

December 2023 Flooding in Lancashire

Higgins Lane, Burscough (West Lancashire)

Flood & Water Management Act 2010

Section 19 Investigation

July 2026

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Executive Summary

In December 2023, residents of Higgins Lane reported that their property had flooded 3 times in a six-week period because of failures in the nearby highway drainage system. They engaged a private drainage contractor to assess the condition of their internal 'sump and pump' defences, which were found to be in good working order. However, the contractor advised that the outlet couldn't function because of damage to a surface water drainage system outside the domestic curtilage and in the public highway.

Highway drainage defects had been reported to the local highway authority on numerous occasions between November 2020 and December 2023. Following the December 2023 report to the county council of internal flooding, highway drainage investigations identified an obstruction in the local highway drainage system which was corrected in January 2024.

The same investigation confirmed that the property drainage system did not connect to the highway drainage, instead it fell away to private land at the rear of the property. This private land had been recently managed by its owner in a new way which appeared to have adversely affected land drainage.

A report under Section 19 of the Flood & Water Management Act 2010 is required to document the investigations made into the repeated flooding of this property. This report is required to identify where further studies or works are needed, and by which risk management authority or authorities.

In regard to this event, the risk management authority that had a role was the local highway authority.

This risk management authority has no outstanding studies or works to be completed.

It is a key finding of this Section 19 investigation that incorrect advice from a private drainage contractor led to delays in the affected the property owners' understanding of the nature of their flooding, which in turn hampered their ability to take private action to address the problems affecting their property. Although these delays were compounded by the time taken to identify and correct defects in the local highway drainage system, the flooding was not caused by the highway drainage defects.

SECTION 1 – INTRODUCTION AND PURPOSE OF THE REPORT

Flood & Water Management Act 2010 Duty

Lancashire County Council as a Lead Local Flood Authority has a duty to investigate flooding in accordance with Section 19 of the Flood and Water Management Act 2010 as follows:

Section 19 states:

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.

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.

This report documents our understanding of the events resulting in flooding of Higgins Lane, Burscough on dates in 2023 and on previous occasions.

SECTION 2 – THE WEATHER EVENTS

The flooding at the property occurred under various different periods of locally heavy rainfall, none of which were particularly unusual. However, they were sufficient to overwhelm local surface water drainage networks to the extent that the property was flooded internally.

SECTION 3 – RESPONSE TO THE FLOODING

3.1 On each reported occasion of local problems with blocked highway gullies, the county council's local highways team responded to clear gullies in the vicinity of the locations identified.

3.2 When the problem of internal flooding to a property was first reported to the county council in November 2022, there was no prompt response from the highway authority. The property owners chased up the enquiry before gullies were attended to and cleaned a number of weeks later in December 2022.

3.3 By the middle of December, the affected property owners had already engaged a local drainage contractor to check the functionality of their private drainage systems. The contractor advised them that whilst their own pump equipment was working

correctly, it pumped out to a pipe in the highway which was blocked and holding water and therefore the pumping operations were ineffective.

3.4 When the local Highways team responded to reports of an obstruction in the highway drainage assets, they identified two defects in the verge opposite the flooded property and corrected them in January 2023. Since these repairs were completed, there have been no further reports of blocked gullies or flooding of the road in this vicinity.

3.5 As part of their on-site investigation, Highways officers identified and reported to the property owners that their private drainage was in fact not connected to the highway drainage. Instead, the property drained to a field at the back of the property, which was then drained independently of the highway, probably through site-specific land drainage systems that would lead ultimately to local watercourses.

3.6 The residents acknowledged that a nearby field had in recent months been ploughed differently, including for the first time a strip of land very close to their boundary, which might have disturbed historic land drainage systems. They were advised to pursue this potential contributory factor directly with the landowner involved.

3.7 There have been no further reports of flooding to the property since this time and our investigation concludes that the issue has been resolved.

