

Grant MemorandumFlood & Coastal Erosion Risk Management

April 2023



MEMORANDUM RELATING TO FLOOD AND COASTAL EROSION RISK MANAGEMENT CAPITAL GRANTS FOR LOCAL AUTHORITIES AND NATURAL RESOURCES WALES

UNDER

THE FLOOD & WATER MANAGEMENT ACT 2010

APRIL 2023

Electronic copies of this Memorandum will be supplied to Welsh Lead Local Flood Authorities and Natural Resources Wales and are available on the Welsh Government website.

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This Memorandum replaces all previous versions and will apply to Local Authority and Natural Resources Wales flood and coastal erosion risk management projects in receipt of Welsh Government grant funding on or after **1 April 2023.**

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GLOSSARY

Acronyms used throughout this Memorandum:

BJC – Business Justification Case – As described in the FCERM Business Case Guidance.

FBC - Full Business Case - As described in the FCERM Business Case Guidance.

FCERM – Flood and Coastal Erosion Risk Management. The management of all aspects of flood and coastal erosion risk through understanding risk (probability and consequence) and seeking to modify these factors to reduce its impacts.

FCERM BCG – Flood and Coastal Erosion Risk Management Business Case Guidance - Welsh Government guidance on preparing a Business Case for FCERM capital funding, issued to Local Authorities and NRW and published by Welsh Government.

NFM – Natural Flood Management – Measures which help to protect, restore and emulate the natural functions of catchments, floodplains, rivers and the coast. NFM takes many different forms and can be applied in urban and rural areas, and on rivers, estuaries and coasts. This term covers both coastal and flood risk management solutions in this document.

OBC – Outline Business Case – As described in the FCERM Business Case Guidance.

RMA – Risk Management Authorities – A Welsh Risk Management Authority is defined in Section 6 of the Flood and Water Management Act 2010 as NRW; a Lead Local Flood Authority, a district council for an area where there is no unitary authority, or a highway authority wholly in Wales; an internal drainage board for an internal drainage district that is wholly or mainly in Wales; a water company that exercises functions in relation to an area in Wales.

SOC – Strategic Outline Case – As described in the FCERM Business Case Guidance.

1. INTRODUCTION

Flood and Coastal Erosion Risk Management (FCERM) funding overview

- 1. Under Section 16 of the Flood and Water Management Act 2010¹, Welsh Ministers may provide grants on expenditure in connection with flood or coastal erosion risk management. This memorandum relates to grants for flood and/or coastal erosion risk management activities undertaken by Local Authorities and Natural Resources Wales (NRW) in their role as Flood and Coastal Erosion Risk Management Authorities in Wales as defined in this Act.
- 2. Grant funding can be considered for interventions which reduce risk of flooding from any source (with the exception of sewer related flooding for which water companies have a statutory duty to deal with) and/or coastal erosion to homes.

Grant Memorandum for FCERM Capital Schemes

- 3. This Grant Memorandum supports the <u>National Strategy for Flood and Coastal</u>
 <u>Erosion Risk Management in Wales</u> which aims to ensure the risks to people and communities from flooding and coastal erosion are effectively managed.
- 4. The 2020 National Strategy sets out five objectives to support this aim:
 - Improving our understanding and communication of risk
 - Preparedness and building resilience
 - Prioritising investment to the most at risk communities
 - Preventing more people becoming exposed to risk
 - Providing an effective and sustained response to events
- 5. This Grant Memorandum applies to funding for capital schemes through the Welsh Government FCERM Programmes. It is aimed at Local Authorities and Natural Resources Wales (NRW), although some sections are only applicable to Local Authorities and are noted accordingly.
- 6. This Memorandum explains the procedure to be used in applying for grant funding and sets out the Welsh Government FCERM Branch's requirements for that funding. This complements the Grant Offer Letters/contracts issued on award of funding which set out the Welsh Government's generic Terms and Conditions.
- 7. Departure from the conditions of this Memorandum or the Grant Offer Letter/contract may result in the withdrawal of award of funding, require repayment of all or part of the funding, suspend or cease further payments and/or make future payments subject to conditions specified by Welsh Government.
- 8. The Memorandum can only act as a guide. Individual cases will vary and final decisions on grant eligibility will therefore always rest with the Welsh Government FCERM Branch and, where necessary, Welsh Ministers.
- 9. The fact works are carried out by an Authority under a project approved for FCERM funding and in line with this Memorandum and the Terms and Conditions of the Grant Offer Letter, does not involve the Welsh Government beyond any offer of financial

¹ https://www.legislation.gov.uk/ukpga/2010/29/contents

assistance towards the direct cost of these works. In particular the Welsh Government does not accept legal liability if the works are found to be inadequate or defective. Nor does such approval relieve an Authority of any obligation it may have in relation to the works funded, statutory or otherwise.

10. Funding for a capital scheme does not provide an ongoing commitment for the associated cost of maintenance work from the Welsh Government.

2. FCERM CAPITAL FUNDING – WHAT IS COVERED?

This section covers the types of work which can be considered for FCERM Capital grant funding

- 11. Grants are available towards approved capital expenditure incurred on:
 - <u>Pre OBC investigation work</u> investigation work to better understand the flood risk at a specific location/catchment ahead of an application to undertake an Outline Business Case at that location (see paragraph 17 below to identify what work may be eligible).
 - Completion of an Outline Business Case (OBC) and/or Strategic Outline Case (SOC)— the first stage of this is to complete a SOC which could include modelling studies to establish flood risk in a particular area. The SOC should be submitted to Welsh Government FCERM Branch for approval prior to continuing to complete the OBC (Local Authority schemes only). This could also include any necessary investigations or economic appraisals required to determine the feasibility of undertaking flood defence, land drainage or coastal erosion improvement works. This should be completed in line with the FCERM Business Case Guidance².
 - Completion of a <u>Business Justification Case</u> (BJC) this is a short form Business Case for use on low value capital projects which are neither novel nor contentious and where firm prices are available via pre-completed frameworks. The value thresholds for BJCs have initially been set at £750,000 (anticipated total costs at pre-application stage), however higher value schemes could be considered to progress through this route subject to written agreement by Welsh Government FCERM Branch. A BJC would be completed instead of, rather than as well as an OBC and should be completed in line with the FCERM Business Case Guidance.
 - Completion of a <u>Full Business Case</u> (FBC) and <u>detailed design</u> of a preferred option following approval of an OBC. This could also include funding to support pre-construction ground investigation work, land compensation negotiations, completion of risk registers and compilation of tender documents. This should be completed in line with the FCERM Business Case Guidance following the approval of an OBC. A BJC would be followed by a period of detailed design and obtaining of relevant consents and permissions which would be submitted to Welsh Government in support of an application for Construction funding.
 - Preparation of a <u>Programme Business Case</u>. Some complex schemes or wider catchment projects may require a number of interconnected projects and involve multiple RMAs. We encourage such joint-working and larger scale projects, however, grant funding for such cases will require dialogue with the Welsh Government given they may need to be handled as an exception.

