

Citizen Participation and Public Petitions Committee
Wednesday 27 November 2024
18th Meeting, 2024 (Session 6)

PE2118: Review and restructure Scotland's flood risk management approach and operations

Introduction

Petitioner Tobias Christie on behalf of Speymouth Environmental Partnership

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to review the Flood Risk Management (Scotland) Act 2009, and improve flood alleviation and management processes by appointing an independent panel of engineers, economists, and geomorphologists to support the design of flood risk management plans.

Webpage <https://petitions.parliament.scot/petitions/PE2118>

1. This is a new petition that was lodged on 24 September 2024.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. Every petition can collect signatures while it remains under consideration. At the time of writing, 87 signatures have been received on this petition.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered.
6. The Committee has received submissions from the Scottish Government, and the Petitioner, which are set out in **Annexe C** of this paper.

Action

7. The Committee is invited to consider what action it wishes to take on this petition.

Clerks to the Committee
November 2024

Annexe A: Summary of petition

PE2118: Review and restructure Scotland's flood risk management approach and operations

Petitioner

Tobias Christie on behalf of Speymouth Environmental Partnership

Date Lodged

24 September 2024

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to review the Flood Risk Management (Scotland) Act 2009, and improve flood alleviation and management processes by appointing an independent panel of engineers, economists, and geomorphologists to support the design of flood risk management plans.

Background information

Climate change is real. Rainfall is rising. Flooding causes loss of homes, income, utilities and infrastructure. There is also irreparable damage to the environment, hidden costs to public services and infrastructure. People are affected by stress, health related issues.

The Flood Risk Management (Scotland) Act, 2009 and all manuals, guidelines, theories and structures associated with it are archaic and no longer relevant against current and predicted flood threats.

The system of flood risk management and flood alleviation is to approach flooding as a theoretical rather than a live and current threat. Those designing the systems appear distant and unaffected. The system is designed around flood warnings, not flood prevention, management, or alleviation. Communities are excluded from discussions and plans for flood schemes. A complaint is that bureaucrats obfuscate when submitting reports.

Our view is the current system needs a total review and revamp including inclusion of communities.

Annexe B: SPICe briefing on petition PE2118



Brief overview of issues raised by the petition.

The [Flood Risk Management \(Scotland\) Act 2009](#) ('the Act') allocates roles and responsibilities for managing flood risk in Scotland.

Part 3 of the Act sets out the responsibilities for 'Flood risk assessment, maps and plans'. The Scottish Environment Protection Agency (SEPA) have a variety of responsibilities. Section 9 of the Act requires SEPA to prepare flood risk assessments for each flood risk management district. This Section also includes various conditions which must be met as part of these assessments. [The last National Flood Risk Assessment was published in 2018.](#)

Part 4 relates to the local authority functions in flood risk management. Sections 18 and 59 of the Act place various duties on local authorities, one of which is the need to assess bodies of water (watercourses such as rivers, ponds, farm drainage) for flood risk to properties or other public or private assets. [Guidance on the duties of a local authority with respect to the Act was published in 2017.](#)

[Flood Risk Management \(FRM\) Strategies are produced by SEPA for each of the 14 Local Plan Districts \(LPD\) in Scotland.](#) They are intended to coordinate efforts to tackle flooding in Scotland, and they –

'describe current flood risk, set out the ambition for flood risk management in Scotland and identify specific actions that will reduce risk'.

While SEPA is Scotland's flood risk management authority, the Strategies are developed with support from the relevant local authorities and from Scottish Water. They are approved by the Scottish Government.

