



UKELA's response to the Environment Agency's consultation on a national strategy for flood and coastal erosion risk management for England, November 2010

Introduction

1. The UK Environmental Law Association (UKELA) aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of Environmental Law in the UK and the European Union. It attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.
2. UKELA prepares its responses to consultations with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared with the help of the Water Working Party.

General comments

3. The Act envisages that the national FCERM strategy will set the policy context for public bodies to exercise their flood risk management functions. However the draft strategy contains very little 'hard' policy, focusing more on high level principles. Whilst we have no real objection to these principles, we question whether they will have any practical influence on how an authority exercises its functions. It seems likely that an authority would base its decisions on the more concrete policies in relevant plans, and largely ignore the strategy (as drafted).
4. The strategy might work better as a means of giving a national steer to authorities exercising flood risk management functions by:
 - containing more 'hard policies' on how risks should be managed. It could perhaps cover matters mentioned under 3.3.1 as to be included in 'long term national strategic plans' (we are unclear about these plans: see comments below on question 7); and
 - clarifying better how the strategy relates to other plans and policies, and how those other plans should be developed, revised, applied and interpreted to deliver a coherent, national policy vision.

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Registered charity 299498, company limited by guarantee in England 2133283
Registered office: One Wood Street, London, EC2V 7WS www.ukela.org

President: Rt. Hon. Lord Justice Carnwath C.V.O.



Consultation questions

- 2. Are there any additional aspects of risk that need to be assessed?*
5. Factors capable of affecting flood risk adversely include, for example, agricultural land use in catchments.

3. The strategy takes into account different sources of risk (for example coastal erosion and flooding from rivers and surface water). How can they best be quantified in a way that helps the assessment of the relative importance of these risks?
6. As each contributes to overall problems, it might make more sense to assess elements within an integrated matrix. The concept of relative importance seems unhelpful.

7 (a) Are the measures and actions set out in Section 3.3.1. to 3.3.5 clear? If not, how can they be improved? (b) Do the measures and actions give enough specific information on what will be done and by whom? If not, please can you explain where we need to be more specific?
7. See our general comments above.
8. We find 3.3.1 on managing risks through planning risk management a little unclear, and figure 3 confusing. It would be helpful to have a more complete, precise picture of the range of plans envisaged.
9. Are the 'long term national strategic plans' intended as new types of plan? If so, how will they differ from other plans and the national FCERM strategy? We question whether it is necessary to add another plan to the array of plans and strategies.
10. How will shoreline management plans 'feed into the development of national and local flood risk management plans'?

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