

Leicestershire Formal Flood Investigations Policy

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1 Introduction and Scope

- 1.1 Leicestershire County Council (LCC) are the Lead Local Flood Authority (LLFA) for Leicestershire.
- 1.2 Section 19 of the Flood and Water Management Act 2010, 'local authorities: investigations' came into force on 6th April 2011. The legislation is shown in Box 1.
- 1.3 This policy defines LCC's local approach to fulfilling the requirements of Section 19, through formal flood investigations.
- 1.4 The following information and guidance has been reviewed in support of this policy:
 - British Standard BS 85600:2017 post-event flood assessments
 - FD2680 Evaluation of the arrangements for managing local flood risk in England (Defra, 2017)
 - Surface water and drainage: review of responsibilities (Jenkins, 2017)
 - Report of the Flood Scrutiny Review Panel, Leicestershire (January 2021)

Box 1. Section 19 FWMA, 2010. Local Authorities: Investigations

(1) On becoming aware of a flood in its area, a lead local flood authority must, to the extent that it considers it necessary or appropriate, investigate—

(a) which risk management authorities have relevant flood risk management functions, and;

(b) whether each of those risk management authorities has exercised, or is proposing to exercise, those functions in response to the flood.

(2) Where an authority carries out an investigation under subsection (1) it must—

(a) publish the results of its investigation, and;

(b) notify any relevant risk management authorities

2 The purpose of formal flood investigations

2.1 LCC makes a distinction between “standard” flood enquiries, and formal flood investigations. A formal flood investigation is most useful where there is a particular need to communicate publicly and consistently with communities affected, through published investigation results, as required by the legislation. This need is dependent upon:

- (1) the number of persons or groups affected by flooding;
- (2) the severity of the consequences of flooding both locally and regionally; and
- (3) whether the causes of flooding are unknown.

2.2 This does not mean to say that the impacts of an event not requiring a formal flood investigation are not severe, but that it does not necessitate the publication of a formal report. Such events are still investigated and recorded by the relevant RMA or RMA’s.

2.3 Internal flooding which does not meet formal flood investigation criteria will be recorded using an internal flood report proforma (see Figure 1).

2.4 Short flood investigation summary reports for such events can still be provided to individuals upon request, subject to resource availability, and if investigations are being led by the LLFA.

3 Local investigation threshold

- 3.1 The legislation provides no standard thresholds or requirements for formal flood investigations, other than to the extent which the respective LLFA considers *necessary or appropriate*. It is commonplace therefore for local thresholds to be defined. LCC's formal flood investigation thresholds are defined in Box 2.
- 3.2 Internal flooding is defined as flooding which enters a building or passes below a suspended floor. It does not include garages or conservatories.
- 3.3 The thresholds allow LCC to focus resources on those investigations which require publication for the reasons outlined in paragraph 2.2. Flooding not meeting these thresholds is still investigated on a priority basis using a risk-based approach. These investigations may be led by other risk management authorities (RMA's) as established at RMA enquiry meetings.

Box 2. Leicestershire County Council formal flood investigation thresholds

LCC would ordinarily expect to exercise its statutory discretion to investigate a flooding incident occurring in its local area, in the following circumstances:

- 1) *If the causes of flooding are unknown prior to the investigation, and*
- 2) *one or more of the following criteria apply:*
 - a) *there is loss of human life as a direct result of the flood event*
 - b) *critical infrastructure is flooded in a way which impacts delivery of essential services*
 - c) *there is internal flooding confirmed to five or more residential properties*
 - d) *there is internal flooding confirmed to two or more commercial properties.*

These thresholds are not absolute and the decision to conduct a formal flood investigation is at the discretion of the Director for Environment and Transport.

4 Threshold definitions

- 4.1 **The causes of flooding are unknown:** where the source(s) and / or pathway(s) are unknown to LCC or not well understood.
- 4.2 **Critical infrastructure delivering essential services:** the following specifies what would be classed as critical infrastructure as defined by the LLFA:
- Emergency Services Stations and associated access roads.
 - Hospitals
 - Council owned buildings
 - Council leased buildings
 - Care homes
 - Highways ([LCC's Resilient Highway Network](#))

- Bridges
- Pipelines
- COMAH Sites
- Power Stations
- Electricity sub-station
- Water treatment works

4.3 Residential properties:

Includes:

- internal property flooding at ground level floors and above that were originally intended to be habitable.
- flooding of a sub-surface structure, such as a basement or cellar, where the floodwater contains sewage or other contaminants that cause concern for public health.

