

BLAKE   
MORGAN



## Environmental legal update - Early autumn 2018

John Mitchell, consultant, Regulatory

# Japanese knotweed case

- Two bungalows back on to a railway line
- Railway line is choked with Japanese knotweed
- The knotweed encroached on the bungalows' land but had not yet caused damage
- Network Rail refused to remediate
- Owners sued NR in nuisance and succeeded
- The court ruled:
  - No need for actionable damage to be proved
  - All that is needed is proof of encroachment

# Meaning of the term 'recovery' in WFD

- Recovery is a concept which plays a large part in the Waste Framework Directive
- Also in the Waste Regulations
- It appears in the waste hierarchy
- Defined in the WFD, but not in case law until now
- *Neal Soil Suppliers Limited & Others v Natural Resources Wales Ltd*
- The issue was the point in time at which 'recovery' could be said to have commenced or happened

# EIR decision by ICO

- Jargon buster:
  - *Environmental Information Regulations*
  - *Information Commissioner's Office*
- EIR allows/requires disclosure of environmental information subject to exceptions
- One exception is 'confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest'
- The decision in Gloucestershire County Council (June 2018) now provides guidance

# First enforcement undertaking for odour

- Enforcement undertakings are a form of civil enforcement of breaches of certain environmental laws, e.g:
  - Breach of environmental permitting regulations
  - Breach of packaging waste regulations
- Most have been for packaging waste and water pollution
- This is the first for odour – breach of the odour conditions of an environmental permit

- EA has published its [civil penalties dataset](#)
- Includes 15 companies fined for failure to comply with ESOS
- Total value of penalties = £157k
- Highest £45k

# Access to the EU's REACH database

- Jargon buster: *Registration, Evaluation, Authorisation & restriction of CHemicals*
- The REACH process has resulted in a huge database of knowledge about harmful chemicals
- When the UK leaves the EU it will no longer have access to it
- In July Therese Coffey (Environment Minister) suggested that the simple solution would be to download it
- The EU has explained why that would be legally impossible



# Chemicals after Brexit

- HSE will take over the role of ECHA
- UK holders of REACH registrations will have:
  - Grandfather rights if they provide basic info within 60 days
  - 2 years to make a full application to HSE
- UK importers of EEA registered chemicals will:
  - Be able to continue to import if they provide basic info within 180 days
  - Have to apply for full registration ‘at a later date’



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# Beasts and Barbecues

What could businesses do in a changing climate



**UKCIP**



**Heatwave shuts GP surgeries ++ Hospitals in chaos  
++ Rail lines buckle ++ Unions demand flexible hours  
++ Suncream's running out ++ AND it's getting hotter**

