



REPORT TO INFRASTRUCTURE SERVICES COMMITTEE – 22 AUGUST 2013

PROPOSED GOVERNANCE ARRANGEMENTS FOR THE CONSIDERATION OF FLOOD PROTECTION SCHEME APPLICATIONS

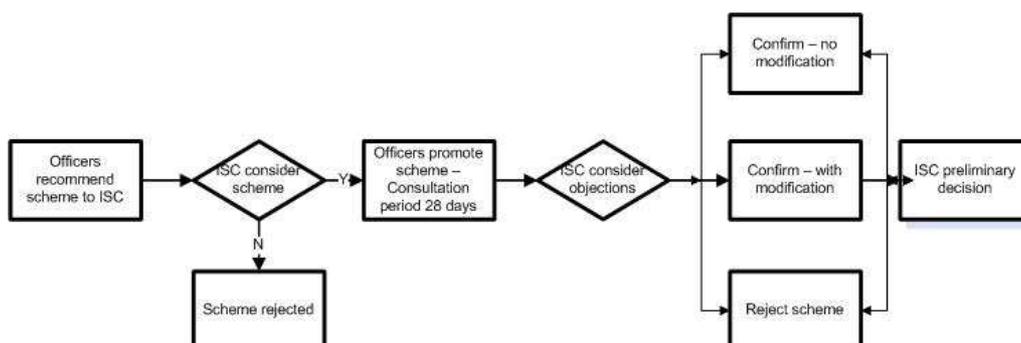
1 Recommendations

1.1 It is recommended that the Committee:-

- 1 **Agree the outline governance arrangements for the implementation of a flood protection scheme in accordance with statutory procedures.**
- 2 **Instruct officers, in consultation with Legal and Governance, to develop the necessary detailed procedures.**

2 Background/Discussion

- 2.1 The Flood Risk Management (Scotland) Act 2009 has been introduced with the aim of providing a more sustainable and modern approach to flood risk management. It places additional duties and responsibilities on Local Authorities, Scottish Environmental Protection Agency (SEPA) and Scottish Ministers to create a more joined up and coordinated process to manage flood risk at a national and local level.
- 2.2 Under Section 2 of this legislation, the local authority should act as both the promoter and confirming authority of any scheme. Therefore it is recommended that Aberdeenshire Council develop clear procedural guidance regarding the promotion of a Flood Protection Order.
- 2.3 In terms of governance procedures, under Aberdeenshire Council's Scheme of Delegation, all aspects of Flood Prevention have been delegated to the Infrastructure Services Committee. Therefore it is recommended that Infrastructure Services is the appropriate Committee to exercise the necessary governance of flood protection orders as required by the Act.
- 2.4 The following flowchart outlines the requirements of the legislation and subsequent paragraphs provide guidance on the process.



- 2.5 Following approval of a scheme by the Infrastructure Services Committee, officers from the Flood Protection Team and Legal and Governance will undertake the necessary public consultation stages required to “promote the scheme”.
- 2.6 This will involve the display and public advertisement of official Notices, as well as direct contact with a range of Statutory Consultees.
- 2.7 The scheme proposals are then subject to an objection period of 28 days. If there are no objections, then the Infrastructure Services Committee may confirm, or reject, the Scheme.
- 2.8 However if there are objections, the Infrastructure Services Committee is required to make a preliminary decision. This can take three forms: -
- a) confirm the Scheme without modification,
 - b) confirm the scheme with modification;
 - c) or reject the Scheme.
- 2.9 If confirming with a modification, objectors must be notified of the modifications to afford them an opportunity to withdraw their objection.
- 2.10 Should any objections remain after this process, that were made by a person whose interest in land may be affected by the carrying out of the operations or alteration in the flow of water or by a person notified under paragraph 1(1)(e) & (f) of Schedule 2 of the Act, the local authority must notify the Scottish Ministers.
- 2.11 Within 28 days, Ministers must decide whether to consider the Scheme for their own determination, in which case they would call a Public Local Inquiry (PLI) and then make the final decision.
- 2.12 The above explanation is a summary of the necessary requirements contained within the legislation. If the Committee approve the principle of the procedure, the detailed procedural elements will be developed jointly between officers in Infrastructure Services and Legal and Governance.
- 2.13 The Head of Finance and the Monitoring Officer within Corporate Services have been consulted and have no comments to make.

3 Equalities, Staffing and Financial Implications

- 3.1 An equality impact assessment is not required because this report relates to the implementation of an approved statutory process.
- 3.2 There are no substantial staffing implications arising from this report, as the number of orders being promoted is expected to be comparatively small.

Stephen Archer
Director of Infrastructure Services