

Living Draft Information Note:

**Lead Local Flood Authority
Duty to Maintain a Register**

Section 21 - Flood and Water Management Act 2010

March 2011

Version 0.2

Version Control		
Version	Date	Updates
Version 0.1	08 March 2011	Original
Version 0.2	30 March 2011	Alteration to Footnote 1 to confirm that s.21 will be implemented in April 2011.
		Change to the text in the table under 3.2 to mirror the exact wording from the Act.

Information Note on Section 21 of the Flood and Water Management Act 2010 – Lead Local Authorities: Duty to Maintain a Register

1. Introduction

1.1 To help lead local flood authorities (LLFAs) meet the requirements of s.21 of the Flood and Water Management Act 2010 (the Act), Defra and the Environment Agency, together with a number of local authorities, have developed an example template for what a register of structures or features, and a record of information about those structures or features, might look like.

1.2 Use of this template is on a voluntary basis.

2. Background

2.1 In his review of the summer 2007 floods, Sir Michael Pitt recommended that local authorities should collate and map the main flood risk management and drainage assets (over and underground), including a record of their ownership and condition (Recommendation 16).

2.2 Pitt explained that by collating information on, and mapping, these assets, local authorities would be able to:

- develop more informed maintenance regimes which can take account of assets important for managing flood risk, particularly in high risk areas.
- establish where all their own drainage and watercourse systems are, allowing for quicker identification of the responsible authority in incidences of flooding.
- produce and publish a maintenance schedule for their own assets as well as providing guidance to riparian owners as to how they should maintain their assets.

2.3 The Flood and Water Management Act 2010 received Royal Assent on 08 April 2010¹. The Act implements those recommendations made by Sir Michael Pitt which require primary legislation including the recommendation for local authorities to establish and maintain a record of assets.

3. S.21 Lead local authorities: duty to maintain a register

3.1 Section 21 of the Act requires a lead local flood authority (LLFA) to:

- establish and maintain a “register of structures or features which in the opinion of the authority, are likely to have a significant effect² on a flood risk in its area” and;
- establish and maintain “a record of information about each of those structures or features including information about ownership and state of repair”.

¹ Each section of the Act requires commencing before it comes into effect. S.21 of the Act will be commenced in April 2011 with an expectation that by December 2011 local authorities will have a register and record in place.

² Reference to “significant effect” in the Flood and Water Management Act should be interpreted with a general meaning. It is not equivalent to wording in S.14 of the Flood Risk Regulations.

3.2 The legal characteristics of the register and record are outlined below:

	Register	Record
a.	Must be made available for inspection at all reasonable times.	Up to the LLFA to decide if they wish to make it available for inspection
b.	Must contain a list of structures or features which in the opinion of the authority, are likely to have a significant effect on a flood risk in its area.	For each structure or feature listed on the register, the record must contain information about its ownership and state of repair.
c.	s.21 (2) of the Act allows for further regulations to be made about the content of the register and record. There is currently no plan to provide such regulations therefore their content should be decided on by the LLFA depending on what information will be useful to them.	
d.	There is no legal requirement to have a separate register and record although as indicated above, only the register needs to be made available for public inspection.	

The full wording of s.21 can be found in [Annex A](#).

4. Approach to creating a register and record

Guide to the templates

4.1 The fields listed within the record and register templates provided are an example of what information a register and record, as described under s.21 of the Act, might contain. LLFAs are encouraged to consider these templates during development of their own registers and records based on what systems will be most appropriate for them to meet the requirements of s.21 and improve the management of local flood risks.

4.2 Within the templates structures or features are categorised as *Polygons (shape features)* and *Nodes (point features)* joined together by *Links (line features)*. These elements can effectively describe structures or features that constitute a network within a defined area.

4.3 The templates were designed with the possibility of the register and record being linked to or part of a GIS (Graphical Information System).

4.4 For details of the templates provided please refer to the '*Template Guide*' worksheet within the register and record.

Populating a register and record

4.5 It is envisaged that initial data collection exercises to populate a register and record will be 'risk-based' – and related to the requirement to record structures which have a "significant effect" on flood risk management so you may wish to populate the register with those structures or features which you consider most significant first.

4.6 It is intended that the information contained within these tools will build up over time as LLFAs respond to flood incidences, conduct investigations and carry out maintenance works.

4.7 Information can be gained from a variety of sources and it will be up to the LLFA to assess if the quality of information received is reasonable (fit for purpose).

4.8 The register and record are required to meet the minimum legal requirements and this leaves flexibility for LLFAs to determine the way information is recorded and the amount of detail included. How information is held, such as “state of repair” of structures is not defined in the Act so LLFAs can decide how much detail is required in the record. The detail in records should be proportionate and relate to how the register and record will be used to support the wider LLFA role. Where existing good practice approaches to recording state of repair or other information are available it is the LLFAs choice to use these.

5. How to use the templates

5.1 These templates are not intended to be a working tool. The first worksheets in both the template register and record provide an example to demonstrate how the templates might be structured.

5.2 The register and record are divided into three worksheets each classifying structures or features as either 'Links', 'Nodes' or 'Polygons'. We have attempted to show how a register and record might be structured for each of these types of structure or feature and the categories of information you might wish to include against each.

5.3 The template guide worksheet also includes suggestions of what information and metrics might be used to complete each category.

5.4 There is some duplication shown between the template register and record which could be avoided by use of a database with linked tables. LLFAs may wish to bear in mind which categories must be available for public inspection and therefore held in the register.

5.5 LLFAs should consider the benefits of recording information in a manner that facilitates the exchange of information with others. When sharing information LLFAs should also consider the use of metadata which, for instance, can be useful in communicating to partners which information can be made publically available or shared.

6. Further Information

6.1 If you would like to comment on your use of these templates or on any need for the development of further tools in the future please do so by emailing us at surface.water@Defra.gsi.gov.uk . We will collate responses and ask representatives of LLFAs and the EA to review these after 6-12 months and consider if it is appropriate to take any work forward on a national basis.

6.2 Factors which may be considered in reviewing the need for further national development include:

- Whether there is sufficient justification for further national development.
- The extent to which LLFAs prefer to meet their register and record requirements by using or adapting their existing systems.
- Whether the commercial sector steps in or could step in to offer suitable new solutions to full fill the requirements.

Annex A: Legal Requirements of Section 21 of the Flood and Water Management Act 2010

The Floods and Water Management Act 2010 can be read in full [here](#).

Clause 21 of the Act states:

- (1) A lead local flood authority must establish and maintain—
 - (a) a register of structures or features which, in the opinion of the authority, are likely to have a significant effect on a flood risk in its area, and
 - (b) a record of information about each of those structures or features, including information about ownership and state of repair.
- (2) The Minister may by regulations make provision about the content of the register and record.
- (3) The lead local flood authority must arrange for the register to be available for inspection at all reasonable times.
- (4) The Minister may by regulations provide for information of a specified description to be excluded from the register or record.
- (5) In this section, “the Minister” means—
 - (a) the Secretary of State in relation to authorities in England, and
 - (b) the Welsh Ministers in relation to authorities in Wales.

Lead Local Flood Authorities

Section 6 (7) of the Act defines a “Lead local flood authority” in relation to an area in England as:

- (a) the unitary authority for the area, or
- (b) if there is no unitary authority, the county council for the area.

Section 6 (9) of the Act defines a “Lead local flood authority” in relation to an area in Wales as:

- (c) the county council for the area;
 - (d) the county borough council for the area.
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