# **BRITAIN'S IN MELTDOWN!**



So much for our barbecue summer

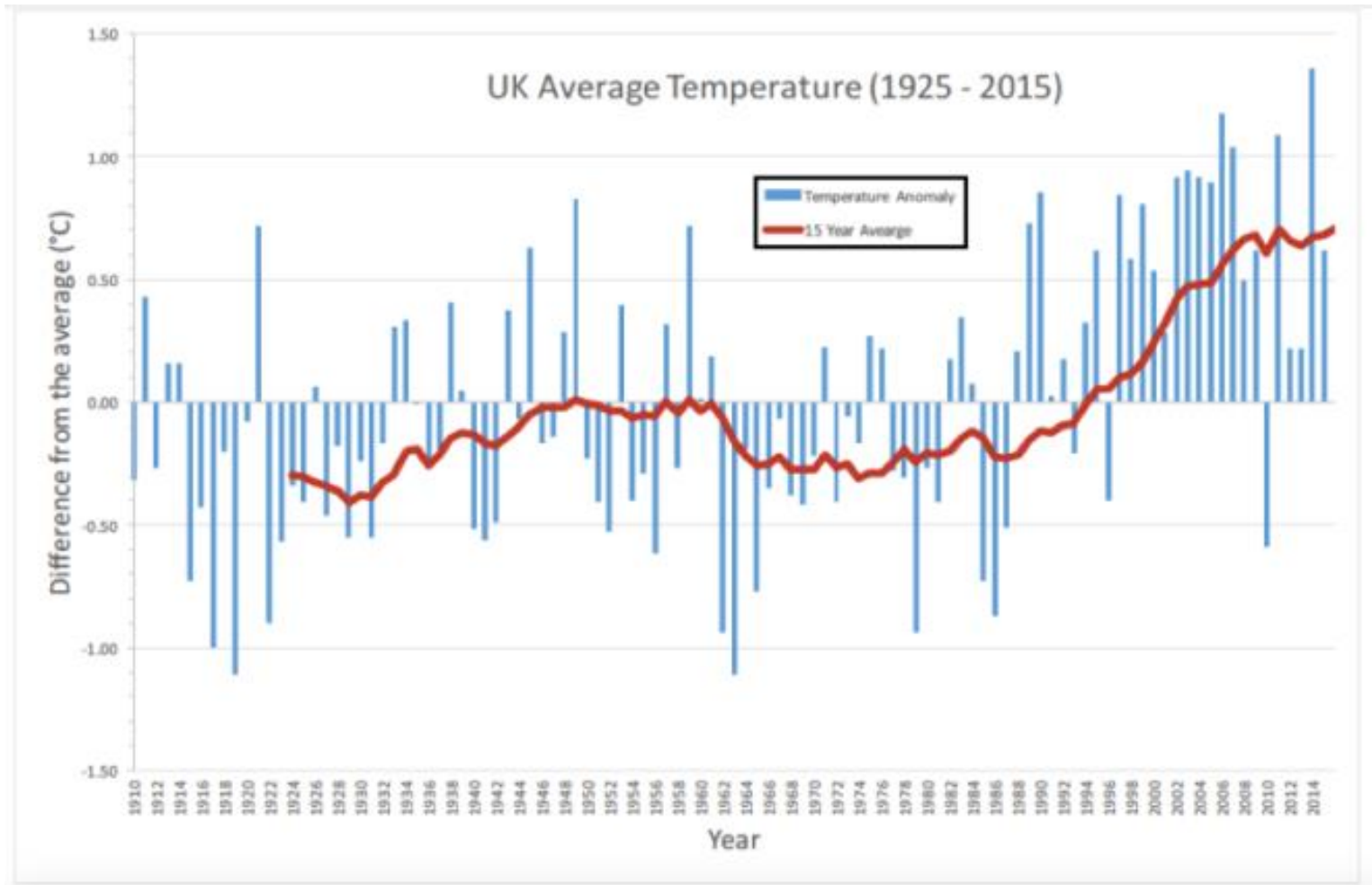


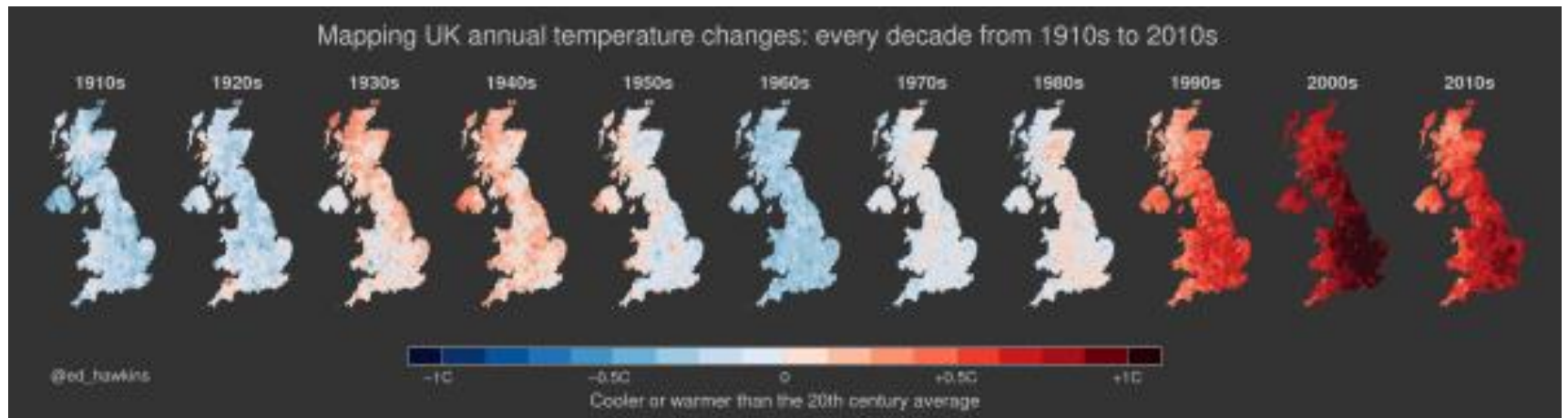
## **THE BEAST**

