National Flood Forum
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Securing the future availability and affordability of home insurance in areas of flood risk - June 2013

– Consultation response from the National Flood Forum

Introduction

Thank you for inviting the National Flood Forum to respond to the consultation *"Securing the future availability and affordability of home insurance in areas of flood risk - June 2013"*

The National Flood Forum is a national charity dedicated to supporting and representing communities and individuals at risk of flooding. We do this by:

- Helping people to prepare for flooding in order to prevent it or mitigate its impacts
- Helping people to recover their lives once they have been flooded
- Campaigning on behalf of flood risk communities and working with government and agencies to ensure that they develop a community perspective.

Uniquely, we help people and communities to take control of their lives by empowering them to understand and reduce their flood risks.

Involving Community Flood Groups

As part of this consultation we have worked to generate and gather as wide a set of responses from individuals and communities as possible. We initially publicised the consultation when it was announced through our website, Facebook and Twitter feeds, as well as emailing all of our flood groups. We also emailed a shortened questionnaire to flood groups and placed this on Survey Monkey. Our experience suggests that very few people have the time available to respond to detailed consultations and we felt that this provided a more accessible way for people to engage without having to understand the full detail of the proposals.

However, a strongly expressed view from more than one community group was that the timescale for response to the consultation was wholly inadequate.

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The NFF Questionnaire for Community Groups

Do you think that Flood Re will be better than present arrangements?

Response. Yes: 90% Don't Know: 10%
Comments:
Since we flooded 8 years ago people have not been able to sell houses because of problems with insurance.
Anything is better than the present arrangements.
It is an excellent initiative.

Do you agree with the use of a levy on all household insurance to ensure high flood risk households are able to get affordable flood insurance?

Response. Yes: 90% Don't Know: 10%
Comments
Not sure someone living on top of a hill would!
The £10.50 levy is acceptable but should not be allowed to creep - CPI increases would be acceptable.
Climate change remains unpredictable—Properties currently NOT listed as "high risk" subject to flooding in future, particularly as surface water runoff is now a major cause. Will the levy get adjusted in future?

Do you agree with the use of council tax bands as the basis for setting premiums?

Response. Yes: 91% Don't Know: 9%
Comments
Seems fair.
This will result in some unfairness due to the arbitrary nature of Council Tax assessment, e.g. my immediate neighbour with a similar house is assessed in Band F, whereas I am in Band E. At the moment, we both insure with Halifax, and are paying similar premiums.
It is an improvement but there are already grey areas and anomalies in council tax banding, which will only be reflected in premiums for those affected.
A good practical solution.

Do you think the premium figures shown in the table above are fair?

Response. Yes: 54% Don't Know: 46%
Comments
I question where the figures came from. The band E is over 35% higher than my present premium, and we are in an area which has been flooded, and deemed at 'moderate' risk. Following negotiation and due to property level as well as structural EA defences I got my premiums down to those levels indicated in the table above.
However we wondered where the figures came from – are they truly ones that insurers will stand by should this all go through?
I wonder why properties under BAND H are not covered - is it because the rich can pay the premiums? Could be controversial !!

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Will the scheme help you personally? Response. Yes: 45% No: 55% Comments (Yes) Providing all insurers abide by it. Not at present
Do you see drawbacks in the scheme? Response. Yes:40% No: 30% Don't Know: 30% Comments People not at risk of flooding will have to pay more and may refuse to do so. The devil is always in the detail. Potential for many 'not at risk' homeowners to object to the levy - not their problem so to speak. The devil will be in the detail, and as to whether the 'gentlemen' adhere to the 'gentlemen's agreement." When the details of the agreement are revealed will the integrity and value of the scheme as it is currently presented be retained? Will it be operated honestly by insurers? Insurance companies are likely to INCREASE premiums to cover the LEVY. This needs to be firmed up and controlled. LEVY at ￡10.50 – fixed for how many years? WHO will control FLOOD Re? What happens if it becomes unsustainable ??
Do you have any other comments on the proposals? The great benefit of this as I see it is that if/when we flood again insurance will still be available at a reasonable cost. I think the national flood forum has done a good job in getting this proposal. They are a step forward. You ought to define 'high' risk in relation to the presently used categories (significant, moderate and low). Can't you think of a better name for the scheme? The EA use the following terms for flood risk: low, moderate and significant. Since the proposal refers to properties at high levels of risk, is there a danger that properties like ours (at low to moderate risk) will fall between two stools and not be covered by the scheme nor be an acceptable risk to insurers without the scheme. Would normal house hold insurance companies cease to be liable for flood cover totally claims are likely to be made directly to FLOOD Re. I'll believe it when I see it.