Does not include:

- structures that were not originally designed to be part of the habitable property such as sheds, summer houses, conservatories or garages, even if they are within the fabric of the building.
- flooding of a sub-surface structure, such as a basement or cellar, where the floodwater does not cause concern for public health.
- external driveways, paths and gardens.

4.4 **Commercial properties:** in a way which affects the commercial activities of the property.

5 Report contents

5.1 The content of formal flood investigation reports will include but not be limited to:

- Location and setting, including local drainage
- Relevant risk management authorities, and their responsibilities
- A report of the flood event, including details pre, during and post event
- A summary of flooding impacts and findings
- Recommended actions and timescales for completion

6 Partnership working

6.1 All relevant RMA's are expected to cooperate during the formal flood investigation process. This is supported in legislation by Section 13 of FWMA 2010: *A relevant authority must co-operate with other relevant authorities in the exercise of their flood and coastal erosion risk management functions.*

- 6.2 Cooperation in relation to the formal flood investigation process includes but is not limited to:
- Timely provision of data related to the flood incident; and
 - Relevant persons/ RMA's attending meetings, either specific to the formal flooding investigation or in RMA Flood Enquiries Partnership meetings arranged by LCC
 - Responding to consultation on the final draft of the formal flood investigation report in the agreed timeframe (see section 8)
- 6.3 LCC will conduct formal flood investigations in the following manner:
- Timely meeting invites.
 - A transparent process.
 - Clear aims (e.g., target date for publication from onset).
- 6.4 If information is not forthcoming, LCC may reference Section 14 of FWMA 2010, Power to request information: *An authority listed in subsection (2) may request a person to provide information in connection with the authority's flood and coastal erosion risk management functions.*
- 6.5 Where possible, LCC will engage with any community groups or interested parties (such as flood action groups) for the creation of formal flood investigation reports.
- 6.6 The LLFA will be responsible for coordination of communications with the community affected by flooding, until such a time that coordination is not required anymore. For example, where most actions have been completed.

7 Actions

- 7.1 Actions and expected delivery timescales will be drawn up and included in the formal flood investigation in consultation with RMA's.
- 7.2 RMA's are expected to deliver their own prescribed actions within the agreed timescales.
- 7.3 LCC will monitor agreed actions and the delivery by RMA's by email or in RMA Flood Enquiries Partnership meetings.
- 7.4 Where the RMA does not agree with a listed action and delivery timescale, LCC will endeavour to work with the RMA to set suitable achievable actions. However, LCC reserves the right to set actions where they are deemed appropriate even if not agreed with the RMA.

8 Consultation

- 8.1 All relevant RMA's will be consulted prior to the publication of formal flood investigation reports. All RMA's are given a minimum of 15 working days to pass comment on the final working draft. Timeframes will be discussed with RMA's and may vary dependent upon resource availability).
- 8.2 Consultation responses should include comment on the proposed actions, as to whether they are acceptable, or if amendments are desirable.
- 8.3 Issues highlighted in the consultation will be resolved by email and/or meeting with the RMA. Where concerns cannot be resolved, LCC reserves the right to publish at its discretion information that is considered valuable to the community in relation to the formal flood investigation. This excludes any information which cannot be shared, for example due to data sharing agreements.

9 Publication

- 9.1 Subsection 2a of Section 19 requires LCC to publish the results of its investigation. All formal flood investigations reports are published on LCC's website.
<https://www.leicestershire.gov.uk/>
- 9.2 The Head of Service for Network Management has delegated authority to approve formal flood investigation reports for publication.
- 9.3 Based upon the nature of formal flood investigation reports, there is no set deadline from trigger event, however LCC aims to publish reports within 12 months of confirmation of threshold being met.

10 Notification

- 10.1 Subsection 2b requires LCC to notify relevant RMA's of publication. All relevant RMA's will be notified by email and provided with a link to the report.
 - 10.2 Where possible, the relevant organisations, community groups, and agreed key contacts will also be notified.
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