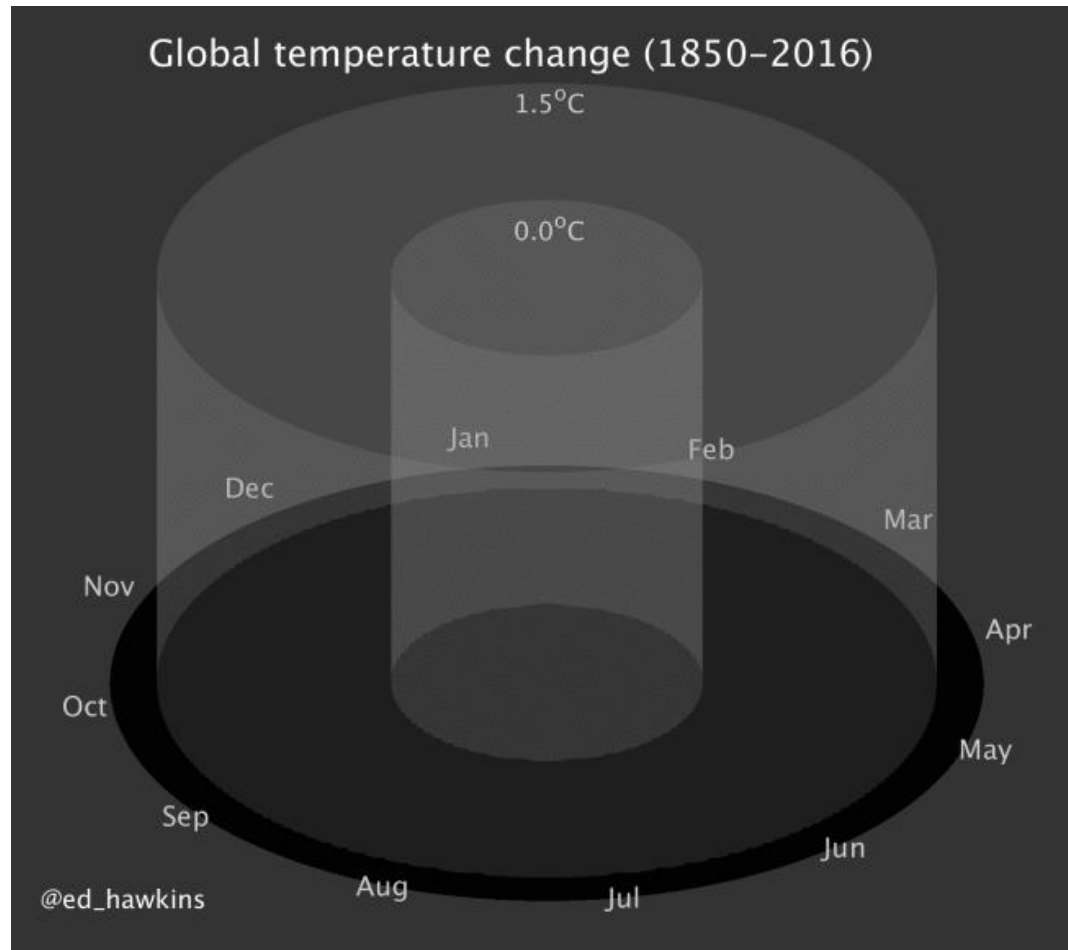
■ Moment monster weather snow bomb from the East hits the capital  
■ Siberian blast brings death to the roads and chaos across the country