² https://gov.wales/flood-and-coastal-erosion-risk-management-fcerm-business-case-guidance

- NRW manage and review their own programme of Business Cases, however the Welsh Government FCERM Branch can request information on any scheme at any stage of the development or construction including sight of business cases.
- The <u>construction</u> of new flood and coastal erosion risk management assets or improvement to existing flood and coastal erosion risk management assets including Natural Flood Management (NFM) works and Property Flood Resilience measures following agreement of OBC/BJC and FBC. If appropriate, funding for construction costs for a scheme can be applied for and awarded in phases; however, each phase needs to be eligible for FCERM grant funding in its own right.
- <u>Small Scale Work Grant</u> (Local Authorities only) whilst the conditions of this Grant Memorandum are applicable to schemes within the Small Scale Works Grant, the application process is simplified and set out in separate guidance available from the Welsh Government FCERM Branch.
- <u>Core funding</u> (NRW only) this covers capital requirements of NRW including capital staff costs, maintenance, mapping, modelling, forecasting, development of business cases and related scheme preparation including consultation, and smaller scale works with a value of £100,000 or less. This is agreed annually by the Flood and Coastal Risk Programme Board.
- Emergency works required as a result of damage following flood events FCERM funding should focus on preventative action rather than reactive work however, there will be times when flooding occurs and additional support is required urgently to repair damaged assets which reduce risk to homes. There is no guarantee of emergency funding and applications will be considered on a case-by-case basis.
- 12. This is not an exhaustive list of the work which can be considered for FCERM grant funding. Other work could be considered through discussions with the Welsh Government FCERM branch.
- 13. Applications for FCERM grant funding should be supported by the evidence outlined in Annex I. Annex II sets out the stages of a scheme development where grant funding is available.
- 14. In addition to the conditions laid out within Grant Offer Letters/contracts, the following must be satisfied to approve release of funding:
 - The Business Case must be completed in line with the FCERM Business Case Guidance and set out using the 5 Case Business Model.
 - The results of any studies/reports carried out in producing an OBC or BJC must be made available to the Welsh Government for consideration.
 - Any modelling carried out should be done in line with the NRW specification attached in Annex III and once complete all data must be provided to NRW to update national flood mapping.
 - Any economic assessments must be provided in a format which can be scrutinised by Welsh Government. Appraisals must include summary information such as that required within the Welsh Government's Rapid Assessment of Damages (RAD)

- tool. When using the Environment Agency's FCRM economic appraisal: supporting spreadsheet, Asset Annual Average Damage worksheets must be provided in a format which can be scrutinised. Native versions of spreadsheets should be provided where used.
- The final detail of schemes carried out should be submitted to NRW within 6 months of completion to include within the National Asset Database or the database updated locally when available. The data required is set out in Annex IV.

3. ELIGIBILITY FOR FCERM FUNDING

This section covers the types of costs which are and are not eligible for FCERM grant funding.

Eligible costs

- 15. All schemes receiving Welsh Government FCERM funding must be shown to be reducing risk to life by reducing risk to homes. Schemes may also provide a risk reduction to businesses and infrastructure as a wider benefit; however, homes remain the foremost priority for funding.
- 16. Costs will be considered for approval when the project is formally agreed, so long as they are essential to providing the flood or coastal erosion risk management benefit for which the project is being undertaken.
- 17. Eligible costs could include:
 - Staff costs for internal staff working directly on a scheme (excluding on-costs).
 - Pre investigation studies if the work is in relation to a location where a future capital scheme is likely to be considered. This could include investigation work within a whole catchment if a Programme/catchment business case. This would not include routine RMA business such as desk-top studies or reviewing risk on published flood or erosion maps, but may include site-specific monitoring and modelling, CCTV surveys, and consultation with the community.
 - Consultants / contractors employed to work on any element of the scheme.
 - Land negotiations, purchase and compensation.
 - Post scheme modelling to show benefits of the scheme. This should be done in line with NRW modelling specification (Annex III) and details provided to NRW within 6 months of scheme completion to update Wales Flood Map.
 - Equipment purchases directly related to the scheme or the monitoring of the scheme, e.g. telemetry, cameras etc.
 - Consultation, awareness raising and outreach activities with local communities as part of a capital scheme.
 - Signage and interpretation boards connected to a capital scheme.
 - Risk and optimism bias associated with the construction of the scheme, where accompanied by a fully costed risk register and in line with the FCERM Business Case Guidance.
 - Capital works to reservoirs owned by NRW or Local Authorities which perform a flood risk management function eligibility and potential for grant funding FCERM reservoir works will need to be discussed with the Welsh Government FCERM Branch ahead of an application being submitted. The significant costs associated with some reservoir works means that separate funding may need to be sought so as not to displace or delay schemes in the existing programme. Grant rates may vary depending on the nature of works and the necessity for partnership funding. As with all FCERM schemes, there is no guarantee of funding for emergency or unplanned works. Wherever possible, the RMA should consider longer lead-in times and plan ahead significantly before major works are required.
- 18. This list is not exhaustive and any queries around whether the cost is eligible for grant funding should be discussed with the FCERM Branch and must be confirmed in

writing prior to the costs are incurred; otherwise they risk being removed as ineligible costs.

- 19. Costs unrelated to the flood or coastal erosion risk management scheme will not be grant funded unless the project could not proceed without incurring them or where they provide reasonable wellbeing and/or environmental improvements. Such costs should be set out within the OBC/BJC and FBC, for the scheme. Examples might include:
 - Reasonable additional costs for wider benefits such as environmental enhancements, biodiversity gains and amenity improvements directly related to the scheme.
 - Reasonable costs to make a scheme less environmentally intrusive.
 - If an operator must be permanently resident on site to monitor or operate machinery, the cost of their accommodation will be grant eligible.
 - Where digging reveals finds of archaeological importance such that work cannot continue without first securing them, such costs can be considered for grant funding but only at the minimum level to allow the works to continue.
- 20. The Welsh Government FCERM Branch must be informed of the costs detailed in the paragraph above <u>in writing</u> and agreed by Welsh Government <u>in advance of work</u> going ahead and costs incurred in order they are deemed to be eligible.