The 14 Districts are based on river catchments, and they cross administrative and institutional boundaries. In the FRM Strategies, Potentially Vulnerable Areas (PVAs) are identified, for which a detailed analysis of the flooding risk is produced including the number of residential and non-residential properties at risk and the estimated cost of Annual Average Damages (AAD). [SEPA will review the PVAs by December 2024.](#)

Within each District there is a lead local authority that is responsible for the co-ordination and publication of their [Local Flood Risk Management Plan](#) (LFRM Plan). Local Flood Risk Management Plans –

'...take each FRM Strategy and turn it into a local delivery plan. They provide more detail on how and when the actions from the strategy will be delivered

locally, providing additional details on the costs, benefits and delivery timetable for actions.'

The current period for LFRM Plans is 2022-28 and [both the Plans and the FRM Strategies are updated every 6 years](#). [LFRM Plans will be reviewed, with re-published flood risk management plans in December 2027](#).

[42 flood protection schemes were identified for priority delivery between 2016 and 2021](#), subject to the provision of funding by the Scottish Government and local authorities. In addition to these 42, the Strategies also identify some additional works which local authorities and other partners could progress.

The latest [Flood Warning Development Framework](#), covers the period 2022 - 2028. and sets out how SEPA intend to maintain and improve flood warning services over the next six years.

The latest [Scottish National Climate Adaptation Plan 2024-2029](#), was published on 25th September 2024. The Scottish Government also produce an annual progress report (published in May) on the implementation of the [existing climate change adaptation programme / plan](#).

Existing groups connected to flood risk management.

SEPA is Scotland's national flood forecasting, flood warning and strategic flood risk management authority. In the production of FRM Strategies, SEPA take advice from a number of groups, including a [local advisory group "established to draw upon the knowledge of the wider stakeholder community"](#).

In the production of the Strategies, [SEPA also take advice from a National Flood Management Advisory Group](#). This entails "over 50 member organisations, reflecting the national importance and impact of flooding on our communities, economy, environment and cultural heritage, have been invited at key stages to provide comment and input."

In order to determine the priority flood protection schemes a [National Prioritisation Advisory Group](#), with representatives from the Scottish Government, COSLA, Scottish Water and local authorities was established. This group provide guidance to SEPA on the priority of flood risk management actions, having considered both the technical ranking prepared by SEPA and issues of local priority.

Local Authorities are responsible for the implementation of the flood protection actions agreed within the FRM Strategy, including new schemes or engineering works and their statutory requirements to monitor, clear and maintain watercourses.

Scottish Water is a responsible authority for flood risk management, working with SEPA and local authorities. It also has a public drainage duty and is responsible for foul drainage and the drainage of rainwater run-off from roofs and any paved ground surface from the boundary of properties.

The Flood Risk Management (Scotland) Act 2009 implementation: report to the Scottish Parliament – 2020 includes [Annex B: Partnership Groups in flood risk management](#):

- The Scottish Advisory and Information Forum for Flooding
- Policy Management Group
- Lead Local Authority Forum
- Society of Chief Officers of Transportation in Scotland Flood Risk Group
- National Flood Management Advisory Group

Scottish Parliament Activity

[Parliamentary Question \(S6W-30030 Sarah Boyack\) \(Lodged 19th October 2024\)](#): To ask the Scottish Government whether it has identified any new sites for flood protection schemes outwith those that were identified for work between 2016 and 2021, and, if so, at what locations.

Response from The Acting Cabinet Secretary for Net Zero and Energy (Gillian Martin)

“The responsibility for development and delivery of flood protection schemes rests with individual local authorities, who are best placed to respond to local resilience needs.

Proposals to improve flood resilience in potentially vulnerable areas, including flood protection schemes, are set out in Flood Risk Management Plans published on SEPA’s website, and Local Flood Risk Management Plans, published by local authorities.

These plans are renewed every 6 years. The current plans are valid until 2028.”

[Parliamentary Question \(S6W-22487 Willie Rennie\) \(Lodged 26th October 2023\)](#): To ask the Scottish Government, further to the answer to question S6W-12674 by Mairi McAllan on 14 December 2022, whether it will provide an update on which of the 42 formal flood protection schemes or engineering works are (a) under construction and (b) at the planning or other stage of development, broken down by (i) the expected completion date, including the reason for any date being beyond the 2021 timeframe, (ii) the number of properties that will be protected and (iii) the (A) initial forecast and (B) final expected cost of each.