# What are you planning for?

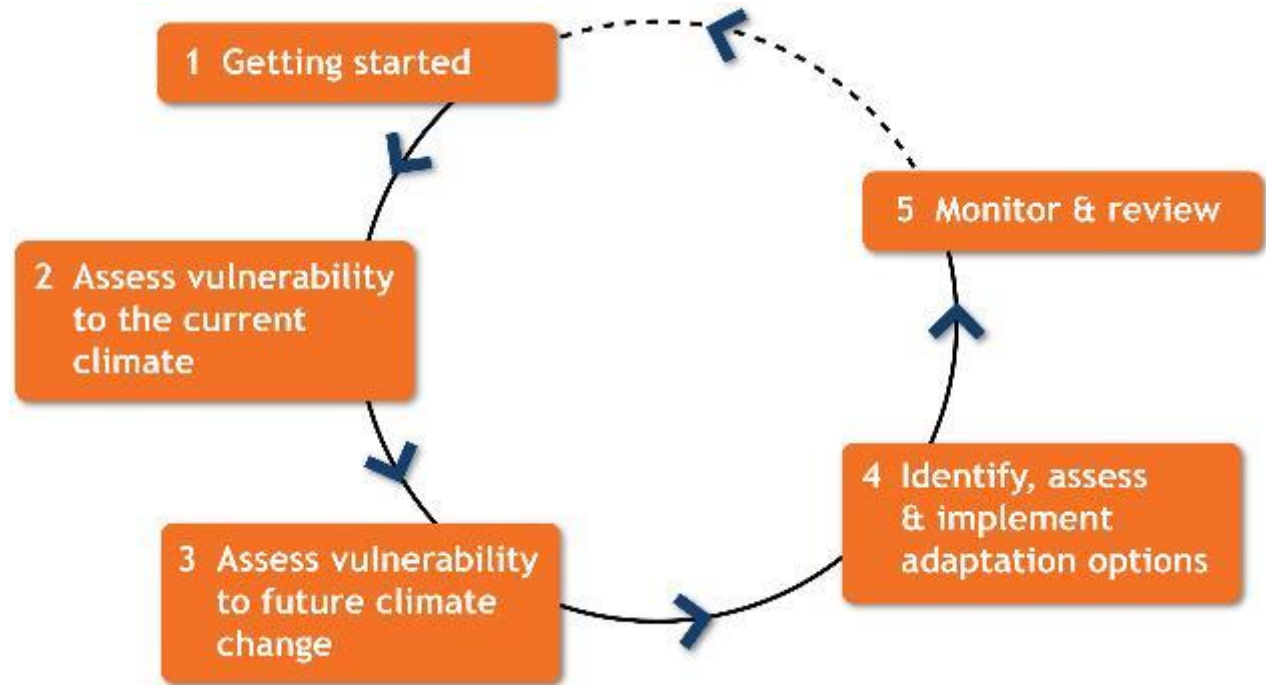








# Adaptation wizard - Risk-based approach







“I may not have gone  
where I intended to go,  
but I think I have ended  
up where I intended to  
be.”

(Douglas Adams)



PORTALS

**Bathford Mill**

# Flood management case study

October 2018

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PUBLIC



[portalspaper.com](http://portalspaper.com)

# Agenda

We're very pleased to present to you today a case study on Flood Management Planning, including:

- Tools we used for the climate change adaptation risk assessment and plan
- Preparing for the beast from the east!



Portals De La Rue

# New custodians

## The newest 300 year old paper mill

- Epiris acquired the paper business from De La Rue plc in early 2018
- Our relationship with De La Rue remains very positive and we will continue to supply them with paper
- Portals name is once again in use
- Proud to be an independent paper business, entirely dedicated to supplying the highest quality paper and service to the world's leading security printers.

## Our locations

# Proud to be British

### Bathford

- High security paper
- Wood pulp operation
- One paper machine
- 2500 tonne capacity

### Overton

- Banknote paper
- Cotton based operation
- Three highly flexible paper machines
- 14,000 tonne cap



## **We take our responsibility to manage the business in an ethical way seriously**

- We are proud to be the only dedicated papermaker accredited by the BnEI
- All of our employees and suppliers are committed to upholding our values and behaviours

**Our responsibilities**

# Operating ethically



## Using best practices and industry standards

- ISO 9001 (Quality)
- ISO 14001 (Environment)
- ISO 45001 (Health & Safety)
- Intergraf CWA 15374 (Security)
- PEFC Chain of Custody (Forestry Sustainability)