Ineligible costs

- 21. The following work will generally be ineligible for grant unless agreed in writing in advance of the costs being incurred:
 - Work which has not been approved in the Grant Offer Letter/contract or through written agreement of the Welsh Government FCERM Programme Manager or Technical Manager.
 - Works undertaken and associated costs prior to written approval in the form of a Grant Offer Letter or contract.
 - Work which forms part of an Authority's routine maintenance work (these costs should be considered as Revenue funded).
 - Investigatory work not specifically connected to one location, e.g. culvert surveying across an authority area or a review of risk from published flood/erosion maps.
 - Capital works arising from lack of regular maintenance of an existing asset.
 - Work which arises from damage or negligence attributable to others.
 - Works to reduce flood risk or coastal erosion which is rightly the responsibility of another body (which is not a FCERM RMA), or works deemed appropriate for execution under alternative legislation e.g. public health or highway legislation.
 - Staff on-costs and overheads (excluding Travel and Subsistence associated with the scheme).
 - Recovery and clean-up costs following a flood event.
 - Work associated with reservoirs whose primarily function is not associated with managing flood risk to homes, for example amenity lakes/reservoirs, water bodies/reservoirs constructed to manage water supply and irrigation to agriculture or forestry.
 - Maintenance of Sustainable Drainage Schemes (SuDS).

22. FCERM funding is not available to enable new development and schemes reducing the risk solely to new homes or businesses will not be prioritised.

Consultant's costs, staff and administration charges

- 23. The Welsh Government is prepared to consider the fees or charges of consultants, whether external or internal to an Authority, for the preparation, design and supervision of a Business Case or scheme for grant funding. Where consultants are used, procurement methods must show best value for money and be in line with local procurement policies, however it should be borne in mind that the technical merit of a proposal is an important factor in ensuring value for money.
- 24. Internal Local Authority staff costs are eligible for grant funding against an approved scheme, and this can include pay, National Insurance and Pension costs but would exclude overheads which should be part of the Local Authorities Revenue Support Grant from the Welsh Government.
- 25. Records in respect of staff engaged on a project, salaries paid and associated costs should be kept and made available for audit inspection.
- 26. Expenditure on legal advice from external legal companies is only eligible when specialist knowledge or expertise, not generally expected to be within the competence of the Authority, is required, e.g. when Counsel are engaged to advice on arbitration.
- 27. Grant provided under the terms of this Memorandum is not intended to offset administration costs and day to day running expenses which an Authority must necessarily incur to discharge its functions. These include:
 - accommodation and related costs, insurance charges,
 - legal, and other professional costs,
 - · costs of promoting private legislation,
 - costs of work of a type generally expected within the responsibilities of an authority e.g. printing costs and similar charges,
 - administrative charges of auditors.

Land Purchase & Compensation

- 28. Costs incurred in relation to land purchase and compensation payments are grant eligible provided they are essential in order for the flood or coastal erosion risk management scheme to continue.
- 29. Grant is paid if a land purchase has been agreed, the agreement can be authenticated and valuers reports, where necessary, are readily available.
- 30. Grant is paid for compensation claims if supporting plans showing the areas relating to the compensation (including valuers reports) are readily available and this is included within applications to the Welsh Government for grant funding.
- 31. The application (Local Authorities only) submitted to the Welsh Government FCERM Branch for grant approval should identify land purchase and compensation payments.
- 32. The value of any land purchase and compensation payments should be set out in the relevant Business Cases.

- 33. Where land is purchased for a scheme using Grant Funding, the Welsh Government's due share of the proceeds of the sale of any surplus land must be repaid.
- 34. Where expenditure is incurred by an Authority in reinstating or making good structures or works of a third party (e.g. roads, bridges etc.), in lieu of a compensation payment, grant may be paid on the cost subject to submission of details. Grant will, however, be restricted to the cost of replacing to an equivalent standard of the previous one.
- 35. Betterment will not be grant-aided unless:
 - It is done in lieu of a cash compensation payment which would otherwise have had to be paid to the beneficiary, and,
 - It is demonstrably better value for money for the Authority.

Compulsory Purchase

- 36. Authorities should, where practicable, seek to acquire land by negotiation before embarking on compulsory purchase. If, however a Compulsory Purchase Order is needed the authority should submit in writing to the Welsh Government, outlining what and when negotiations have taken place at the earliest opportunity.
- 37. Costs associated with compulsory purchase would be eligible for Welsh Government FCERM Grant funding where they are essential for a scheme to go ahead.
- 38. All land transactions should be completed before the award of a contract.

4. APPLYING FOR FCERM FUNDING

FCERM capital grant funding is intended to offer financial support to RMAs with the cost of implementing flood or coastal erosion risk management measures.

Flood and Coastal Risk Programme Board

- 39. The Flood and Coastal Risk Programme Board helps to drive the Programmes forward and support the delivery of outcomes and benefits.
- 40. The Board provide advice to the Welsh Government on the allocation of annual budgets and the prioritisation of schemes for funding.
- 41. The Board is made up of representatives from the Welsh Government, NRW, Welsh Local Government Association, Local Authorities, Dŵr Cymru Welsh Water and the Institution of Civil Engineers (ICE).
- 42. Supported by the Programme Board, the Welsh Government FCERM Branch has established a prioritisation methodology for scoring schemes received from both Local Authorities and NRW to form a national annual programme. The methodology and scoring system is available from the FCERM Branch.
- 43. This methodology provides a transparent way of allocating annual funding for flood and coastal erosion risk management schemes

Criteria for Grant Funding

- 44. Grant will only be paid on eligible expenditure (as defined in sections 2 and 3 of this Memorandum) incurred in line with delivering FCERM projects.
- 45. To qualify for grant, projects must satisfy the following criteria:
 - Proposals must be eligible within the terms of the Flood and Water Management Act 2010 and technically and environmentally sound and sustainable.
 - The costs must be reasonable and the benefits must be sufficient to justify the whole life cost of the project before grant is considered. Value for money must be based on latest HM Treasury Guidance.
 - The preferred option for a scheme must be developed in accordance with FCERM Business Case Guidance (BCG). It will be the option which best meets the investment objectives and represents the best value for money.
 - All objections must have been withdrawn or otherwise resolved through a hearing or inquiry prior to grant funding for construction being awarded.