Response from The Cabinet Secretary for Transport, Net Zero and Just Transition (Mairi McAllan)

“Local authorities are responsible for the development and delivery of flood protection schemes. The 2015-2021 Flood Risk Management Strategies

included 42 formal flood protection schemes. Local authorities were expected to start work on development of these schemes by 2021.

Flood protection schemes can have significant impacts on individuals, communities and the environment, and so require careful and detailed planning and consultation, it was recognised that construction work may not be completed within the 2015-2021 timeframe.

15 of the flood schemes have now been completed.”

[The full response includes details of each scheme, it's estimate completion date and associated costs.](#)

[PQ \(S6W-16337 Stephen Kerr\) \(Lodged 28th March 2023\)](#): To ask the Scottish Government how much it has spent on flood defences in each year since 2016.

“Local authorities are statutorily responsible for taking forward flood protection schemes and other actions to reduce flood risk. In 2016, agreement was reached between Scottish Ministers and COSLA on a new strategic funding plan for flood protection. The agreement guarantees that until 2026 the level of flooding capital grant in the local government settlement is set at a minimum of £42 million per annum. 80% of the available £42 million is allocated to prioritised flood schemes and the other 20% is allocated between all 32 councils to take forward other flood risk management actions.

The Programme for Government published in 2020 included a commitment to invest an extra £150 million in flood risk management over 5 years in addition to the £42 million per annum. This funding will also be distributed to local authorities through the general capital grant. We are working with partners on the best way of allocating this additional funding.”

Niall Kerr
Senior Researcher, SPICe
29 October 2024

SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

Published by the Scottish Parliament Information Centre (SPICe), an office of the Scottish Parliamentary Corporate Body, The Scottish Parliament, Edinburgh, EH99 1SP

Annexe C: Written submissions

Scottish Government written submission, 28 October 2024

PE2118/A: Review and restructure Scotland's flood risk management approach and operations

Thank you for your email of 24th September regarding the above petition, which is calling on the Scottish Parliament; “to urge the Scottish Government to review the Flood Risk Management (Scotland) Act 2009, and improve flood alleviation and management processes by appointing an independent panel of engineers, economists, and geomorphologists to support the design of flood risk management plans.”

The Scottish Government recognises the growing challenges posed by climate change, including the increasing frequency and severity of flooding events. This is why we have already implemented a comprehensive framework under the **Flood Risk Management (Scotland) Act 2009**, which places flood risk management at the core of our environmental policies.

The Flood Risk Management (Scotland) Act ('the Act') promotes *sustainable flood risk management*; a process based on a collaborative, sustainable, planned and proactive approach to managing flood risk. Importantly sustainable flood risk management recognises natural features in the landscape, such as floodplains and wetlands, can lower flood risk to communities downstream by managing the sources and pathways of flood water in a catchment.

The Scottish Government recognises the urgency of addressing the increasing risk of flooding, which has been exacerbated by climate change. Flooding threatens homes, businesses, and infrastructure, and we are committed to continually improving flood risk management in order to protect Scotland's communities.

Key Actions Already Underway

The second cycle of Flood Risk Management Plans for the period 2022-2028 were published by the Scottish Environment Protection Agency (SEPA) in December 2021, and they outline the long-term ambition by setting objectives and identifying actions within in a Local Plan District. The Flood Risk Management Plans are supplemented by the Local Flood Risk Management Plans which set out the detailed actions and how the actions will be funded.

Governance Reform and Commitment to Improved Delivery

A joint Scottish Government/COSLA Flood Risk Management Working Group is currently considering funding and governance arrangements for flood protection schemes and actions set out within the cycle two Plans taking on board lessons learned from the first programme and current best practice.