## Bathford Paper Mill





## Bathford Paper Mill ordinance survey

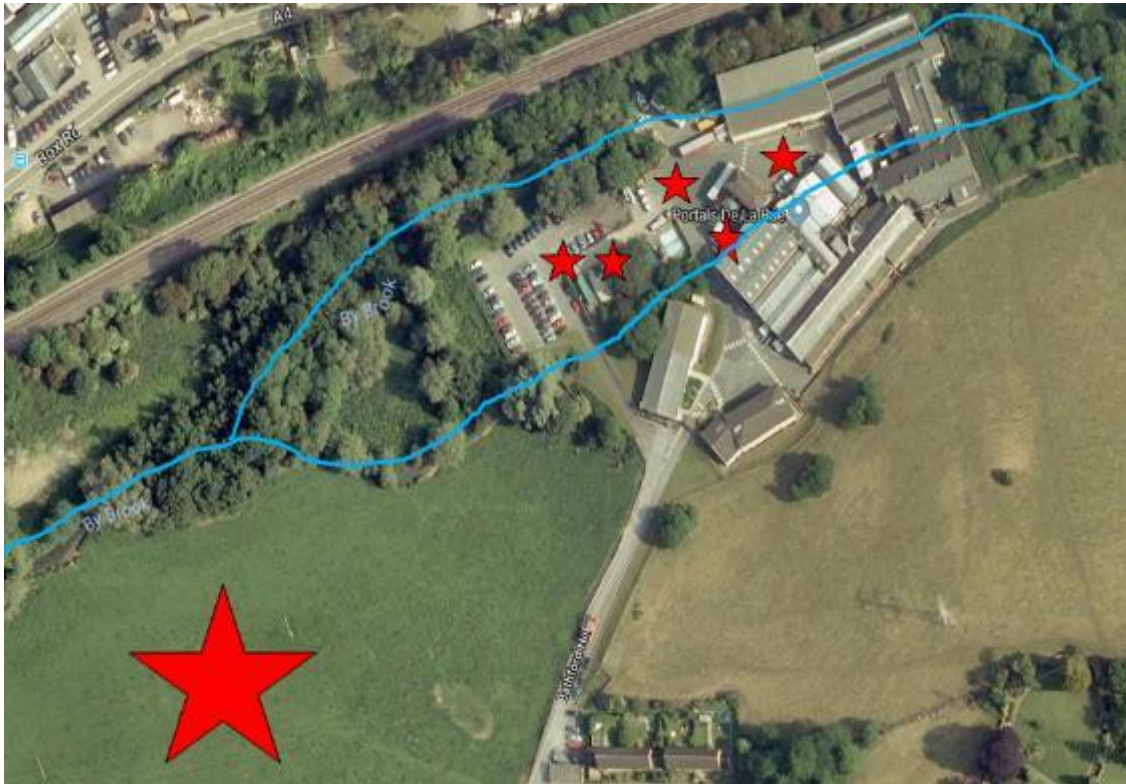


- Very steep hill to south
- Brook running alongside and underneath Mill

## Bathford Paper Mill



## Bathford Paper Mill – greatest flood risk areas



## Events of November 2012...

This is an extract from a report made following a major flood; it was the first time the flood management plan as it stands today was enacted.

**Monday 21<sup>st</sup> November** – ground in area surrounding the site sodden with continuing heavier downpours predicted together with **Environmental Agency flood warnings**. **Rugby pitch** adjacent to site has some standing water. Water levels in River By together with through mill head rising but still below **level 1 on bridge board**. **Regular water level checks instigated**.

**Thursday 22<sup>nd</sup> November** – continuing rainfall with **forecast** for more heavy rain. On the adjacent rugby pitch water level increasing. Water level board just below level 1 – In light of level and forecast **decision taken to instigate level 1 action and relocate pulp to higher ground / clays together with other items to be distributed to safe areas across the site i.e. prep store area and loading bay. Cores relocated to spoil area / two trailers requested & received from DJB for additional storage.**

## Events of November 2012...

**Friday 23<sup>rd</sup> November** – Rainfall had abated but weekend forecast and EA warnings indicated problems likely to continue into weekend. Rugby pitch under water with level nearing crossbar of posts. Water level around level 1 mark / River By bank overflowing at bottom of mill by old entrance footbridge together with footpath leading to Salle entry door under water. Flooding experienced to side of machine house by fields due to silt blocking drains and excess water coming off hill field.

Level 1 actions continued including regular river board checks and placement of sandbags to vulnerable points. Canteen vending machines raised. Decision made to continue production into weekend.

**Saturday 24<sup>th</sup> November** – no further actions taken as water levels dropped slightly however expectation was for further flooding due to predicted rain storm due overnight and high winds.

**Sunday 25<sup>th</sup> November** – 9am water ingress into yard / level 2 reached on river board. Water continued to rise and when pulp store was breached the decision was made at 11am to cease production, invoking level 2 activity which necessitated raising motors and turning off some electrical supplies.

Water levels continued to rise during the remainder of the day before starting to recede late Sunday.

## Events of November 2012...

**Monday 26<sup>th</sup> November** – Waters had receded to the point that pulp store could be cleaned and motors restored. Boiler was re-fired late afternoon and other cleanup work continued. Production restarted early hours of Tuesday morning.