It is interesting to note that while there is strong support for Flood Re, the Levy and the link to council tax bands, views on the fairness of the premiums shown were quite mixed. 54% felt the premiums shown were fair, while 45% said it would help them personally. Only 30% saw no shortcomings in the scheme.

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Many felt sceptical that the final version would deliver the initial promise, feeling "the devil is in the detail". Provision for the 200th year was queried and also how the transition to a free market over 20-25 years would be achieved. Would this result in a return to the unacceptable present situation, with insurers declining to cover "at risk" properties?

Finally groups noted that there is no reference to loss prevention measures (Resistance and Resilience) and what effect such measures would have on insurance costs and availability.

During the consultation we have also been involved in discussions with several flood groups who are creating their own response, as well as the Joseph Rowntree Foundation, Morpeth Flood Action Group and the Scottish Flood Forum.

Criteria and Concerns

As outlined at our conference in March 2012 we have identified three criteria that are essential to judge any proposal for flood risk insurance for households by:

1. Accessibility
2. Affordability
3. Social Justice

The National Flood Forum's overall reaction is that the Government has been right to select a levy and pool approach. However, the proposal is complex and getting the detail right will be important.

There are considerable areas of uncertainty that need clarification:

- The definition of "genuinely uninsurable",
- Insurance costs after a first flood claim
- Insurance costs after multiple flood claims,
- How a fixed levy marries with the rising cost of insurance claims
- How increases in the levy, thresholds, excess, etc., in future reviews will impact on vulnerable households and how these groups in particular can be supported to reduce the impact on flood risk and as a consequence their premiums and excesses
- Policy and mechanism for determining reviews
- Control of costs and availability of flood insurance before Flood Re is implemented

- How a holistic approach to flood risk management interventions, rather than just flood defence schemes, will be acknowledged by the insurance industry. Otherwise, Flood Re will act as a short term intervention before we return to the status quo.
- The impact of the 20-25 year transition period on vulnerable groups

Perhaps the most significant issue relates to the sustainability of Flood Re. There are dangers of perverse effects if the 20-25 year transition period is enacted and also if it is not enacted. If it is enacted how will the scheme ensure that the three key elements of availability, affordability and social justice are maintained beyond the first review and in the eventual free market? If it is not enacted, how will the scheme ensure there are incentives for individuals to take action to reduce their flood risk? For these reasons it is most important to define the critical parameters in some detail at the outset.

It is also extremely important that the regulatory option is developed in full in parallel, so that it is available to use should the need arise.

It is clear that many areas of both policy (e.g. definitions) and procedure (e.g. updating of a Register under the FIO) require significant work before either proposal can be implemented. The National Flood Forum is keen to be involved in this work and to bring a community perspective to the table.

The Immediate Future.

It is clear that Flood Re is very unlikely to be delivered in less than two years. We understand that the existing “Statement of Principles” will continue in force until the new structure is in place. However, this still leaves unchanged all the present difficulties for householders and extends their plight for another two years. The numbers of households at high flood risk trapped by being unable to obtain flood insurance will increase and the blight of thousands of properties will continue and grow. Many more will see increases in premiums and difficulty in obtaining insurance. This trend may even accelerate in the run up to Floor Re.

How can government influence Insurers in the meantime to review their approach and take on board the spirit of the Agreement to implement Flood Re?

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Response to Questions posed

Q1. Do you have any evidence of small businesses experiencing difficulty with the availability and affordability of property insurance due to the risk of flooding?

We have less contact with small businesses than with householders. However, specific evidence relates to Cockermouth where there has been significant difficulty (Cockermouth and District Chamber of Trade), Hebden Bridge and Morpeth.

