

<b>Meeting:</b>	<b>Director of Economy and Place</b>
<b>Meeting date:</b>	<b>Monday, 6 July 2020</b>
<b>Title of report:</b>	<b>Property Flood Resilience Recovery Support Scheme 2020</b>
<b>Report by:</b>	<b>Directorate services team leader</b>

## **Classification**

Open

## **Decision type**

Non-key

## **Wards affected**

(All Wards);

## **Purpose**

To approve expenditure and approach to delivering the Property Flood Resilience Recovery Support Scheme 2020 ('PFRRSS').

Severe weather has meant hardship for local residents and businesses. The Department for Environment, Food and Rural Affairs ('Defra') has committed funding to the council in recognition that a significant number of the county's household and businesses have been severely affected and to provide support through this grant scheme. The council will make payments in line with Defra's guidance and based on a robust grant assessment criteria.

The grant is available to support eligible residents and businesses who experienced severe damage from the flooding event to become more resilient to the impacts of any further flooding incidents and reduce the length of time needed for recovery.

## **Recommendation(s)**

**That:**

- (a) The approach to delivering the Property Flood Resilience Recovery Support Scheme 2020 as set out in paragraphs 10-24 be approved; and**

**(b) The Acting Assistant Director Highways & Transport / Head of Infrastructure Delivery and the Directorate Services Team Leader be authorised to approve grant awards to property owners following satisfactory appraisal of the applications received (up to a value of £5,000 each).**

## **Alternative options**

1. Directly appointing a specialist contractor either through the Environment Agency's National Property Flood Resilience Framework 2018-2022 Framework or in line with the council's Procurement and Commissioning Strategy 2018. This could include carrying out: a Property Flood Survey; the Supply and Installation of Property Flood Resilience Measures; the Survey, Supply and Installation of Property Flood Resilience Measures; or a Managing Agent. This is not recommended due to the fact that it would serve to delay our implementation of the PFRRSS and not allow the council to implement arrangements quickly to enable those individuals impacted by flooding to claim Property Flood Resilience ('PFR') grants to coincide with their insurance claims and property repairs. Undertaking both surveys and flood resilience work may additionally cause issues of liability for the council.

## **Key considerations**

2. Storm Dennis hit Herefordshire during the weekend of 15 and 16 February 2020, resulting in significant damage and flooding, from both runoff and river overspill with many of the rivers reaching their highest levels in 200 years. A major incident was declared on 16 February meaning there was a danger to life as water levels peaked at record levels during the storm and remained high for an extended period after the storm. This led to the flooding of 525 residential properties and 176 businesses across numerous areas of the county.
3. The government announced on 18 February 2020 that they would provide funding to local authorities whose counties have seen significant impacts following Storms Ciara and Dennis. Payments of up to £5,000 would therefore be made available to eligible households and businesses for flood resilience measures. The funding payments do not form part of the pre-existing 'Flood Recovery Framework' and Defra has published a separate framework for administering the PFRRSS. Defra has since published revised guidance in April for the administration and delivery of the PFR Support Scheme.
4. An emergency officer decision was taken on 28 May 2020 to sign a Memorandum of Understanding ('MOU') to administer the PFRRSS on behalf of Defra. {live link}
5. The guidance states that Local Authorities may disburse grants up to the value of £5,000 (inclusive of VAT), to assist people whose properties are eligible for the scheme, to make their properties more flood resilient known as Property Flood Resilience (PFR).
6. The guidance also states that Local Authorities are to make the specific decisions as to who is eligible in line with the scheme criteria.
7. The guidance sets out that for the purposes of this scheme, 'flood' has the following meaning.
  - 'Flood' includes any case where land not normally covered by water becomes covered by water.
  - It does not matter whether a flood is caused by
    - a. heavy rainfall,
    - b. a river overflowing or its banks being breached,