Procedure & Documentation (this section applies to Local Authorities only)

46. Annex I to this Memorandum provides guidance for applying for and claiming Welsh Government FCERM grant funding and sets out the documentation required to support applications.

- 47. Applications for grant funding should be submitted through RPW online The submission of an application will be regarded as signifying the authority undertakes to comply with the conditions in the statutory Environmental Impact Assessment Regulations and all other conditions attached to approval, as set out in any Grant Offer Letter/contract and this Memorandum and, will ensure they are adhered to in all respects during the conduct of the project as well as providing confirmation of matching funding availability.
- 48. Applications for funding must be made prior to commencing work and incurring costs. If this is not possible, discussions should be had with the FCERM Programme Manager requesting to commence work early and set out in writing, by email, with an application submitted at a later date as agreed. A decision by the Welsh Government will also be provided in writing. Any costs incurred prior to this written agreement or formal award of funding will not be eligible for FCERM grant funding.
- 49. Local Authorities are advised to ensure applications are submitted to the Welsh Government with enough time for these to be considered prior to works starting.

Partnership schemes

- 50. Welsh Government promotes joint working between Risk Management Authorities and with external stakeholders, in particular where they are expected to benefit from a scheme. Funding may be withheld if opportunities for partnership working have not been explored where there are clear and identifiable benefits in doing so.
- 51. Schemes or work involving multiple Local Authorities are eligible for funding, however applications need to be made through one Local Authority, outlining the work being carried out and the other Authorities involved. Grant funding, if approved, will be awarded to the one lead Local Authority making the application on behalf of all. The Local Authority should make a decision which leads.
- 52. Schemes involving joint working between Local Authorities and NRW are also encouraged and eligible for grant funding. These schemes should be discussed in advance with NRW to ensure all necessary resources are in place. In these cases, it should be agreed between Risk Management Authorities alongside Welsh Government, where appropriate, to agree the lead authority and submission of the application for funding. Where agreed, funding will be allocated to the NRW associated works at 100% of the costs of that element of the scheme. The remainder will be funded at the grant rates below.

Grant rates

- 53. The rate of grant for FCERM works has been determined by the Welsh Ministers with Welsh Government funding up to the following rates:
 - Business cases at OBC/BJC and FBC (including detailed design stage): 100% (agreed until at least March 2023, and subject to funding availability)
 - Local Authority fluvial/land drainage schemes construction phase: 85%
 - Local Authority coastal schemes construction phase: 85%
 - NRW schemes: 100%
 - The grant rate for any new scheme will be determined on a case by case basis and communicated when appropriate.

Contracts and Value for Money

- 54. The promoting Authority, in using Welsh Government FCERM funding, must demonstrate, that in the procurement of works, equipment, goods and services they seek to ensure that the "most suitable" is selected on terms that are likely to offer best value for money (VFM) based on the latest HM Treasury guidance.
- 55. Any procurement undertaken should be done in line with the procurement policy of the Authority and in accordance with all relevant legislation.
- 56. Payments to a contractor made as a result of arbitration or adjudication for which an Authority is liable, along with costs incurred by the authority as a result of the arbitration process, may be eligible for grant.
- 57. The Welsh Government must be informed of the circumstances of a dispute between an Authority and a contractor. Where the outcome is not in accordance with the Authority's representation, or a decision in the Authority's favour is not accepted by the contractor, the Welsh Government must be advised.

5. FINANCIAL / PARTERSHIP CONTRIBUTIONS FROM OTHER SOURCES

- 58. The aim of FCERM in Wales is to ensure the risks to people and communities from flooding and coastal erosion are effectively managed. In doing so, it is recognised there are wider benefits which can be provided as part of a scheme and the Welsh Government encourages works which provide these alongside reducing risk to homes.
- 59. Wider benefits could include works which reduce risk to other asset such as roads, railways or other infrastructure as well as to properties. They may also include ecological benefits such as improved biodiversity, or amenity benefits directly connected to a scheme.
- 60. Where benefits to third party assets are identified, the Welsh Government expects RMAs to investigate, and where possible obtain, contributions towards the costs of the scheme from these sources. In line with the FCERM Business Case Guidance, these should be set out within the Financial Case of the OBC and developed further during the FBC.
- 61. Where a scheme is extended to include businesses, infrastructure and/or utilities, this additional portion of the scheme must be funded by the beneficiary.
- 62. Where appropriate, and if identified within Business Cases, the Welsh Government FCERM Branch can support Risk Management Authorities with discussions across other Welsh Government departments to identify other funding options.
- 63. Where appropriate contributions are not obtained, the Welsh Government will consider the extent to which FCERM grant is justified on the cost of work being applied for by the Authority against the element of work reducing risk to homes.

Financial contributions

- 64. Contributions from sources other than the promoting Authority will be deducted from the total cost of the works prior to grant rate being applied.
- 65. Such contributions could include:
 - Funding from other benefiting asset owners, for example Network Rail, Water companies, businesses etc.
 - Contributions from other Exchequer-funded bodies, international funding and contributions from bodies such as NRW or Dŵr Cymru Welsh Water.
 - Contributions from sources in recognition of the benefits or improvements to their assets, e.g. Highway Departments, utilities, infrastructure.
 - Funding from developers to cover the cost of benefit to new properties (FCERM funding is not available to enable new development and schemes).
 - Goodwill contributions from riparian owners in respect of benefits received.
 - Contributions received from neighbouring Authorities towards the cost of works which take account of their interests and needs (such Authorities will not be able to claim grant on their contribution unless there is benefit to their residents).

•	Contributions for works undertaken as a result of subsidence due to coal mining or other extractive operations.