Whilst the assertion is made that businesses have other mechanisms to get insurance, this does not apply to micro-businesses and SMEs, which is why they were covered under the Statement of Principles. The high incidence of local business failure after flooding impacts on the local economy and on individuals employed by these businesses. If the community loses its economic base – because of business failure - it may never recover fully. So there is good justification for extending Flood Re to local micro-businesses and SMEs, to avoid slowing community recovery and hindering the development of community resilience.

A similar situation occurs with private landlords, notably the many thousands who own a small number of properties. Whilst commercial landlords will have other insurance mechanisms, small landlords do not. Their properties are often of the poorest quality and the most difficult to engage from a policy perspective. They also often house the most deprived and vulnerable groups. Therefore, having good flood risk insurance in place is important. So, we would recommend including small landlords in Flood Re (with say up to 5 properties) and also making it a statutory obligation that they do have insurance for their properties, including flood risk cover.

A similar situation applies to bed and breakfast operators.

Q2. Do you agree with the Government's policy objective for flood insurance?

Yes.

The transition to a free market through a series of steps has been presented. We understand that using this approach allows the Government to argue to Parliament, the European Commission and the insurance industry that this is a "short term" intervention in the market in order to ensure that a well regulated market can be created in the future. The transition period will protect people, given that many people are not able to adjust quickly and the scale of the financial and social impacts of a change in the market are great. It also offers a process to encourage people to understand their flood risk and to help them protect themselves. The time interval will encourage the development of better flood risk management solutions, including proper frameworks for a holistic approach to flood risk management, which are desperately needed. However, for these to develop and be effective, the insurance industry needs to be actively involved with partners in developing appropriate and robust frameworks that deliver trust through quality standards and accountability.

The phased approach also allows the Government of the day, and Parliament, to change the transition period, as well as the parameters at each of the review points. This flexibility is particularly important to enable proper account to be taken of changing circumstances, such as increasing average claims cost, changing weather patterns and the appetite of Government and Parliament to move further towards a free market scenario. However, this last point could lead to a lack of certainty for insurers and mortgage companies. To what extent will house prices be affected by changes in approach at the review point for example? At which review point will a 20% increase in the levy for those at highest risk begin to impact on house prices and the ability to sell? If it is at the first review, will this effectively negate the policy? An analogy is leasehold properties, whose value tends to fall in a non-linear fashion.

However, the consultation and the Impact Assessment does not consider the scenario of Flood Re without a 20-25 year transition period leading to a free market, the impact on those on low income, those with different forms of vulnerability and at different levels of flood risk. It doesn't explore how people might be encouraged to understand and participate in reducing their flood risk, the costs of doing so or the benefits. Nor does it consider the impacts of a longer or shorter transition period.

Flood Re is intended to deliver flood risk insurance that is available and affordable, in a socially just manner. Transition to a totally free market will potentially lose any one of more of these key objectives. This would fatally undermine the benefit of introducing Flood Re.

It is vital to determine how the review process will ensure that insurance remains available, affordable and socially just, beyond each review point and in a totally free market.

The National Flood Forum believes that each transitional review needs to actively consider the impacts on these three criteria, so that the most vulnerable are protected. It also believes that it would be helpful to set out these and other criteria at this stage so that Government and Parliament can make appropriate decisions at each review point.

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Q3. Do you agree with the approach taken to analysing the different potential solutions in the Impact Assessment?

The approach presents the impact from an economic perspective in a national context. It is likely that impacts will not be uniform; considering the potential for flooding impacts in Hull, Slough or Scotland may lead to very different results. Therefore, in addition to the national impact, consideration could have been given to place based impacts in areas of different community and economic resilience.

Our concern here is whether any new policy is likely to exacerbate or ameliorate social, economic and environmental resilience, leading to the potential for community wide blight.

The figures presented usefully highlight and summarise the monetised impact of flooding. Notwithstanding this, the figures are likely to be an underestimate, for the following reasons:

- We do not yet have a longitudinal study of the impacts of flooding – all studies, including those offering a valuation are relatively short term. We know from our work with communities that impacts may last for many years. They may affect people's behaviour such as willingness to travel, resilience at work or ability to hold down a job, as well as suffering various health impacts
- The various health impact studies tend to focus on the service delivery impacts as these are easier to measure, rather than the impact on people's lives, including education, health, employment or other economic activity. Whilst these may have a negligible national impact, they could be significant for particular communities.
- If valuation studies were being done today, the techniques used would include multivariate analysis, which may well lead to different results.
- Any study is likely to underestimate the impact of flooding on people's lives, as it will be a partial representation of the reality. This does not help to produce a final figure, but does emphasise that the numbers produced are likely to be an underestimate. There is a useful summary of the evidence in the UK Climate Change Risk Assessment 2012.

