

Lancashire County Council

# Flood Investigation Policy

October 2014

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## 1 Introduction

The Flood and Water Management Act 2010 (FWMA) designated all county and unitary authorities as 'Lead Local Flood Authorities' (LLFAs) and introduced a number of new duties. The Flood Risk Management Team is responsible for ensuring Lancashire County Council is delivering its new duties as a LLFA. One of the new duties assigned to a LLFA is the duty to investigate flood incidents in its area. This policy outlines our new legal requirements to investigate flood incidents and provides details on the criteria Lancashire County Council will apply in deciding whether or not an investigation is appropriate.

## 2.0 The Flood and Water Management Act 2010

Lancashire County Council has been designated as a Lead Local Flood Authority by the Flood and Water Management Act 2010. Section 19 of this Act states that:

- 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 these 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:- publish the results of its investigation, and notify any relevant risk management authorities.***

The term 'risk management authorities' refers to a number of organisations who have responsibility for flood risk management.

As the LLFA, Lancashire County Council is responsible for ensuring all of the risk management authorities are working together to resolve flood problems. Whilst Lancashire County Council has a duty to investigate flood incidents in its area, it may be the responsibility of one of the other risk management authorities, or even the land or property owner themselves, to take action to resolve the issue.

The FWMA is clear that the LLFA's responsibility for investigation only extends as far as establishing which of the risk management authorities has a flood risk management function and whether they have, or will be, exercising that function.



In Lancashire the relevant risk management authorities are:

- Lancashire County Council – as both the Lead Local Flood Authority and the Highway Authority
- United Utilities and/or Yorkshire Water
- Environment Agency
- District and Unitary Councils
- Earby and Salterforth Internal Drainage Board

The use of the phrase ‘to the extent that it considers it necessary or appropriate’ allows each LLFA to set investigation criteria which is appropriate to their area and priorities. The FWMA allows LLFAs to use their discretion in deciding under what circumstances it is necessary and appropriate to investigate a flood incident in their area. Lancashire County Council will, therefore, prioritise flood incidents which occur in Lancashire and this policy outlines what our response will be for requests to investigate flood incidents.

### 3.0 Flood Investigation Policy

#### 3.1 Section 19 Investigations

This policy has been developed to enable Lancashire County Council to plan resources effectively and to ensure members of the public are aware of the support they can expect when they are affected by a flood incident. An investigation under Section 19 of the FWMA can be a resource intensive process. Lancashire County Council will therefore

require one of the following criteria to be satisfied in order to establish whether a Section 19 investigation is ‘necessary or appropriate’:

- 1) Internal flooding\* to five or more residential properties in close proximity\*\* during one flood event, or
- 2) Internal flooding\* to one or more properties on two or more occasions in the previous 5 years, or
- 3) Internal flooding to two or more business/commercial premises during one flood event, or
- 4) Flooding has affected critical infrastructure\*\*\* for a period in excess of 3 hours from the onset of flooding, or
- 5) Where there are specific health and safety concerns (e.g. environmental health or risk to life), or
- 6) If there is ambiguity surrounding the source or responsibility related to a flood incident in addition to one of the above.

\*Internal flooding, refers to any habitable space inside a dwelling that is affected by flooding.

\*\*Close proximity is where it is reasonable to assume that the affected properties were flooded from the same source or interaction of sources.

\*\*\*Critical infrastructure investigations under Section 19 will not take place if the infrastructure owner or operator is conducting their own investigation.

Critical Infrastructure refers to:

- Railway lines and stations;
- Highways and motorways;
- Utility infrastructure including electricity generating power stations, power lines, substations and wind turbines, water treatment works and sewage treatment works;
- Police, ambulance and fire stations and command centres;
- Telecommunications installations;
- Hospitals;
- Universities, colleges and schools;
- Local authority main offices;
- Residential institutions such as care homes, children's homes, social services homes, prisons and hostels.

Where one or more of the above criteria is satisfied, Lancashire County Council will undertake a formal Section 19 investigation into the source, mechanism and cause of the flood incident. The following actions may be taken as part of a Section 19 investigation:

- A site visit to the property / area affected by the flooding.
- Meetings with local residents / people affected by the flood incident.
- A Land Registry Search to determine property / land ownership details.
- Inform the relevant risk management authorities.
- Meetings with other risk management authorities to discuss responsibility and potential solutions.
- On site investigation works such as CCTV surveys, dye testing and excavations.