SECTION 4 – SUMMARY AND CONCLUSIONS

4.1 Property owners on Higgins Lane experienced flooding when they experienced an abrupt change in the way local drainage systems worked. Because they saw highway drainage problems on the road outside their home, and because they were advised so by a local drainage contractor, they believed that their private drainage systems were being compromised by a failed drain in the public highway.

4.2 The local highways team inspected nearby highway drainage assets and undertook successful repairs to correct the local highway drainage defects. They also investigated the possibility of a connection between the private drainage and the highway drainage and were able to demonstrate that there was no such connection. They advised the affected property owners on how they might address any underlying private drainage problem between themselves and a neighbouring landowner.

4.3 The two separate drainage problems have been resolved, firstly by the county council's local Highways team and secondly by private arrangements which did not involve any flood risk management authority.

4.4 The relevant flood risk management authority connected with this incident was the local highway authority, which has no outstanding works or studies to deliver in connection with the flooding incident.

4.5 This incident reminds us how important it is that landowners should maintain effective land drainage across their land when the assets of 3rd parties rely on these systems for drainage and flood risk management.

APPENDIX A – DEFINITIONS AND RESPONSIBILITIES

Lancashire & Blackpool Local Flood Risk Management Strategy

In addition to the requirements of Section 19 of the Flood and Water Management Act ('the Act'), the Lancashire and Blackpool Local Flood Risk Management Strategy ('the Strategy') sets out how flood risk should be managed locally.

The Strategy states that the Section 19 investigations will help to:

- Improve the understanding of flood risk by providing an invaluable tool for understanding the sources and mechanisms of flooding;
- Identify assets that have a flood risk management function, which may need to be designated; and
- Identify where additional works and studies are likely to be necessary, that the county council or other risk management authorities can integrate into their prioritised flood risk management plans.

Key Definitions

The Risk Management Authorities

The risk management authorities are identified in the Act as follows:

- a. The Environment Agency,
- b. The 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, and
- f. A highway authority.

Each of these organisations has powers and duties under various legislation and regulations for the responsible management of natural water, flood risk and in some cases coastal erosion.

The Act requires all the risk management authority to cooperate with other relevant authorities in the exercise of their flood and coastal erosion risk management functions.

In Lancashire, the risk management authorities support partnership working in the following ways:

- at operational levels by joint investigations and through the Operational Making Space for Water meetings;
- at tactical level by sharing priorities and direction between organisational managers, and
- at strategic level by engaging with Councillors/Cabinet Members/Senior Managers.



Lancashire, Blackpool and Blackburn-with-Darwen are also represented on the North West Regional Flood and Coastal Committee where cross-boundary projects, resources and data are shared with Cumbria, Greater Manchester, Merseyside and Cheshire.

The village of Earby in Pendle District is a special case in that it lies within a river catchment that falls towards North Yorkshire, so its local Environment Agency services are supplied through the Yorkshire team. This gives the Lancashire partnership a direct connection to the Yorkshire Regional Flood & Coastal Committee. Earby also receives services from the Earby and Salterforth Internal Drainage Board which replaces a number of the lead local flood authority functions.

The Risk Management Functions

The risk management authorities have responsibility for flood risk management functions as defined under Section 4 (2) of the Act:

- (a) a function under this Part,
- (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 Minister.

Riparian Landowners

The term 'riparian' is applied to landowners who own land adjoining or containing a river or watercourse. They have certain rights to use the water flowing across their land for their own purposes, and in regard to flood risk management they also have a number of responsibilities, including the following:

- to maintain the bed and banks of the watercourse, and also the trees and shrubs growing on the banks;
- to clear any debris, even if it did not originate from their land. This debris may be natural or man-made;
- to keep any structures within their ownership clear of debris. These structures include culverts, trash screens, weirs and mill gates.

If riparian landowners do not fulfil their responsibilities, they may face enforcement action taken by the relevant risk management authority.