A Salford University paper Resilient Homes: Reward-based methods to motivate householders to address dangerous climate change, 2009, highlights the price sensitivity of householders to installing products to protect their home. The combined issues of flood risk awareness, ownership of flood risk issues and individual and community roles in flood risk management will be an important element to making this policy a success. Whilst national policy through the Flood and Water management Act 2010, the recent Defra Flooding Resilience Community Pathfinder, Environment Agency strategy and corporate policy and local government operations are all heading in the right direction, there is still a great deal that needs to be done to deliver a holistic flood risk management policy, including:

1. Development of community ownership and community approaches to flood risk management so that there is the capacity and capability to support this approach across the UK
2. A review of the investments in flood defence to ensure that there is the right balance between capital flood defence schemes, maintenance of assets and investment in holistic approaches to flood risk management.
3. Development of a holistic flood risk management framework that the insurance industry will recognise, trust and price premiums and excesses against.

Q4. Do you agree with the evidence presented in the Impact Assessment?

Yes, but note the areas not covered, listed above. Much of the evidence presented is necessarily speculative, given the data available.

Q5. Do you have any further evidence which has not been considered in the Impact Assessment?

The Impact Assessment usefully focusses on Indices of Multiple Deprivation. However, this does not cover all aspects of inequality or vulnerability and it would be useful to consider the impacts on age, disability, special needs and transient populations. This will need to be considered as part of an Equality Impact Assessment later, so it would be useful to undertake it sooner rather than later.

Q6. Do you support the Government's proposed approach?

There is little information regarding how the transition to risk-reflective pricing will be achieved and specifically, how prices would be determined at each stage. Greater clarity is needed on how this mechanism would work and the range of factors to be used to determine the appropriate charge elements after each review. This might help send useful signals to insurers, mortgage providers and homeowners.

For example, should a simple assessment of rising costs of claims and the performance of the Pool since the last review be used, there will be no incentive to restrain the increase in those costs, currently running at well over the CPI. If a five

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yearly review is used, would a simple increase in charges be applied, e.g. 20-25% of the total “difference” between 2015 prices and fully risk-reflective prices?

Flood Re removes some of the current incentives to install, or indeed to continue to use Property Level Protection devices. There needs to be clarity on how Resistance and Resilience measures will impact on insurance prices.

The proposal suggests that claims will have no impact on either the availability or cost of flood insurance following a claim or claims. This is apparently to be left to individual insurers, operating in the competitive home insurance market. The proposal needs to define in greater detail how this would work when a property has been the subject of multiple claims.

There is no definition of “genuinely uninsurable”. The scheme needs to be developed to define the methodology by which a property is assessed to be insurable or “genuinely uninsurable”.

Many properties will be flooded by surface water in coming years. Many of these will never have flooded before and will be classed as at “low flood risk”. A methodology needs to be defined for assessing whether these should or should not subsequently be considered as at “high flood risk”.

Currently it is stated that the insurance industry will agree which properties are regarded as being at high risk and will be ceded to the pool. How will properties be ceded once the scheme is up and running. What happens if the insurance industry cannot agree on which policies are to be ceded and how will disputes be resolved? If a policy owner is struggling to get insurance because insurers will not provide a quote and a property has not been ceded to the pool, what mechanism will there be for the public to engage with and challenge the system and for problems to be resolved?

There are some example situations that could usefully be explored to ensure that the system does not create perverse incentives or result in unintended consequences for vulnerable individuals.

1. If a household is deemed to be just within the threshold for the pool, it would be possible for one company to offer a premium outside of the pool that is lower than the market rate, but compensated by a higher excess. Some vulnerable groups may not understand the significance of this if they have to make a claim, and the potential consequences.