Early recommendations from the Working Group have already contributed to improving the affordability of the remainder of the cycle 1 programme, and further recommendations will be put to Ministers and COSLA Leaders via the joint Scottish

Government/COSLA officers' Settlement Distribution Group with regards to the funding and governance of future cycles.

As part of this reform process, Scottish Ministers and council leaders have agreed that where funding is available for future schemes then there should be a staged/gateway process to assess and review the viability of schemes put forward for funding. Establishing such a process will build on the lessons learned from the development and delivery of cycle 1 schemes and will seek to ensure that future funding will be deployed to maximum benefit for local communities.

Since its inception, community engagement has been a cornerstone of the flood risk management act. We recognise that effective flood risk management must reflect local realities, including the unique challenges and priorities of individual communities. To this end, SEPA and local authorities are required to consult extensively with local communities during the development and implementation of Flood Risk Management Plans and Local Flood Risk Management Plans. The Scottish Government also actively encourages public consultation and stakeholder engagement to ensure that local knowledge and concerns are reflected in the plans.

The next cycle of Flood Risk Management Plans, scheduled for review and update by 2028, will again prioritise local engagement to ensure that each community's needs are considered, and will integrate lessons learned from previous floods.

Development of Scotland's Flood Risk Management Strategy

The Scottish Government is developing Scotland's first Flood Risk Strategy (FRS). It is focused on enhancing community flood resilience by integrating people, places, and processes. Each of these themes plays a role in shaping a future where communities are better prepared for flood risks.

The Strategy will place a strong focus on the involvement of individuals and communities in flood resilience decision-making and highlights the crucial role that people can play in building flood-resilient communities. The overall outcome is to create flood-resilient places by actively engaging and empowering people and communities.

The Strategy builds on an extensive programme of engagement with a wide range of stakeholders, including a public consultation and will be published later in 2024.

Investment in Flood Protection and Resilience

For the last 15 years the Scottish Government has provided Local Authorities with £42m per annum for flood resilience through the general capital grant and we have committed to continue that until 2026. We have also committed an additional £150m over the course of this Parliament to deliver improved flood resilience.

This funding directly supports local authorities, enabling them to implement flood protection measures, such as flood barriers, drainage improvements, and sustainable flood management techniques, including nature-based solutions. This not only supports the resilience of local communities but also enhances biodiversity and promotes environmental sustainability.

Expert Input and Continuous Review

In relation to the suggestion to appoint an independent panel of engineers, economists, and geomorphologists, it is important to note that the development of specific actions to address flood risk and improve resilience is the responsibility of local authorities.

The Flood Risk Management Planning process is led by SEPA but with extensive input by others. This includes input from engineers, hydrologists, and geomorphologists. This collaboration is based on the latest scientific knowledge and best practice.

The Flood Risk Management Act requires that all flood risk management plans be reviewed and updated by SEPA every six years. This process enables SEPA to adapt to new developments, integrate the latest scientific research, and consider lessons learned from recent flood events. As with any legislation, the Scottish Government continues to consider whether any amendments or enhancements are required.

Ongoing Commitment to Improvement

In summary, the Scottish Government has made significant progress in flood risk management under the Flood Risk Management (Scotland) Act 2009, through a strategic, evidence-based approach supported by substantial investment. We are committed to further strengthening these efforts, with a focus on community engagement, expert input, and improving governance to ensure the delivery of effective flood resilience measures.

We remain committed to working with local communities, stakeholders, and experts across various disciplines to build a resilient and sustainable approach to flood risk management for the future.

I hope this information is helpful to the Committee in considering this petition.