Interconnections between responsibilities

Public sewers in Lancashire are principally the responsibility of United Utilities plc or Yorkshire Water plc. Copies of the record maps indicating the location of public sewers in Lancashire are held in the water companies' head offices. These companies also keep records of pumping stations, and any water treatment works which form part of the public sewage system.

Private drainage systems are the responsibility of each owner whose property it drains. Where more than one property uses a private pipe, responsibility is normally shared proportionately. The private system comprises all the pipes up to the point of connection with a public sewer (this can include the entire system where it is connected to a septic tank, cesspool or soakaway). Formal records indicating the location of private drainage systems are not held by any risk management authority. The deeds of a property may include details.

The highway surface water drainage of all adopted public roads, other than trunk roads or motorways, is the responsibility of Lancashire County Council as the local highway authority, including roadside drainage gullies and certain roadside ditches. Drainage from trunk roads and motorways is the responsibility of Highways England. Drainage of private unadopted roads is normally the responsibility of private property owners who make use of or adjoin the road.

Land drainage comprises systems of rivers, watercourses, ditches, culverts, pipes, lakes, and ponds intended to drain water resulting from rainfall and flows from underground sources. Typically, the primary responsibility for maintaining responsible flows in land drainage systems lies with the riparian owner or owners, with the lead local flood authority, Environment Agency, internal drainage boards or local councils holding enforcement powers to use if the landowner/s default in their duties.

All drainage systems eventually discharge into the sea as the lowest possible point for water to collect. In Lancashire, this is at Morecambe Bay or the Irish Sea directly.

All drainage networks are formed from combinations of these systems to overcome historic demands of efficiency, simplicity, and convenience. For example, a highway gully may well connect to a length of highway drainage pipe before connecting to a private ditch, or a public surface water sewer, or directly to a main river. The original reasoning for these arrangements may now be forgotten or inappropriate for current needs, but the physical interconnection of drainage systems means that it is often impossible to tell just from looking at flood water exactly where the barrier to flow arises and therefore exactly which organisation may need to take remedial action.

It is therefore vital for the risk management authorities to share information and collaborate during investigations and that they are allocated to the appropriate organisation to lead.

Key Functions of the risk management authorities

Environment Agency

The flood risk management responsibilities of the Environment Agency include the following:

- a. strategic overview for all forms of flooding;
- b. provision of a National Strategy for Flood and Coastal Erosion Risk Management (FCERM) to cover all forms of flooding;
- c. a power to request information from third parties in connection with flood risk management duties. Risk management authorities have a duty to co-operate with the Environment Agency in the provision of such information;

- d. a duty to co-operate with other relevant authorities in the exercise of flood risk management functions, which may include the sharing of information with other relevant authorities;
- e. a duty to have regard to Local Flood Risk Management Strategies;
- f. a duty to be subject to scrutiny from lead local flood authorities' democratic processes;
- g. responsibility for managing coastal flooding;
- h. responsibility for managing fluvial flooding from main rivers;
- i. updated provisions for the regulation of reservoirs;
- j. permissive powers to carry out maintenance work on main rivers under Section 165 of the Water Resources Act 1991;
- k. the provision of flood forecasting and warning services;
- l. the provision of flood maps;
- m. the provision of flood related information and advice;
- n. investment in flood defences, supplemented through partnership funding where appropriate;
- o. a power to take enforcement action where flow in a main river has been impeded and may cause a flood risk.

Lancashire County Council

This council has a dual risk management role, in its capacity as both highway authority and lead local flood authority.