- c. a dam overflowing or being breached,
  - d. tidal waters,
  - e. groundwater, or
  - f. anything else (including any combination of factors).
- But 'flood' does not include:
    - a. flood from any part of a sewerage system, unless wholly or partly caused by an increase in the volume of rainwater (including snow and other precipitation) entering or otherwise affecting the system, or
    - b. flood caused by a burst water main (within the meaning given by section 219 of the Water Industry Act 1991).
8. Furthermore, the guidance states that PFR refers to any measures that can be applied to a building to make people and the property less vulnerable to the physical impacts of flooding.
- a. PFR Resistance is the use of materials and approaches to safely keep water out of a property.
  - b. PFR Recoverability is the use of materials, products and construction methods that mean a building can be quickly brought into use after flooding, i.e. managing the level and consequences of damage, if there is water entry.
9. The key principles of eligibility outlined in the guidance are as follows:
- a. Properties that flooded internally as a result of Storm Ciara or Dennis. Flooding must have been caused by heavy rainfall, a river overflowing or by groundwater.
  - b. Residential properties – where habitable internal areas of the premise have been damaged by flooding. This includes static caravans etc. where this is the primary residence.
  - c. Businesses/social enterprises and charities – where internal areas of the premise which are critical to the day to day operations (i.e. not storage sheds or warehouses) have been damaged by flooding.
  - d. Properties not eligible include:
    - i. Properties that flooded from a sewerage system (unless caused by an increase in the volume of rainwater) or from a burst water main.
    - ii. Garages, outhouses, storage areas, basements and cellars not used as part of the habitable or business area of a property.
    - iii. Second or empty homes.
    - iv. Properties that should be covered by insurance or product guarantees (e.g. repair of previously installed resilience measures or the costs of drying out).
  - e. Houses of Multiple Occupancy (HMOs) should be considered 'one front door' except where they are disaggregated for council tax purposes, in which case, each individual council taxpayer will be eligible. Blocks of flats should be treated under the same principles as HMOs.
  - f. Premises occupied through leasehold are eligible. The freehold owner of a flooded building is eligible for a grant from the scheme to contribute towards the cost of making recoverable repairs to the shared spaces of a building impacted by flooding, especially where this complements work being carried out to individual properties through the scheme.

- g. Properties that previously benefited from a Repair and Renew Grant are not eligible except where an independent PFR survey states that extra resilience measures should be installed, over and above what was previously installed. The survey will need to be carried out at the applicant's own risk by a suitably qualified professional and the cost (up to a value of £500) redeemed as part of a successful grant application. Applications for these properties will be considered on a case-by-case basis.
- h. Properties that have previously had resistance measures installed (through a Flood Defence Grant in Aid (GiA) scheme, for example) and which have since experienced internal flooding, are eligible for this scheme. However, this grant should only be used for new recoverable adaptations (such as the additional cost of replacing drywall with resilient alternatives) that were not eligible for the GiA scheme. It cannot be used to replace any damaged measures installed through the GiA scheme.
- i. Uninsured domestic properties and businesses are also eligible for a PFR Scheme grant.

### **Proposed Herefordshire Scheme**

- 10. People will be required to fill out an online expression of interest form and the council will assess whether their property is eligible. If eligible and if carrying out flood resistance works, people will then need to arrange for a PFR survey to be carried out at their property by a suitably qualified independent surveyor, i.e. RICS / MCIWEM C.WEM accredited, able to demonstrate a track record in terms of professional experience in the installation of PFR products, have the ability to assess a property's vulnerability to flood damage and understand the nature of the risk they face. A PFR survey may not be necessary if flood recoverability measures only are being installed.
- 11. Normally the council would expect applicants to arrange surveys themselves and can advise them as to how they can obtain one. In certain circumstances, the council can organise for the survey to be done on behalf of the applicant. Surveyors will be appointed in accordance with the council's Procurement and Commissioning Strategy 2018.
- 12. The council will invite applicants to complete an application online for the £5,000 PFR 2020 grant (from July 2020 until 31 December 2020), including the PFR survey and three quotes for the works. Applications will be determined on behalf of Defra in accordance with published guidance issued April 2020.
- 13. Note that for successful applications, up to £500 will be available (as part of the overall £5,000 grant) to fund the cost of an independent pre-installation PFR survey (to develop the project plan) and post completion inspection of the completed work.
- 14. However, if applicants undertake a PFR survey and choose not to go ahead with the application, they will not be eligible to recover the costs for the survey and will need to pay for this themselves.
- 15. Applications will be assessed by a Grants Panel. If an application is approved, people will be notified and asked to complete and sign an Offer Letter with Herefordshire Council which sets out what measures they will be installing. By signing it, the applicant will agree to the conditions of the grant funding and to maintain their PFR.
- 16. People can then appoint a suitably qualified contractor. The PFR grant will only cover the costs of the cheapest quote even if they choose a more expensive quote. Contractors must be independent from the surveyor that has been used. Work can then be carried out.
- 17. Following completion of the work, people will need to arrange for a post-completion inspection to be done by the surveyor to ensure work has been done to an acceptable

standard. This report will need to be shared with the council. The council may also carry out spot checks on works.