### General comments

In broad terms the preventative actions instigated were in line with the **site flood plan (EProc- EMG-3)** worked effectively with losses limited to:

- Two motors (subsequently determined to require replacement anyway)
- Perimeter fence post (x2) damaged

**46hrs lost production**

### Learned lessons

**Meeting held** 30<sup>th</sup> November to review record and implement learnings from events of the last week.

## Events of November 2012...

### Key learnings:

- Revisited the flood management plan (changes in personnel, contact numbers)
- Changes in actions between level 1 and 2
- Permanent placement of vending machines on plinths (do not underestimate the importance of a good cup of coffee!)
- Person in charge onsite now implements level 2 actions, removing risk of confusion if doing this by phone to someone at home (i.e. cannot evaluate site personally) – so personal judgement still plays a part concerning when to trigger an action level.
- Site Security briefings on expectations and escalation process (and on location of keys and codes for restricted areas) – vitally important to maintain Security
- Flood defence barriers, sump pump etc installed
- Clean down activities reviewed for thoroughness

# Analysis





# Climate Change Adaptation Plans

Adjustments in natural or human systems in response to actual or expected climatic stimuli or their effects, which moderate or exploit beneficial outcomes

*- IPCC definition of Adaptation*



## Overton Paper Mill – 2012...

De La Rue Overton Mill climate change adaptation plan was drafted in 2012;

Minimising adverse impacts and identifying our strengths to maximise opportunities to:

- Our employees' health and wellbeing
  - Our business
  - Our communities
- 
- Used BACLIAT Risk Assessment Tool
  - UKPC09 climate projections (note November 2018 – update to UKPC18)
  - *But not CLARA*
  - Carbon Disclosure Project issued a report on Climate Change Adaptation take-up in business (dated 2012)
  - Basingstoke and Deane Borough Council Private Water Supplies Risk Assessment in 2013 *which led to an updated section on flood risk*
  - Paper Sector Climate Change Adaptation Guidance, from the Environment Agency

## The BEAST from the EAST...



## Preparations

# The BEAST from the EAST

Extreme temperatures – how to assess your vulnerabilities

1. Assess likely temperature thresholds that could affect the business (staff and processes)
1. Check that SUPPLIERS have adaptation measures in place for extreme temperatures (as do service providers and hauliers)
2. Check UK climate change projections (UKCP09)
3. HSE – check workplace temperature requirements

- Paraphrased Environment Agency guidance to the Paper Sector

## The BEAST from the EAST...

Key tips:

- Keep staff involved – toolbox talk the simple actions that help keep you safe
- Key staff availability – hire in some 4 x 4 cars and appoint competent drivers
- Staff organised their own alternative travel arrangements
- Keep staff informed of weather changes as they happen at work
- Snow days?
- Gritting – preventive!
- Snow clearance – reliable contractors, and also some staff. Equipment
- Fire escapes, steps and stairs

Possibly significant lesson is of resilience – for staff and for the site

### General Winter reminders:

- Lighting changes (clocks have gone back – how dark is it now?)
- Emergency lighting, heating
- Food and drink for staff that stay
- Sleeping bags
- Showers? Laundries?
- Slopes for FLTs / access to raw materials / movements of product

## Resources:

Health effects from temperature extremes <ul style="list-style-type: none"><li>• Thermal comfort</li><li>• Outdoor working (think about PPE also)</li><li>• Logistics in cold weather – what to think about</li></ul>	HSE website <a href="http://www.hse.gov.uk/temperature/thermal/managers.htm">http://www.hse.gov.uk/temperature/thermal/managers.htm</a> <a href="http://www.hse.gov.uk/temperature/outdoor.htm">http://www.hse.gov.uk/temperature/outdoor.htm</a> <a href="http://www.hse.gov.uk/logistics/slips-trips-bad-weather.htm">http://www.hse.gov.uk/logistics/slips-trips-bad-weather.htm</a>
UK Climate projections	UKCP18 out November 2018 – available at <a href="http://ukclimateprojections.metoffice.gov.uk">http://ukclimateprojections.metoffice.gov.uk</a>  Economic cost – CLARA is available at <a href="http://www.clara-project.eu/services/">http://www.clara-project.eu/services/</a>
Flood risk	Environment Agency Flood web pages  EDgE Project
Risk assessment tools	UKCIP BACLIAT vulnerability assessment tool can be found at <a href="https://www.ukcip.org.uk/wizard/future-climate-vulnerability/bacliat/">https://www.ukcip.org.uk/wizard/future-climate-vulnerability/bacliat/</a>