2. The impact of the 20-25 year transition period on vulnerable groups in particular needs to be considered:
    a. People selling a house after the first review point in five years' time who need to sell to realise assets, particularly the elderly, may find that property is priced as if it was on the open market in 15-20 years if they are at significant flood risk, because flood risk management interventions have not been delivered. This could have implications for their financial wellbeing and possibly the taxpayer if the state has to intervene. Low income groups may be especially affected if they are homeowners and their options for change are limited.
    b. A similar situation may apply to people with disabilities, where the ability to change circumstances is limited.
    c. A low income family in council tax band A or B, perhaps with special needs and with groundwater or complex flooding risks. How would they be able to afford to reduce their flood risk in practice, and how could they do this in a way that would mitigate rising premiums as the 20-25 year transition period starts, particularly given the focus on flood defence, as opposed to flood risk management.
3. If there is a 20% drop in the levy at the first review, will this have an impact on house prices in flood risk areas, or will houses in flood risk areas become difficult/impossible to sell?

Q7. If the remaining challenges associated with Flood Re prove too difficult to overcome, what factors do you think should be taken into account ahead of any decision on whether or not to introduce the Flood Insurance Obligation?

There are two categories of factor:

1. Long term sustainability and viability of the proposals;
    a. Accessibility
    b. Affordability
    c. Social Justice
2. Practicalities of introducing a system that will work and which has buy-in

The proposal for the legislative approach is much less well developed than Flood Re, with much more work required in a number of areas. But for reasons given above it is important that it is fully developed over the coming months.

An unknown factor is the size of the "high-risk register" in future years and the implications for the scale of the FIO. The proposal suggests that all properties with a

1% risk of flooding in any year (from rivers or the sea) would be included. Will all forms of flooding be included in future or will the register only include properties at risk of flooding from rivers and the sea?

No methodology has yet been adopted for assessing a 1% risk of flooding from surface water. When such a methodology is available, would the pool be increased to include the properties at 1% risk of surface water flooding?

Would properties that flood after the establishment of the register, whether from fluvial or pluvial sources, be automatically added to the Register?

Is government willing to accept the possibility of a register that continues to increase in size – or will the level of risk for eligibility be raised in order to maintain the register at a constant size?

How often will the database be updated? What happens to people seeking flood insurance, or wishing to buy or sell properties that become high risk, between updates?

Will people be able to challenge decisions on inclusion, and if so how? Should opting out requests be accepted, or should they be challenged where there is evidence that the property has flooded?

Many people do not claim on their insurance when flooded for a variety of reasons, including, they want to be able to sell their house, they want to keep premiums low, they do not want to admit that this was anything other than a freak event (i.e. they wish to maintain that they are not really at flood risk). The psychological issues surrounding the acceptance of flood risk are particularly relevant as there is the potential for people to be disadvantaged if they challenge the register when in reality they are at risk.

The details of how properties will be placed on the register, how it is updated and how often, how the challenge process will work and the evidence base required will all be important to the acceptability of the FIO. There is a risk that public "blame" for the shortcomings of insurance outcomes shifts onto government or the Environment Agency for the shortcomings of the FIO.

Is there an opportunity for individuals to manipulate the scheme by seeking to have their property on or off the register?

Is there an opportunity for insurance companies to manipulate the scheme by loading the premium/excess on to non-flooding components, to ensure that they have the right proportion of at risk properties but at higher income than they might otherwise have. Will insurance companies be able to manipulate the scheme by selecting properties within the lower risk categories of the high risk register?

Flood Re

Q8. Do you agree that setting the eligibility thresholds according to council tax bands (or their equivalents in the Devolved Administrations) will help ensure Flood Re support is targeted towards those households who need it most, without requiring significant administration? Is there a better method?

It is the best practical method available and provides a good surrogate for ability to pay. However, see comments elsewhere on the need to identify and mitigate what are likely to be a small, but important, number of cases where vulnerable people will be disadvantaged.

Q9. Do you have any views on the proposed initial "eligibility thresholds" within Flood Re (table 1 above), which would effectively cap the technical flood risk premium paid by high risk households?

The proposals may need to be refined:

- Given that affordability is a key issue and that proportionate to their incomes, lower council tax categories suffer the greatest impacts from the proposals, can the figures be adjusted to help band A and B categories?
- Can band A and B categories be separated?
- If the levy were to be increased by, say, £1.00 and the balance redistributed to Band A and B categories, what impact would that have? Whilst Defra has undoubtedly done these calculations it would be helpful to make these publicly available.