18. Grant funding will only be awarded once the works have been completed to appropriate quality standards. Payment will be made directly to the applicant. If the works are not completed to appropriate quality standards, the work will first need to be rectified by the applicant in order to qualify for the grant funding.
19. The council is conscious that a co-ordinated approach might be preferable at certain locations and so will look to support collaborative applications (for two or more properties) where the approach offers a better standard of flood risk reduction for applicants than would be the case by treating each property individually. The process for collaborative applications is similar to that set out above.
20. Collaborative applications will be assessed on a case by case basis and the total value of the grant will be based on the number of properties applying. People will be encouraged to fill out an online expression of interest form and the council will assess whether their property is eligible. The council will then liaise with everyone whose property has been identified for a community scheme.
21. If eligible, communities will need to arrange for PFR surveys to be carried out. Normally the council would expect communities to arrange surveys themselves and can advise them as to how they can go about this. In certain circumstances, the council can organise for surveys to be done on behalf of the community. Surveyors will be appointed in accordance with the council's Procurement and Commissioning Strategy 2018.
22. Whilst retrospective applications can be submitted, applicants will need to prove that any works have been installed to appropriate standards and that value for money was provided. This could be through engaging an accredited surveyor and contractor, obtaining multiple quotes and using high quality materials. Retrospective applications will be assessed using the above criteria on a case-by-case basis.
23. Funding from Defra will be drawn down quarterly in arrears based upon evidence of money defrayed by eligible applicants.

## **Community impact**

24. The PFR grant will help support residents and businesses who experienced severe damages from the flooding event to become more resilient to the impacts of flooding and reduce the length of time needed for recovery, if flooding were to re-occur.
25. Furthermore, the PFR grant supports the strategic objectives which are described in our County Plan (2020-24). This sets out how we will ensure we make the best use of resources and deliver services that make a difference to people in Herefordshire. Specifically, this work contributes towards the 'Protect and enhance our environment and keep Herefordshire a great place to live' ambition.

## **Equality duty**

26. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
27. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. This decision will have a positive impact on communities which have been significantly impacted by severe flooding in February 2020.

## Resource implications

28. Defra have committed to reimbursing property related costs in line with their Flood Recovery Framework and following this framework will ensure, as far as possible, that the council is reimbursed in full. Whilst the council will be reimbursed quarterly, monthly returns and s151 certification is required.
29. As it is unclear how many PFR grant applications we will receive, workload will initially be managed from within existing resources within Highways and Transportation, along with support from the Delegated Grants team as necessary.
30. If technical input is needed to review more complex schemes and to oversee the quality assurance of works, this will be accessed through current arrangements as part of the Managing water on the network annex of the public realm contract.

## Legal implications

31. In exercising their discretion the council is required to clearly set out and publish their criteria that will be used to determine the appropriate level of grant that may be awarded. The details of these criteria need to be set out on the council's website.
32. This PFR scheme does not guarantee that properties which have been awarded the grant and implemented measures will not flood again; however the aim of the scheme is to have these properties better prepared for future flooding and to have a shorter recovery time if flooding were to occur. The council does not bear any liability in this event. This will be made clear in the application process.
33. In paragraph 15 above an applicant will be required to enter into a legal agreement with the council to confirm what PFR measures will be installed by the applicant and subsequently for those PFR measures to be installed and maintained to allow the grant funding to be paid toward those PFR measures. A legal agreement will also be required with an applicant in relation to the situation referred to in paragraph 14 to ensure that if they undertake a property survey but do not pursue the application for and subsequent installation and maintenance of PFR measures on their property, that it is clear that they will not be able to recover the costs for any survey undertaken from the council and that they will have to bear those costs themselves, along with any risk taken as a result of not proceeding with the PFR measures on their property.

## Risk management

34.

Risk / opportunity	Mitigation
There is some risk that some payments may not be reimbursed by Defra because of differences between those applying	The eligibility check at the start of the process and the subsequent application/appraisal processes will

and those deemed eligible under the scheme.	ensure that only those eligible property owners (as defined in the Defra guidance) receive funds.
If the post completion survey (or checks undertaken by the Council) identify that work has not been completed to the required standard, the work will need to be rectified in order to qualify for the grant funding.	The scheme will make clear that the cost of further surveys to demonstrate that work meets the required standard will need to be met by the property owner if the original £500 (including VAT) has been exhausted.
The council may receive reimbursement requests from people who have a survey carried out but who choose not to progress with PFR works. This may add an additional financial burden to those who have been impacted by the floods.	The scheme will make it clear that if applicants undertake a property survey and choose not to go ahead with the application, they will not be eligible to recover the costs for the survey and will need to pay for this themselves.
There may be a high volume of applications, which will have an impact on resourcing, both for the council and surveyors.	An assessment has been undertaken of the potential numbers in the county that may be eligible, which whilst it indicates circa several hundred property owners may apply (this may be lower in practice due to some choosing not to apply or emerging community applications).
The council may receive a high level of complaints from those excluded from being eligible.	The scheme communications and guidance clearly explain the eligibility criteria (in line with Defra guidance). We will also continue with other schemes of work to minimise the risk of flooding across Herefordshire.

## Consultees

35. As well as the Cabinet Member, Defra and the Environment Agency, senior officers from numerous teams have been consulted, including Legal, Finance, Delegated Grants and Procurement.

## Appendices

Appendix 1 - Scheme criteria

## Background papers

Property Flood Resilience Recovery Support Scheme 2020  
Flood Recovery Framework