6. WIDER BENEFITS AND WELLBEING OF FUTURE GENERATIONS ACT

- 66. FCERM projects are ideally placed to identify and achieve wider benefits, and these are encouraged in line with the Wellbeing of Future Generations Act 2015³.
- 67. In line with the Wellbeing of Future Generations Act and the Business Case Guidance, RMAs applying for funding are encouraged to identify wider benefits which could be achieved through flood and coastal erosion risk management works. This could include regeneration opportunities, increase in or improvements to habitats/biodiversity or recreational benefits.
- 68. These wider benefits should be set out within the Business Case and must be directly associated with the scheme. Further information about the identification of wider benefits can be found in the FCERM BCG.
- 69. Where significant wider benefits are identified, it is expected RMAs will work both internally (for example with Local Authority regeneration, tourism and/or transport teams) and externally (for example Network Rail, Dŵr Cymru Welsh Water, benefitting businesses or other Welsh Government departments) to identify opportunities for bringing in additional funding to recognise these wider benefits.
- 70. Raising awareness and communicating risk of flood and coastal erosion risk is one of the supporting objectives of the National Strategy for Flood and Coastal Erosion Risk Management in Wales under "Preparedness and building resilience".
- 71. In recognition of the importance of this work, appropriate awareness raising activities to highlight flood risk in the area of a capital scheme may be eligible for grant funding in line with the following criteria:
 - The work is scheme specific and targets activities around the flood risk being addressed and targeted at residents within the areas benefitting.
 - Awareness raising activities are compatible with any similar work being carried out in the area by NRW and does not duplicate work.
 - A proposal for awareness raising activities to be carried out including the work to be undertaken and costs for this work are included within the grant application.
 - The proposal sets out how any such activities will be evaluated, and a copy of the evaluation/feedback provided to Welsh Government with quarterly claims.
- 72. Such activities should be additional to consultation events which will specifically discuss the problem being addressed, preferred options and details of the scheme being taken forward.
- 73. General, non-scheme specific flood awareness raising activities are not eligible for capital grant funding and should be paid for through revenue funding.

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³ https://gov.wales/well-being-future-generations-act-essentials

7. VARIATIONS

This section sets out how variations to schemes costs and timings outside of what has been agreed in the Grant Offer Letters are dealt with.

- 74. From April 2019 for the Small Scale Works Grant (Local Authorities only), the Welsh Government will no longer accept applications for additional funding for schemes and any increases will need to be funded by the Local Authority to complete a scheme. Welsh Government reserve the right to claim back grant on incomplete schemes.
- 75. In setting this position, the Welsh Government is passing the risk back to RMA's and reinforcing their responsibility to produce more accurate cost estimates. Any increases in cost, for schemes within the Small Scale Works Grant, compared to Grant Offer Letter will need to be funded by the RMA.
- 76. It is the responsibility of the RMA leading a scheme to appropriately assess all risks and, evidence these risks, when making applications for FCERM Grant Funding.
- 77. Requests to increase grant on the construction phase of schemes within the Coastal Risk Management Programme will also not be considered.

Requests to vary grant

- 78. For grants issued prior to 1st April 2022 to local authorities: With the exception of schemes within the Small Scale Works Grant, where costs have increased from the agreed figures, Local Authorities will be able to submit a Variation Order (VO) to Welsh Government to consider increases in the approved expenditure of a scheme. and therefore the amount of grant funding offered
- 79. For NRW, a Supplementary Expenditure Request (FORM G) should be submitted to Welsh Government to consider significant increases in the approved expenditure of a scheme. This should be done immediately when it appears forecast expenditure is likely to exceed the total costs approved.
- 80. For grants issued after 1st April 2022 to local authorities: Variations for increases in the agreed expenditure should be requested via the authorities RPW online account.
- 81. These variations should outline the expected extra costs along with clear supporting evidence of the need for such increases and reasons for the increase. The RMA should also set out what they have done prior to or during the grant period to minimise risks and reduce the likelihood of cost increases.
- 82. Such requests will be considered by the Welsh Government FCERM Branch and, if approved, a Variation Letter to the Grant Offer Letter or contract will be issued, either directly from the branch or for grants starting after 1st April 2022, issued via RPW online. Without this agreement any grant beyond the period within the Grant Offer Letter/contract will not be available to the grant recipient and if a scheme is incomplete the Welsh Government reserves the right to request any funding paid to be returned.
- 83. Failure to seek approval for additional grant funding at the appropriate time could result in claims not being paid. It is important to ensure the terms of agreement with

- any consultant who may be employed for a scheme takes the above requirement into account.
- 84. The Welsh Government reserves the right not to approve funding additional to that which was included within the original Grant Offer Letter/contract or scheme approval.

Requests to vary timing of a scheme (this section applies to Local Authorities only)

- 85. Any requests to extend the deadline for completion of the scheme which extends beyond the end of the Grant Offer Letter/contract needs to be made to the Welsh Government FCERM Branch prior to the grant expiry.
- 86. For grants issued prior to 1st April 2022 this should be done by submitting a Variation Order to the Welsh Government FCERM branch. For grants issued after 1st April 2022, this should be done via the authorities RPW online account.
- 87. Such requests will be considered by the Welsh Government FCERM Branch and, if approved, a Variation Letter to the Grant Offer Letter/contract will be issued, either directly from the branch or for grants starting after 1st April 2022, issued via RPW online. Without this agreement any grant beyond the period within the Grant Offer Letter/contract will not be available to the grant recipient and if a scheme is incomplete the Welsh Government reserves the right to request any funding paid to be returned.

Request to vary the work being undertaken

- 88. In some cases, it may be necessary to vary the type of work being undertaken at business case stage. This may be a change from an Outline Business Case to a Business Justification Case, or vice versa. This should only be considered following discussion with the Welsh Government FCERM Technical team.
- 89. Following discussion with Welsh Government, a variation order should be submitted, either directly to the branch for grants issued before 1st April 2022 or on RPW for grants issued after 1st April 2022 for a formal change of grant.

Request to vary the scheme at construction stage

- 90. Projects must be carried out in accordance with the option approved in the Business Case for which grant has been provided.
- 91. Variations to the scheme may be permitted provided they relate to detail, do not modify the concept of the scheme and are approved in writing by the Welsh Government prior to the variation occurring. For grants issued prior to 1st April 2022 this should be done by submitting a Variation Order to the Welsh Government FCERM branch. For grants issued after 1st April 2022, this should be done via the authorities RPW account.
- 92. An alteration of concept includes instances where change could;
 - breach the terms and conditions of the grant,
 - alter the overall objectives or benefits of a scheme.
 - alter the standard of protection of a scheme,
 - extend a scheme beyond its original proposed limits,
 - affect the expected life of a scheme,

- be open to objection,
- result in a significant change to the environmental impact of a scheme, or
- substantially increase the costs.
- 93. If such a variation results in a significant change to the environmental impact of a scheme it will be necessary to re-advertise in accordance with the statutory environmental assessment procedures.
- 94. It is important to ensure the terms of agreement with any consultant or contractor who may be employed for a scheme takes the above requirements into account.