Q10. Do you agree that the following should be excluded from Flood Re:

a. Band H properties?

The disproportionate impact of including Band H properties in the Flood Re proposal is understood. However, there will still be a small number of asset rich, income poor people in these categories, who may also be elderly, and therefore more vulnerable, so mitigation needs to be considered. One way of doing this would be to use the high risk properties data, Indices of Multiple Deprivation, Local Flood Risk Management strategies and local social services/resilience data to identify people potentially at risk. Interventions could include support to gain the best insurance deal, participation in community approaches to reduce flood risk, property level protection and adapting the property to minimise impact.

These are essentially locally tailored interventions and recognition could be made to allow LLFAs to target some of their flood funding to this, at their discretion.

They might also assist with relocation where the costs of intervention or paying multiple claims outweigh helping someone to move home. This needs to be on an entirely voluntary basis through an agreed mechanism. Work needs to be done to identify appropriate mechanisms and disseminate these so that they can be implemented locally.

b. New homes built after January 2009?

In principle, this is a good idea, but there have clearly been a number of instances where properties built since 2009 have flooded, or caused other properties to flood, particularly from surface water. What is not clear is the extent of the flooding, although it is raised by communities remarkably frequently.

Changing climate and more intense storms will almost inevitably bring increased storm water flood risk to properties legitimately built in Zone 1 (fluvial flooding). While this may be a relatively small issue in a national context for some years to come, communities and individuals in this situation will immediately face the full rigour of a free market in flood insurance.

Some post-2009 properties may flood as a result of the action, or inaction of others. One example is Ruthin in north Wales, where a culvert blockage in 2012 resulted in an estate of new properties being flooded. Should these properties be penalised by classification as high flood risk for insurance?

There are also ongoing examples where local knowledge appears to be being ignored in considering planning applications, leading to increased flood risk.

While it is good news that Environment Agency responses to planning consultations are largely taken into account, the vast majority of planning applications are too small to require an Environment Agency response. Nevertheless there may still be significant flooding issues, either for the properties themselves or other properties nearby. Local communities have to rely upon unitary or district council planning processes to assess the risks properly.

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It is clear from talking to people at flood risk that many believe the assessments are frequently inadequate. There are a variety of reasons:

1. The reduction in the number of competent local authority drainage engineers with the capacity to look at all applications. Whilst the figures may now be improving, there are still many councils who appear not to have the necessary capacity and capability.
2. The delays in implementing the national SuDS regime
3. A lack of local knowledge
4. Advice from drainage engineers is not properly understood or taken into account by planning officers
5. A lack of understanding of flooding issues by planning committees
6. Flooding is one of many issues that planning committees are presented with and therefore may get lost in the wealth of matters to be considered
7. A lack of confidence in planning authorities to stand up to developers for fear of being taken to appeal and not being able to afford the financial penalties
8. Where planning authorities do reject applications and the matter is determined at Appeal, the quality of technical expertise employed by the developer can ensure that they succeed whatever the merits of the case.
9. Where a matter is referred to the Planning Inspectorate, the inspectors may not have the skills necessary to make appropriate decisions
10. There is apparently a difference between England and Wales and Scottish planning case law that means that planning committees in Scotland are responsible for the decisions that they take, whereas in England and Wales this does not appear to be the case.
11. Planning law in Scotland also appears to be more coherent in this policy area.

In short, Planning committees need to be empowered and made responsible for the decisions that they take, as apparently they are in Scotland. Residents should have the power to hold them financially to account (along with the developer). To achieve this will require a significant and ongoing capacity and capability programme led by DCLG and supported by Defra, RTPI and Environment Agency. An evidence base will also be required to establish how effective policy is; however, designing this will need some care as flooding may not happen on a given development for many years.

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One element of this will be the opportunity once the 1:30 flood risk maps are published in December, to highlight to planning committees and planning departments (rather than flood risk management teams or community resilience teams) that allowing building to occur in these areas is likely to result in people not being able to get flood risk cover, and therefore household insurance.

Failure to address these issues will mean that however good Flood Re is, there will be a significant and increasing number of people for whom it will be difficult to find insurance and who will struggle to sell their homes. Changing flood risk and the number of properties being built in high risk areas does need to be monitored carefully and consistently over time. There may need to be a change in policy at some point in the future.

