) for local authorities to take action in accordance with the future roles and responsibilities as set out in this letter and the more detailed response to the Pitt Review. This includes councils:

- assessing and building your technical capacity (in line with Recommendation 19);
- starting to build the partnerships with all relevant local bodies;
- ensuring that effective Strategic Flood Risk Assessments are in place as required by PPS25;
- setting in place arrangements for understanding and managing local flood risk from all sources; and
- developing Surface Water Management Plans in high priority areas where funding is available

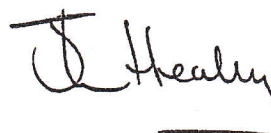
The Environment Agency will provide support to councils and will be one of the key partners with whom you will want to engage. We will also be writing separately to internal drainage boards, water companies and the Highways Agency to ask them to support you in this work.

In April 2009 we will be asking county and unitary authorities about the approach they intend to take; whether they have been able to make progress with partners; whether there are any barriers to progress that they need help in overcoming; and whether they are getting the necessary support from other partners in advance of the proposed powers and duties that we aim to introduce through the Floods and Water Bill.

We are copying this letter to your council's Chief Executive and to Chairs of the local Fire and Police Authorities.

A handwritten signature in black ink, appearing to read 'H. Benn', with a large, stylized initial 'H' and 'B'.

HILARY BENN

A handwritten signature in black ink, appearing to read 'J. Healey', with a horizontal line underneath the name.

JOHN HEALEY