

Report to the Cabinet

Report reference: C-086-2008/09
Date of meeting: 2 February 2009



Portfolio: Civil Engineering and Maintenance.
Subject: Out of Hours Land Drainage Standby Service.
Responsible Officer: Kim Durrani (01992 564055).
Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To agree that the Council continues its out of hours land drainage standby service; and**
- (2) Subject to recommendation (1) to approve a District Development Fund growth bid of £8,400 for the continued provision of the Land Drainage Out of Hours Standby Service from April 2009 onwards.**

Executive Summary:

The Council has for the past 8 years operated an out of hours land drainage standby service for dealing with flooding emergencies. This service was established following the large scale flooding in 2000. This service guarantees the availability of land drainage engineers outside normal working hours to deal with any flooding emergencies in the District. The officers who take part in this service receive additional payment under the Council's out of hours working policy. In the past all payments to participating officers were made from the General Salary Fund. However when the Environment Agency entered into a contractual arrangement with the Council for management of main river assets in April 2006 the costs of the out of hours service was picked up by the Environment Agency under the new contract. This arrangement existed from 1 April 2006 until the end of the contract on 31 October 2008.

Cabinet has earlier authorised the continuation of out of hours land drainage standby service for a three-month period, until January 2009. This to seek time for clarification from the Environment Agency on continued payment of the out of hours service.

The Environment Agency has now responded and has declined to pay for the out of hours land drainage standby service provided by the Council because it does not believe the scope of the Council's land drainage standby service falls within the Environment Agency's main river responsibilities. It has further stated that it will endeavour to assist the District with flooding emergencies associated only with main rivers but can not guarantee a response as there may be competing priorities elsewhere.

There is currently no provision for the payment of this service in 2009/10 budget because it was anticipated that the Environment Agency would either take over the main river assets at the end of the contract or if the Council had been successful in it's tender bid then the Environment Agency would have continued to pay for the service, as it had been doing since April 2006.

Reasons for Proposed Decision:

To ensure continued provision of services to deal with the Council's flood alleviation schemes and assets. Failure to provide such service could make the Council liable if flooding could have been prevented had such a service existed.

Discontinuation of this service could potentially have a detrimental impact on the Council's reputation.

Other Options for Action:

It is possible to stop the current out of hours emergency response service. This will result in a lower quality service to the residents of the District and will increase the risk to the Council in the event of significant flooding. This is because the availability of trained land drainage engineers can not be guaranteed at all times, unless they are on standby and duty bound to respond. This will adversely impact the ability to respond to critical alarms raised on the Council's flood alleviation schemes.

That the Emergency Planning Team deals with out of hours flooding emergencies. They lack the land drainage knowledge and expertise to deal with electronic alarms raised on the flood alleviation schemes and the local knowledge to deal with requests from residents. This could expose the Council to a financial risk, if for example a contractor is mobilised to provide emergency assistance without a professional officers making a site assessment.

This is a key decision.

Report:

1. The District has two major river systems; the River Lee and the River Roding with their associated tributaries (main rivers) for which the Environment Agency is the responsible authority. In addition there are over 1,000km of Ordinary Watercourses, for which the Council is an enforcement authority under law.

2. The Council has taken flooding very seriously and has made significant financial commitments towards construction of flood alleviation schemes, either on its own or in partnership with others, notably the Environment Agency. These include Loughton Brook Flood Storage Reservoir in Loughton, Thornwood Flood Alleviation Scheme in Thornwood (both constructed in partnership with the Environment Agency), Church Land and Thornhill Flood Alleviation Schemes in North Weald constructed by the Council on its own.

3. In addition to the larger schemes other smaller flood alleviation works have also been carried out. The Council is currently in the final year of a three-year programme of works for flood alleviation improvement and enhancement. These works will reduce the risk of flooding to residents.

4. Three of the Council's four flood alleviation schemes have remote sensing electronic equipment, which requires specialist knowledge to respond to (e.g. if a flood water level alarm is raised by the system an engineer has to access the system and plan an appropriate response).

5. The out of hours standby service was established in 2000 following the widespread flooding of October 2000. This service guarantees the availability of a qualified land drainage engineer to deal with alarms raised by the Telemetry systems on the Council's flood alleviation schemes, requests by residents for assistance with flooding emergencies,

requests for assistance from professional partners and the mobilisation of land drainage contractors to deal with emergency clearance works or deployment of sand bags.

6. The Environment Agency is of the view that their powers to assist the Council or any other riparian owners (river bank land owners) are permissive and although they have paid for the Council's out of hours service in the past they are not proposing to continue this. They are of the view that where the Council is the riparian owner (e.g. flood alleviation schemes) it would expect the Council to carry out its riparian owner responsibilities by managing flood risk and responding to local flooding emergencies.

7. The residents of the District expect this level of service from the Council and although the Environment Agency has paid for this service during the last few years, which has assisted the Council and there have been General Fund savings. Termination of this service will be a retrograde step.

8. The Council emergency plans in relation flooding incidents rely in part on the expertise of the Land Drainage Engineers who, are best placed to advise on whether a flooding incident is likely to escalate. In the event that the Council is unable to provide assistance in dealing with flooding emergencies it may find itself liable if it is proven that flooding occurred from a Council owned, built or managed asset.

9. It is worthy of note that this situation would have probably arisen even if the Council had been successful in its bid to the Environment Agency for the maintenance etc of main rivers. However, due to the additional resources that would have been available, it may have been possible to contain the costs of the call-out within the operational budget.

10. When Cabinet last considered this issue, it was agreed to maintain the current standby arrangements until the end of January 2009, utilising existing salary underspends. This can be continued until the end of March 2009 on the same basis.

Resource Implications:

The out of hours emergency response service will cost £8,400 per year. This is based on the salary of officers taking part in the standby and an estimate of the types of response required (site visits etc)

The costs of the service between now and the commencement of the new financial year to be met through the use of the existing salary underspend within the Environment & Street Scene Directorate.

Legal and Governance Implications:

The Council remains riparian landowner for three of the four flood alleviation schemes as they are built on land owned by the Council. The fourth site is within the Epping Forest and for which the Council has entered into a legally binding agreement with the Corporation of London ensuring its ongoing maintenance and bio diversity.

As a landowner and the authority that constructed these assets, the Council has a duty of care to ensure that these do not cause flooding and the ability to deal with alarms raised during out of hours is a key element in managing these assets.

Although flooding is a natural occurrence if the Council is seen to fail in managing its assets or responding to emergencies it may find itself liable to a third party.

Safer, Cleaner and Greener Implications:

The Council is committed, through its Safer, Cleaner, Greener initiative to protect the public, as far as is practical, from the effects of flooding. With no out of hours service this may put some of these commitments in jeopardy.

Consultation Undertaken:

Emergency Planning team on ability to absorb land drainage standby.
The Environment Agency on the continued payment of the Council's out of hours service.

Background Papers:

Previous Cabinet papers on tender to the Environment Agency.

Impact Assessments:

There are no equality and diversity issues related to the recommendations.

The Civil Contingencies Act 2004 requires Local Authorities to undertake assessments of the risks that appear within their area and to publish these in a Community Risk Register. The assessments produce a risk rating that is used to inform and prioritize local emergency planning work.

This document is an assessment of the risks faced within the Epping Forest District boundaries and the register assesses risks as very high, high, medium and low. The two most significant risks likely to affect the District as identified in the local risk register are flooding, fluvial (river) and pluvial (surface water) and pandemic flu. Flooding carries a medium to high risk.

Having identified these risks the Council has a duty to mitigate the likelihood of the risk occurring and in the event it does occur the impact that it will cause.