8. CLAIMING FCERM CAPITAL GRANT FUNDING

This section sets out the process for claiming FCERM Grant funding and applies to Local Authorities only

- 95. The payment of grant is subject to an Authority carrying out an approved project in a satisfactory manner and observing all the conditions set out in this Memorandum and the Grant Offer Letter or contract.
- 96. Payments will normally be made to the Authority's bank within one calendar month of the receipt of a claim and all supporting evidence required under the terms of the award of the grant.
- 97. Grant funding is paid to Local Authorities in arrears and subject to provision of information set out within the guidance set out in Annex I and the requirements of the Schedules of the Grant Offer Letter/contract.
- 98. For grants issued prior to 1st April 2022, interim and final claims should be submitted by the deadline, using the templates provided together with all supporting documents and send via email to the Welsh Government at:

 FloodCoastalRisk@gov.wales
- 99. For grants issued after 1st April 2022, claims and supporting information should be submitted online through the authorities RPW account.
- 100. Claims submitted without the relevant supporting information will not be paid.
- 101. Grant payment may be withheld where the Welsh Government considers a claim has arisen as a result of negligence or damage which was otherwise avoidable.

Claims for Interim Payments of Grant

- 102. Interim grant payments are paid in arrears against costs incurred.
- 103. Interim claims must be supported with a progress report to include details of the work done since the last claim, future work planned and forecast spend to cover the rest of the grant approved period.
- 104. Failure to follow these requirements and the grant terms and conditions could result in delays in releasing grant payments, or the Welsh Government disallowing items of expenditure as being ineligible.
- 105. Claims are invited from Local Authorities four times a year, the dates for which are outlined in the Grant Offer Letters/contracts.
- 106. Claims must be submitted by these deadlines. Late submissions are at risk of not being accepted. Where claims are not being submitted, there is a requirement to provide a progress report by the deadline given for **every** claim period.
- 107. The Welsh Government will pay up to 95% of grants for SOC/OBC/BJC/FBC until the Business Cases have been received.

Claims for Final Payments of Grant

- 108. Applications for final payment of grant can be made once a scheme or study is complete, all costs have been incurred and in the case of business cases, reviewed. A final claim should be accompanied by progress report including photographs of completed works where appropriate.
- 109. Final claim forms should not be submitted until the review of the business case has been completed and you have been notified of this.
- 110. Supporting evidence for final claims in the form of invoices will no longer be required with the exception of the construction stages. However, Welsh Government will review a sample of final claims each year, requesting full evidence from local authorities following the end of each financial.
- 111. To ensure all costs claimed are eligible, the final claim of a construction grant (excluding small scale works) must be accompanied by a breakdown of the contractor's final costs.
- 112. Final claim forms must be signed by an officer authorised to do so within the Local Authority.
- 113. Failure to follow these requirements and the grant terms and conditions could result in delays in releasing grant payments, or the Welsh Government disallowing items of expenditure as being ineligible.
- 114. Where appropriate, documentation to support land purchase and compensation payments must be provided otherwise grant may be forfeited or recovered.

Deadlines for the Submission of Final Claim

- 115. The authority must arrange for a final claim to be submitted to the Welsh Government within:
 - 6 months for SOC/OBC/BJC/FBC from the date the report is approved by Welsh Government.
 - 18 months following the completion of a construction scheme.

For the purposes of this section, "scheme completion" shall mean the issue of the Certificate of Completion in accordance with the ICE Conditions of Contract or the equivalent under any other approved contract.

116. The Local Authority must inform the Welsh Government when the scheme has completed through quarterly progress reports.

Accounts

117. All documentation relating to each approved scheme must be kept by the authority for 7 years from the Welsh Government's approval of the final account and be made available for inspection by an officer of the Welsh Government or other nominated person.

9. CONSULTATION

- 118. Authorities are advised to consult the Welsh Government FCERM Branch, as soon as possible when first considering any flood or coastal erosion risk management project for which grant funding may be sought.
- 119. Authorities are also advised to consult NRW, adjoining or impacted Local Authorities including their planning authorities and other operating authorities such as Network Rail or Dŵr Cymru Welsh Water, where appropriate, well in advance to ensure environmental considerations are integrated with engineering and economic objectives from the outset.
- 120. FCERM BCG requires RMAs to undertake stakeholder engagement at each stage of the Business Case development process. Further details on the consultation required at each stage of a Business Case and the development of a project is contained within the Business Case Guidance.
- 121. Consultation with the public should be considered at all stages of the development and construction of a scheme and is grant eligible. Feedback received should be taken on board and reported within the relevant Business Case.
- 122. No decision or work should be undertaken which would result in an increase in risk to a community without full public consultation with those who currently benefit from an existing asset or defence. This includes changes in the maintenance regime of an asset which may result in an increase in risk.
- 123. All schemes carried out should be in line with Flood Risk Management Plans, Local Flood Risk Management Strategies, and the National Strategy.
- 124. For coastal projects, liaison with Coastal Groups is advised to ensure consideration of the policies within the Shoreline Management Plans. The Wales Coastal Monitoring Centre should also be contacted to discuss existing data and future monitoring. Consultation should always include adjoining coastal authorities and NRW.
- 125. Local Authorities must consult with NRW if any planned work will be carried out in a watercourse. NRW should be informed before this work goes ahead and Local Authorities must show Welsh Government this has been done.

10. ENVIRONMENTAL REQUIREMENTS

Environmental Impact Assessment

- 126. FCERM construction projects should aim to avoid adverse impacts on the environment and where possible seek to achieve environmental improvements.
- 127. The Town and Country Planning and Marine and Coastal Access legislation sets out the statutory environmental assessment requirements for FCERM projects.
- 128. It is also important to note the requirements of SI 1999/1783 Environmental Impact Assessment (Land Drainage Improvement Works) Regulations 1999 as amended. The Regulations apply when a Planning Authority deem proposed flood risk work to be permitted development under the Town and Country Planning Act.
- 129. Objections as a result of notices have paramount importance. Authorities should instigate discussions with objectors and attempt to reach agreed solutions. However, if an objection is not withdrawn or resolved, the objector should state this in writing to Welsh Government for determination at the following address:

Flood and Coastal Erosion Risk Management Branch, Welsh Government, Cathays Park, Cardiff, CF10 3NQ FloodCoastalRisk@gov.wales

130. Authorities must be able to demonstrate all statutory environmental assessments and processes have been satisfactorily completed and any objections determined prior to commencement of construction.