Following a Section 19 investigation Lancashire County Council is required (under the FWMA) to produce a report and publish the results of the investigation and notify any relevant risk management authorities. Lancashire County Council will use the Flood Risk Management webpage to publish Section 19 reports.



### 3.2 Flooding to the Highway

Lancashire County Council is the Highway Authority for Lancashire and is responsible for ensuring the public highway is safe and well maintained. This responsibility for the highway includes highway drainage assets such as gullies. Where flooding to the highway infrastructure occurs it will continue to be investigated by the county council in its role as a Highway Authority. However, where highway flooding is a contributory factor to property or critical infrastructure flooding, it may be appropriate for a Section 19 investigation to take place.

### 3.3 Wide scale Emergency Flood Investigations

On rare occasions Lancashire may be affected by wide scale flood incidents where an emergency response is required. The Civil Contingencies Act 2004 requires emergency responders within a local police area to form a Local Resilience Forum and in Lancashire this forum has a flooding sub group. Lancashire County Council is a Category One emergency responder and as such has a number of important responsibilities to discharge during an emergency flood incident. For more information on Lancashire County Council's Emergency Planning Service please visit [www.lancashire.gov.uk](http://www.lancashire.gov.uk).

A flood incident of this nature will usually meet the criteria for a formal Section 19 investigation (outlined in section 3.1) However it would not be practical to carry out individual Section 19 investigations for each affected group of properties or piece of key infrastructure. In these situations the Flood Risk Management Team will conduct one Section 19 investigation

into the incident. The Flood Risk Management Team will work the Emergency Planning Service to gather information about the incident and identify which risk management authority has a flood risk management function.

### 3.4 Discretionary Investigations

It is important to set clear criteria for when a Section 19 investigation is appropriate. However, there may be flood incidents which do not meet the above Section 19 criteria but where Lancashire County Council still considers an investigation should be undertaken. These discretionary investigations might not result in a formal published report but Lancashire County Council may undertake some investigative actions such as a site visit or a meeting with another risk management authority. Lancashire County Council might decide that a discretionary investigation is appropriate in the following situations:

- Instances of repeat internal residential / commercial property flooding (but where the criteria for a Section 19 investigation is not satisfied).
- Where the depth or velocity of the floodwater has posed, or poses, a particular threat.
- Where those affected by the flood are particularly vulnerable.

Lancashire County Council retains discretion to investigate flood incidents that do not meet the criteria for a Section 19 investigation, if considered appropriate, and subject to the availability of resources.

### 3.5 Flood Incidents which will not be investigated

Whilst there will be occasions where it is considered appropriate to conduct discretionary investigations outside of the Section 19 criteria, there are a number of situations where it is inappropriate for Lancashire County Council to undertake any investigative actions. These include flood issues which pose no immediate threat to life, residential or commercial property or key infrastructure, for example:

- A flood incident which has affected external property buildings or grounds such as sheds, garages, or gardens.
- A flood incident which has affected agricultural land or open space.

It is not appropriate for Lancashire County Council to support investigations into these types of flooding. It will therefore be the responsibility of riparian land owners to undertake their own investigations in these circumstances. Lancashire County Council as LLFA will try to assist in providing information to members of the public on what may be appropriate courses of action, where requested.

### 4.0 Lancashire County Council Flood Risk Investigation Timescales

Lancashire County Council will use the above criteria to identify what level of investigation is appropriate. On receiving a request to investigate a flood incident the following timescales will apply:

Where the criteria for a Section 19 investigation is met (see section 3.2):

- The Flood Risk Management Team will endeavour to complete a site visit and make contact with the person who requested the investigation within 10 working days.
- The Flood Risk Management Team will complete and publish an annual Section 19 report which will provide details of the formal investigations which have been undertaken that year.

Where the criteria for a Section 19 has not been met:

- The Flood Risk Management Team will establish whether a discretionary investigation is appropriate and notify the person who requested the investigation within 10 working days.

Please note flood incidents can often be complex in nature and the above timescales are intended as guidelines.

### 5.0 Further information

For further information about Lancashire County Council's Flood Investigation Policy please contact the Flood Risk Management Team via email at: [FRM@lancashire.gov.uk](mailto:FRM@lancashire.gov.uk)

To report a flood incident where an investigation is appropriate please call Lancashire County Council's Customer Contact Centre on **0300 123 6701**.

To report a flood incident which is affecting the highway please call the Lancashire County Council Customer Contact Centre (Highways) on **0300 123 6780**.