As the lead local flood authority, the council has a number of duties and powers, in addition to the duty to investigate flooding set out above. These include:

- a. a duty to develop, maintain, apply, monitor and consult on Strategy for its area (copy available from the website www.lancashire.gov.uk);
- b. a duty to develop and maintain a register of structures or features which might impact on flood risk, including ownership and condition (the Flood Risk Asset Register is available on the website www.lancashire.gov.uk);
- c. the management of the consenting process for works that are likely to affect the flow characteristics of ordinary watercourses (Land Drainage Consent – guidance available on the website www.lancashire.gov.uk);
- d. a power to undertake works for managing flood risk from surface run-off or groundwater;
- e. a power to request information from third parties in connection with flood risk management duties. Risk management authorities have a duty to co-operate with the lead local flood authority in the provision of such information;
- f. a power to designate structures and features that affect flooding or coastal erosion.
- g. a power to take enforcement action where there is an obstruction to an ordinary watercourse that may cause a flood risk.

As the local highway authority, the council has a duty under the Highways Act 1980 to maintain highways that are maintainable at public expense. This includes responsibility for highway drainage, as well as for the condition and safety for users of all highway assets including roads, footways, bridges and culverts, street lighting and traffic signals.

As local highway authority, the council has a duty to co-operate with other relevant authorities in the exercise of flood risk management functions, which may include the sharing of information with other relevant authorities.

The council also has private responsibilities for land drainage where it is a land owner.

City and Borough Councils

The flood risk management responsibilities of City and Borough councils include the following:

- a. a power to designate structures and features that affect flooding or coastal erosion;
- b. a duty to exercise their flood risk management functions in a manner consistent with local and national strategies, and to have regard to those strategies in their other functions;
- c. a duty to be subject to scrutiny from lead local flood authorities' democratic processes;
- d. a power to do works on ordinary watercourses where this has been delegated by the lead local flood authority;
- e. a duty to co-operate with other relevant authorities in the exercise of flood risk management functions, which may include the sharing of information with other relevant authorities.
- f. a power to take enforcement action where there is an obstruction to an ordinary watercourse that may cause a flood risk where the power has been delegated by the lead local flood authority.

City and Borough Councils have a number of wider functions and roles that can be relevant to flood risk management and response. These include local planning, housing, environmental health and community engagement activity, as well as private responsibilities for land drainage where they are a land owner.

Internal Drainage Board

An Internal Drainage Board is a local public authority established in areas of special drainage need in England and Wales. These Boards have permissive powers to manage water levels within their respective drainage districts. The Boards undertake works to reduce flood risk to people and property and manage water levels to meet local needs.

The expenses of an Internal Drainage Board are predominantly funded by the local beneficiaries of the water level management work they provide. Each Board sets a budget for its planned work in the forthcoming year and any investments it needs to make for future projects.

More information about Internal Drainage Boards can be found from the Association of Drainage Authorities (www.ada.org.uk).

Water Companies



The flood risk management responsibilities of water companies (in Lancashire: United Utilities plc and Yorkshire Water plc) include the following:

- a. a duty as sewage undertakers under Section 94 of the Water Industry Act 1991, to provide & maintain sewers for the drainage of buildings and associated paved areas within property boundaries;
- b. responsibility as sewerage undertakers for lateral drains and public sewers, the latter being defined as a conduit, normally a pipe that is vested in a Water and Sewerage Company, or predecessor, that drains two or more properties and conveys foul, surface water or combined sewage from one point to another point and discharges via a positive outfall;
- c. responsibility for any flooding which is directly caused by its assets – i.e. its water or sewerage pipes;
- d. a duty to be subject to scrutiny from lead local flood authorities' democratic processes;
- e. a requirement to exercise flood risk management functions in a manner consistent with the national strategy and guidance and have regard to the local strategies and guidance;
- f. a duty to co-operate with other relevant authorities in the exercise of flood risk management functions, which may include the sharing of information with other relevant authorities.

Civil Contingencies Responsibilities

The risk management authorities listed above (with the exception of the Internal Drainage Board) have additional responsibilities under the Civil Contingencies Act 2004, which provides the statutory basis for dealing with a response to flooding in emergency situations. These include flood preparedness planning and flood response.