Compensatory Habitat and National Habitat Creation Programme

- 131. Where a Habitat Regulation Assessment for a proposed Welsh Government FCERM funded scheme identifies an adverse impact on the integrity of a Natura 2000 site, and it is determined compensatory habitat is required, this is provided through the National Habitat Creation Programme (NHCP), managed by NRW. The requirements for such compensatory habitat should be identified in advance of construction work within Business Cases.
- 132. Where opportunities for habitat creation are available and identified as part of a scheme, this could be grant eligible. The provision of land, qualitative habitat improvements or support to NHCP would strengthen a Business Case and may provide wider biodiversity and amenity benefits.
- 133. RMAs should contact the NRW National Habitat Creation Programme Manager to discuss compensatory habitat for any losses associated with a scheme.
- 134. Further detail on the NHCP can be found here.
- 135. Wherever possible we want to see FCERM schemes avoid the loss of trees and established hedgerows in their construction, however we recognise this is not

always possible. Where no other option is appropriate and tree loss is essential for the work to take place, the RMA must ensure that at least the same number of trees or length of hedgerows, and ideally significantly more, are planted to replace those lost.

11. GENERAL CONDITIONS

Branding and Interpretation Boards

- 136. Where appropriate, all construction works for FCERM schemes where grant funding has been provided by Welsh Government should reference this in some form of permanent plaque or board which includes the Welsh Government logo.
- 137. In addition, construction signboards or other publicity material published about the works, including magazine articles and press notices etc. should include reference the works were grant funded by the Welsh Government.
- 138. Any plaques/boards erected referencing Welsh Government funding are eligible for grant and should be included within an application for funding.
- 139. Where appropriate, the Welsh Government encourages the inclusion of interpretation boards as part of a scheme informing the public about what the scheme does and the flood risk in the area, which could include information on climate change and the impacts. The costs associated with such boards are eligible for grant funding and should be included within an application for funding.
- 140. All branding and interpretation boards must be produced bilingually with the Welsh text positioned so it is likely to be read first. Further information on branding guidance and requests for copies of logos is available through Welsh Government branding team: brandingqueries@gov.wales

The Authority's Obligations to obtain consents

141. It is the responsibility of the Authority to obtain all necessary consents, planning approvals, environmental clearances etc. as set out in Annex I.

Commencement and Completion of Works

- 142. The Authority must notify the Welsh Government the date when works on site commence and are completed through the agreed reporting process.
- 143. Approval of a project will normally lapse if work associated with the grant funding does not begin promptly after the issue of the Grant Offer Letter/contract. Any delay to planned start dates must be notified to the Welsh Government, setting out the expected impacts on delivery timescales and funding drawdown.

Maintenance

- 144. All grant aided FCERM works must be properly maintained and necessary repairs adequately and promptly carried out. Failure to do so will be taken into account in the assessment of any future grant aid application.
- 145. Any scheme funded through Welsh Government FCERM grant funding remains the responsibility of the Authority who built it to take on future maintenance and the associated costs. The costs associated with maintenance should be clearly set out within the Business Case in line with the FCERM Business Case Guidance.

Cancellation of Approved Projects

- 146. Grant is conditional on the project being carried out as approved.
- 147. If an Authority proposes not to complete an approved project, the Welsh Government must be notified in writing immediately with a full explanation of the reason. In these circumstances, the Welsh Government may require the Authority to repay any grant which has been made and/or withhold any grant payments which would otherwise be payable.

Post Construction Evaluation

- 148. Authorities are encouraged to undertake Post Project Evaluations on all schemes receiving Welsh Government FCERM funding. Once construction is complete for new capital schemes or capital maintenance, where appropriate, modelling should be undertaken to provide NRW the model output data required to update flood maps. This should be done in line with the modelling specification in Annex III or through discussions with NRW.
- 149. All post construction modelling and evaluation is grant eligible and costs should be included within the business cases and applications. These will help to improve project appraisal, design, management and implementation and to obtain maximum benefit from accrued experience. This is a requirement within the Business Case Guidance and should be shared with Welsh Government FCERM Branch on completion.
- 150. Following construction, the final details of a scheme carried out should be submitted to NRW within 6 months of completion. This information will be included within the National Asset Database by NRW or the database should be updated locally when available. The data required is provided in a link to the NRW website in Annex IV.

Access to Works

151. The Authority must ensure there is provision for an officer of the Welsh Government or any other nominated person to enter and inspect, at all reasonable times, the works which are grant funded.

12. OTHER FUNDING

Funding for Emergency Works

- 152. Where possible, and with appropriate evidence of need, the Welsh Government FCERM Branch will consider providing funding to support repair works to FCERM assets following a flood event.
- 153. Emergency funding is intended for repairs to assets which reduce risk to homes and businesses. Work to assets reducing risk to roads or other infrastructure remain ineligible, unless otherwise advised by the FCERM Branch and upon the agreement of Welsh Ministers. Costs associated with recovery and clean up are also ineligible through the FCERM grant.
- 154. Post-flood/emergency funding is not guaranteed and is subject to availability of funding from annual budgets.
- 155. Funding can only be provided to support work where the Welsh Government has been made aware of the flooding issues and any properties affected. This demonstrates the importance of reporting flooding incidents to Welsh Government meaning the need is evidenced and conversations around support can start as soon as possible.
- 156. In an emergency, for example where urgent repairs are needed following a flood/storm event and any delay would put lives or assets at additional unacceptable risk, requests can be made to the Welsh Government in writing for "Without Prejudice Consent" to allow urgent works to start prior to formal grant approval being granted. In such cases, the Welsh Government FCERM Branch must be notified by email immediately of the date of commencement of works on site and a formal application for grant must be submitted as soon as practicably possible.
- 157. RMAs should use their powers to undertake repairs or otherwise manage flood or coastal erosion risk where they deem it appropriate. This may extend beyond repairs to their own assets where there is an immediate risk to life.

Small Scale Works Grant (this section applies to Local Authorities only)

- 158. The Small Scale Works Grant provides a simplified process for Local Authorities to access capital funding without having to proceed through the business case route.
- 159. This grant will see a set amount allocated from annual budget each year as proposed by the Flood and Coastal Risk Programme Board and agreed by the Minister.
- 160. Application will be submitted through the local authorities RPW online accounts upon invitation from Welsh Government FCERM Branch. Guidance for this grant is published online and is available here.

Claims must be submitted in line with the dates provided in the contract and must be sent via the authorities RPW online account.

161. The simplified application process for Small Scale Schemes means funding is awarded in advance of design and construction commencing. Local Authorities are not required to provide the evidence shown in Table 1 in advance of agreeing funding, however they are expected to comply with all necessary statutory consents and approvals when delivering these schemes.

ANNEX I – Grant application procedures and necessary documentation

This section details the supporting information required for different types of application, as described in this Memorandum.

In all cases the supporting information supplied should be appropriate to the type and scale of the proposed project.