Yours sincerely

Flood Risk Management Team

Petitioner written submission, 10 November 2024

PE2118/B: Review and restructure Scotland's flood risk management approach and operations

Communities are not aware of any public consultations on flooding in Scotland by Government Departments recently, particularly the Findhorn, Nairn and Speyside catchments. In 2024, SEPA circulated a questionnaire asking individuals to list in order of importance a list of questions drawn up by SEPA officials. Each question had a list of quotes/ideas. The quotes/ideas were similar under each question and designed to reinforce the SEPA perspective, therefore, was not a consultation. Many communities were not aware of increased funding for flood management from

the government. Local Authorities take the lead on such matters and as the majority exclude/ignore communities, the information has not filtered down.

Landowners have no legal responsibility to maintain riverbanks. Should they do so, and problems arise, they are legally responsible for compensation. Many properties and utilities cannot be protected by owners as they were built before flooding occurred in those areas. There is no scope to protect individuals and groups of properties other than by bigger schemes.

Councils have no legal responsibility to put flood alleviation/management defences in place. Local Authorities can opt out of the provision of the Flood Risk Management (Scotland) Act 2009 (FRM(S)A, 2009). Rivers and streams carry sediments, trees, and bushes downstream. More so in floods. These catch in the riverbed and/or banks. Sediments build up and raise riverbeds and banks. These obstructions force flood water to places it didn't reach before. Local Authorities do not use their powers to remove sediment and trees to prevent flooding. NatureScot restricts flood schemes if in SSSI areas. Riverbank erosion is seen as a "natural process" even if caused by human intervention. They will not allow the importation of material for riverbank protection other than from the SSSI area. Material previously washed down but outside the SSSI area is deemed "foreign material" and cannot be used. Similarly, any materials from within the river catchment area but outside the SSSI boundaries are also classed as "foreign material".

Recent FOI's of SEPA revealed the following: -

Cost of flood damage in Potentially Vulnerable Areas (PVAs) is calculated centrally using the Multicoloured Manual, a book first published in 2003 and contains flood statistics from three river basins in England. The figures produced are fictional. No research is done at a community level.

SEPA are unable to state how they calculated how many houses and people would be affected by future flooding.

SEPA, are unable to identify properties they indicated would be affected by future flooding.

SEPA staff refuse to meet with community groups to discuss flooding and possible flood alleviation/management schemes.

The FRM(S)A, 2009, states that each area should have a local flood advisory group to discuss plans for flood alleviation/management. Local advisory groups covered large areas of Scotland along the lines of former Regional Councils rather than river catchment areas. SEPA stated that no community groups were invited to take part, and members of such groups were comprised of local authorities and Government organisations. Many of these participants worked and lived in areas outside the river basins being discussed.

SEPA sees its main role as flood forecasting and flood warnings. When asked for advice on possible schemes drawn up by communities, refuse to discuss until plans are submitted to Local Authorities and applications for CAR (Controlled Activities Regulations) licenses, when they only decide the fee.

Local Authorities in general ignore Community Councils when problems with flooding arise. Ignore plans commissioned by communities on grounds “not commissioned by the Authority”.

Communities are very rarely involved in discussions/development of flood plans by local authorities.

Communities have no opportunity to address matters at Council meetings and only the views and opinions of Council officers are submitted.

Community Councils and constituted community groups do not have access to funding to engage planners/fluvial geomorphologists/hydrologists and to commission their own schemes.

Under the Act, Local Authorities can apply to the central government for money to complete flood schemes. Authorities say it is too expensive to produce such reports and that they only get 80% funding. Schemes could be more cost-effective if community groups/community councils could do the projects under the Community Engagement Act and have direct access to government money. The downside of that is Councils would have to accept applications under the Community Empowerment Act.

All flood schemes, legislation, and guidelines are drawn up by public sector employees with no input or consultations with communities affected by flooding. Most of those employees are centrally and office-based.

Few, if any, Local Authorities employ fluvial geomorphologists and/or hydrologists. Local Authorities lack fully qualified employees to understand and develop flood alleviation/management plans.

Local Flood Risk Plans cross over different council boundaries. Where one Council is the lead authority, it has responsibilities in other Council areas which can cause confusion within communities at risk.