Permitted development can also have a significant impact on flood risk, particularly where it increases the percentage of hard surfaces in an area and/or reduces drainage capacity. It is not clear that any local authority has controlled the loss of green infrastructure effectively and therefore it is likely that properties will continue to become at risk of flooding unless this is addressed.

How is evolving evidence and data taken in to account – eg surface water and groundwater? What happens if during the 20-25 year transition period the flood risk of a post-2009 property changes significantly due to changes in weather patterns, population growth, suburbanisation, etc? How would a property be classified in terms of flood risk after being flooded (for the first time) from surface water? If classified at high risk, the property owner will face exactly the insurance blight that many flooded properties now face. The number of such properties is bound to increase!

c. Genuinely uninsurable properties? If so, how would you define these in a consistent way that insurance companies can apply?

The concept of “genuinely uninsurable properties” needs to be specifically defined. There is a significant danger of insurance companies manipulating the scheme to exclude high-risk properties unjustly if definitions are not clear. At the moment the concept is so unclear that it is difficult to comment in detail.

For example:

What criteria would be used? - when could a property that has flooded be classified as genuinely uninsurable? Would this be after it has flooded once, twice, three times, when the costs of claims exceeds a defined figure, or when it changes hands?

The NFF would like to be involved in discussions aimed at reaching a workable definition.

Q11. Should other exemptions also apply?

No. The fewer exemptions the better.

Q12. Do you agree that Flood Re should apply to both buildings and contents insurance?

Yes. It is particularly important that it applies to all three scenarios, combined buildings and contents, buildings only and contents only. Contents insurance is a particular issue, with low take up from low income groups (probably renting). Whilst pilots have been done to encourage uptake this remains something that needs to be considered as part of the overall delivery of Flood Re.

Q13. Do you have any comments on this proposed way of managing Flood Re's exposure to large losses?

The issue that has not been addressed in the proposal is how to apportion funding in any year where there are extremely high losses. There are issues that need to be addressed of equity, vulnerability, particularly heavy impacts in specific locations and issues around whether spending money in different ways has differential impacts. It is suggested that a list of criteria be drawn up now for use should the need arise.

Q14. Do you think a levy equating to around £10.50 per UK household, which the ABI estimate is equivalent to the current cross-subsidy, is acceptable to help address the problem of securing affordable flood insurance for high risk households?

Yes, however, from the information provided, it is not clear what difference, say, raising the cross-subsidy to £11.50 would have on premiums for Council Tax Bands A and B, particularly if the benefits are to be targeted at these groups. If significant, then this is certainly worth considering because of the potential to encourage more people in lower income groups to become insured.

An issue not addressed is what would happen to the funds collected once a pool of £250 million has been reached without a significant flood for several years. Will the pool simply carry on growing? If not, how is any surplus to be used? Could the funds be used for flood risk management? Alternatively, will the levy be reduced temporarily? The key question is who has control of the "surplus" funds and how benefit is to be directed.

There is an opportunity to use these funds innovatively to reduce people's flood risk should the opportunity arise, which in the long term will reduce the impact of flooding and the cost of insurance. This would be a better option than reducing the levy. A precedent is the use of Landfill Tax for schemes that benefit the environment.

Q15. Do you agree that Flood Re will secure the availability and affordability of household flood insurance in the UK?

Availability. Yes, noting the exclusions previously stated. Note also the importance of definitions, the importance of providing a scheme for SMEs and especially microbusinesses. As described in Question 1, landlords and tenants are an important sector that needs to be specifically addressed because private tenants are often the most vulnerable and it is extremely difficult to ensure that policy initiatives reach this group. As described above, the National Flood Forum considers that landlords of private rented accommodation should be required to have flood risk cover and that the Flood Re scheme should encompass landlords with up to, say, five properties.

Affordability. Yes, but as described above there needs to be greater clarity on the impacts of the policy on localities and specific vulnerability groups, and how affordability is maintained in the transition to the free market and beyond. As described above, can we look at Council tax bands A and B to see if a more equitable approach can be devised?