The Welsh Government FCERM Branch will use the submitted information to undertake their assessment and prepare reports for internal Welsh Government decision-making, approval and audit procedures.

Strategic Outline Cases, Outline Business Cases, Business Justification Cases and Full Business Cases should be written in line with the Flood and Coastal Erosion Risk Management Business Case guidance and submitted on the templates included within that guidance.

The guidance below sets out the documentation necessary to support applications for grant funding.

Business Cases:

Applications for carrying Strategic Outline Case, Outline Business Case and Business Justification Case must be supported by the following information. This information must be provided with the annual applications to the pipeline via RPW online to support with the prioritisation of funding:

- Reasons for wanting to carry out a SOC/OBC/BJC, including the level of risk
- Location plan
- History of flood incidents in the area of the proposed study when these occurred, what was the cause, number of properties affected (any section 19 reports and photos of past flood events would be useful)

Construction:

Applications for grant for construction must be supported by the following:

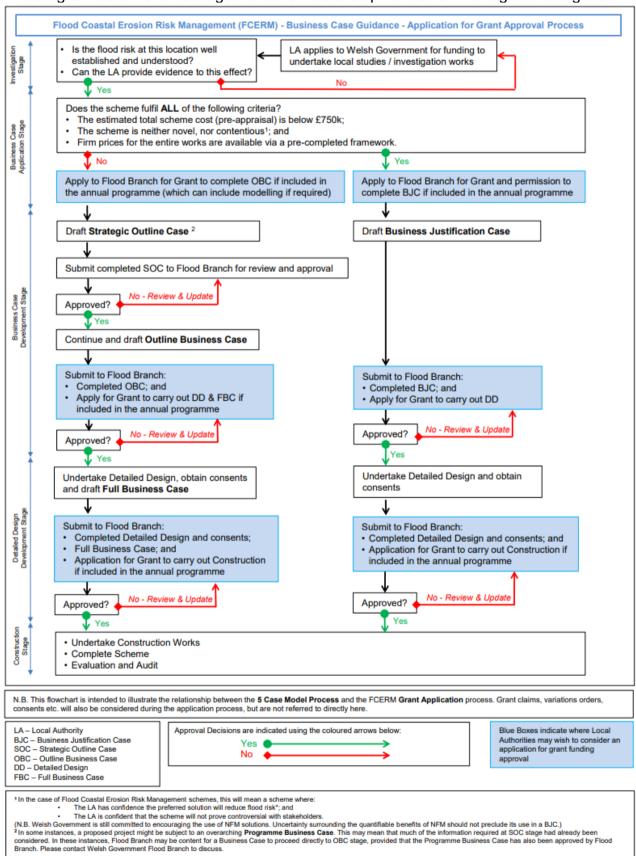
Table 1

Fluvial/land drainage schemes	Coastal Schemes
Application submitted through RPW	Application submitted through RPW
account	account
Confirmation the proposed scheme is	Confirmation the proposed scheme is
essentially as previously agreed in	essentially as previously agreed in
principle in the OBC/BJC	principle in the OBC/BJC
Planning Consent or the planning	Planning consent
authority's confirmation the scheme is	-
consider as permitted development	
If permitted development - copy of public	Marine Licence
notice in accordance with the	
Environmental Impact Assessment (Land	
Drainage Improvement Works)	
Regulations – and report on	

representations received	
Ordinary Watercourse Consent	Copy of the published Coast Protection Notice and report on representations received
Evidence of consultation with NRW under Section 23 Land Drainage Act (as amended). Or confirmation proposed scheme is consistent with the published local Flood Risk Management Strategy	Copy of Coast Protection Act Approval
Any other statutory consents required to carry out the works.	Any other statutory consents required to carry out the works.
Confirmation Land agreements are in place to enable construction	Confirmation Land agreements/Crown Estates agreement are in place to enable construction
Report on public engagement for the scheme and any issues arising	Report on public engagement for the scheme and any issues arising
General Arrangement Drawings	General Arrangement Drawings
Tender Appraisal Report	Tender Appraisal Report
Copy of successful tender	Copy of successful tender
Evidence NRW have been notified of work taking place in a watercourse	

ANNEX II - Stages of grant funding and scheme development

The diagram below shows stages of scheme development and where grant is eligible.



ANNEX III – Modelling Specification

To ensure data produced using Welsh Government FCERM funding is consistent and can be combined with data produced by other RMA's to map updates to flood maps, including showing areas benefiting from investment, the following specifications should be used when undertaking modelling for a project or coastal monitoring.

Rivers and Sea Modelling

All modelling carried out under FCERM Capital grant funding should be done in line with the specification provided by NRW and all data provided to NRW within 6 months of scheme completion to be included within updated flood maps. Submissions should be made to NRW through a formal Flood Map Challenge (Natural Resources Wales / Challenging our flood maps). Early conversations regarding modelling with NRW is encouraged at the Business Case stage. If you do not feel the modelling specification is appropriate for your scheme, please discuss with the Welsh Government FCERM Branch in advance of commencing the scheme.

The link to the NRW modelling specification can be found here: <u>Natural Resources Wales / Developing hydraulic models for flood risk</u>. For further information on this specification, please contact NRW.

To allow for updates to both rivers and sea risks Defended Areas within the Flood Risk Assessment Wales (FRAW) datasets, the minimum GIS information required by NRW must include outputs of the following:

- The area that is deemed to benefit from the defence (Polygon)
- Location and extent of associated defence or asset (Polyline)
- Standard of protection assigned to the scheme (Attribute data) as per Annex IV

Small Watercourse Modelling and Mapping

Watercourses with a catchment area <3km² are not included in the core modelled output for the FRAW map. Should a Local Authority wish to update the flood map for these areas, this should be done in consultation with NRW.

Surface Water Mapping

At this time, updates to the Surface Water mapping is not possible however, a pilot study is being undertaken to explore how this could be done.

Once a specification has been published, all future Surface Water modelling should provide the required information to be incorporated into any future Surface Water mapping updates.

Coastal Erosion Monitoring

Any coastal erosion monitoring work undertaken by a Local Authority or NRW utilising Welsh Government FCERM funding must be done using the specification from Wales Coastal Monitoring Centre (WCMC) which can be found here. For further information on this specification, please contact WCMC.

ANNEX IV - Scheme data for National Asset Database

In order to maintain the National Asset Database and flood maps, information about new assets and changes/improvements to existing assets is needed. For any work undertaken utilising Welsh Government FCERM funding, the data should be submitted to NRW within 6 months of the completion of a scheme. The NRW website provides further information about what is needed.