Social Justice. This is equally as important as the two criteria above. It is not yet clear how different categories of vulnerable people will be affected. The focus has been on low income groups up to now - what about the elderly, those with low literacy, poor access to the internet, transient and ethnically diverse populations, low mobility, etc. This needs looking at more carefully to see if targeted mitigation is needed.

There are challenges to all three criteria around the 5 year review and the transition period that follows. As described above, how are these going to be defined and communicated? The National Flood forum would welcome the opportunity to be involved in these discussions.

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Flood Insurance Obligation

Q16: Do you agree that the Flood Insurance Obligation has the potential to meet the policy objective?

Yes, but with some qualifications:

a. It could be open to judicial review
b. There is potential for manipulation, where insurers may pick off the "best of the worst" to minimise their risk
c. The quality of the policy would need to be defined to ensure that there was a level playing field
d. The Regulator (or another body) needs to be set up to handle individual complaints, e.g. should householders on the Register find that they cannot find a company willing to offer them insurance. This would be likely to happen once companies consider they have met the Obligation for a particular year. Variation in the size of the Register could result in disputes over whether an insurer has met the Obligation.
e. A fundamental shortcoming of the FIO is that it makes the availability of insurance dependent on an imprecise calculation (percentage of the market) by a number of providers, using a varying base, i.e. the Register. There needs to be far greater clarity on how the scheme would handle real situations, e.g. households recently flooded but not yet on the Register.
f. The FIO appears to have no mechanism to ensure that premiums are affordable. Simply offering a subsidised market premium does not do this.

Q17: Do you agree that the Secretary of State should have the power to exempt some firms operating in the UK domestic insurance market from the Obligation, e.g. those with market share below a de minimis?

Yes, however the definition of market share is important. Is this share of the total insurance market, share of the household insurance market, or existing share of the flood insurance market?

Q18. Do you agree that at this stage Ministers should have the option of applying the Obligation to both buildings and contents insurance?

Yes

Q19: Do you agree that the Environment Agency should be granted powers to act as a "lead administrator", working with the devolved administrations to

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compile a UK-wide register that lists by address each domestic property at high risk of flooding?

Yes. But this also raises questions:

- Is the Environment Agency as it stands structured to manage this burden efficiently and effectively, with high standards of customer service?
- How will high risk be defined?
- How frequently will the register be updated?
- How will it cope with changing circumstances – changing risk due to population growth, changing weather patterns, more suburbanisation
- Will there be a mechanism to allow challenge, particularly important as this will be modelled data (at least to start with)?
- How will the Register be updated as the understanding of risk is refined, e.g. as mapping and modelling improves? It is possible that this will result in the overall numbers of high risk properties falling (other factors listed above notwithstanding).
- It is important that owners, tenants and landlords are informed that they are on the register. How often will this happen?
- How will the register be made publicly available, how freely and to what level of detail?

Q20. Do you agree with the broad duties envisaged for the regulator? Is anything missing?

How will complaints about insurance availability and affordability from members of the public be handled? Will the regulator be set up to handle these, or will they be handled by another body, e.g. the Insurance Ombudsman? If the latter, how would his conclusions/recommendations be implemented? Would the Regulator be involved at all?

Q21. Which of the above approaches to supervising compliance with the Obligation do you believe is best suited to delivering the policy objective whilst minimising the burden on businesses and consumers? Is there another approach not considered here?

There is a standard tension between effort expended on monitoring compliance versus benefits. A risk based auditing approach should be used leading to publicly reported results. Examination by Parliamentary Select Committee should be an

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option to ensure that the process is leading to appropriate standards of behaviour and that the reporting process enables transparency.

Q22. Which of the above approaches to imposing sanctions for non-compliance with the Obligation do you believe is best suited to delivering the policy objective whilst minimising the burden on businesses and consumers? Is there another approach not considered here?

At this stage, and prior to future development of the proposal, discretionary powers or a hybrid scheme seems most appropriate, provided that the levels of audit and transparency generate sufficient accountability

Q23. Do you agree with our preference that the Financial Conduct Authority should supervise compliance with the obligation, and be responsible for taking regulatory action against insurers who fail to meet their obligation, or should it be or the Environment Agency?

It should be the Financial Conduct Authority because they are conversant in dealing with financial regulation

Paul Cobbing, Chief Executive

Charles Tucker, Chairman

4th August 2013