

Report to the Cabinet

Report reference: C-018a-2011/12
Date of meeting: 12 September 2011



**Epping Forest
District Council**

Portfolio: Environment

Subject: Transfer of Private Sector Sewers to the Water and Sewerage Companies and the impact on the Council's Private Sector Drainage Team

**Responsible Officer: Qasim (Kim) Durrani (01992 564055).
Susan Stranders (01992 564197).**

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To note the transfer of most private sector sewers to Water and Sewerage Companies on 1 October 2011;**
- (2) To approve the deletion of post ETD/03, Drainage Technician, from the establishment when the fixed term contract ends in November 2011.**

Further recommendations in relation to this matter are set out in a separate report to be considered in the private session as they are likely to disclose exempt business under paragraphs 1, 2, 3 of Part 1 of Schedule 12A of the Local Government Act 1972 namely, information relating to an individual, likely to reveal the identity of an individual or relating to the financial or business affairs of any particular person.

Executive Summary:

On 1 October 2011, most private sewers and lateral drains in existence immediately before 1 July 2011 that drain into a public sewer will become vested in the appropriate Water and Sewerage Company. There are some drains/sewers that will not transfer or will transfer later. The Council employs two officers whose main duties are to deal with private sector drainage. After the transfer there is a diminished role for local authorities in dealing with the sewerage of their areas and it is considered that there is no longer a need to retain ETD/03, the Drainage Technician's post. Some residual work will remain and due to the personal nature of this matter, an additional confidential report is to be presented in part 2 of this Agenda.

Reasons for Proposed Decision:

Regulations to affect the transfer of most private sewers and lateral drains to the water and sewerage companies came into force on 1 July 2011. Because of the transfer, there is no requirement for the Council to retain two private sector drainage officers.

Other Options for Action:

- There are no options available with regard to the transfer or as to what systems transfer.

- The Council could retain the Drainage Technician's post ETD/03 but it is considered that this is not necessary.

Report:

1. Private sewers and lateral drains (i.e. those serving more than one property) are at present the responsibility of property owners and, in some cases, local authorities. The Government is going ahead with the transfer of ownership of most of the private sewers and lateral drains in England and Wales to the Water and Sewerage companies. It will bring about the biggest change in responsibility for sewerage services since 1937. The transfer is due to take place on 1 October 2011 (**Recommendation 1**).

2. Not all private sewers and lateral drains will transfer and local authorities will still have a statutory duty under various pieces of legislation to ensure public health is maintained. Guidance from Government is still pending which will include the definition of a 'sewer'. This is a complex area of law involving ownership of land and boundary issues and it is not possible to go into any further detail for the purpose of this report. However, it should be noted that the pending definition of a 'sewer' could have an potential impact on the number of sewers that remain in private ownership with a corresponding duty upon local authorities to intervene if problems arise and are not rectified by the owners.

3. Whilst is it not possible at this time to quantify the amount of private sector drainage work that will remain following the transfer, there will be a diminished role for local authorities in dealing with the sewerage of their areas.

4. The Council currently offers a private sector drainage service which is in excess of its statutory duty. Statutorily it is only required to ensure that drainage/sewerage issues are resolved by owners, if necessary by the service of statutory notices. This Council goes beyond that by providing a full investigation service plus assisting owners to undertake the required works. This level of service has been provided on the basis that drainage and sewerage is a legally and technically complex issue, and that if the Council is to meet its statutory duty in respect of protecting the public health, it is better to assist in this way rather than just be an enforcing agency. The Council therefore currently employs two officers whose main duties are to deal with private sector drainage/sewerage:

(i) Drainage Technician - ETD/03, who is on a fixed term contract which ends on 15 November 2011; and

(ii) Drainage Co-ordinator - ETD/02, who is a permanent member of staff.

5. As a result of the transfer it is considered that there is no requirement to retain the Drainage Technician ETD/03 post. It is therefore recommended that this post be deleted from the establishment when the contract expires on 15 November 2011 (**Recommendation 2**).

6. Other aspects of this matter related to post EDT/02 are referred to in the report in part 2 of this agenda.

Resource Implications:

The Council will save the salary and on costs associated with the post: ETD/03 - Scale 5/6 - £24,430 plus the cost of essential user car allowance £1,020.

EDT/03 is not entitled to a redundancy payment as they do not have two years continuous service.

Legal and Governance Implications:

The Council will still retain its statutory duties under the Building Act 1984, the Public Health Acts and the Environmental Protection Act 1990. It remains unclear as to whether these powers will be extended to include an enforcement remit over the water utility companies, who are currently exempt from such action.

Safer, Cleaner and Greener Implications:

It is essential to address pollution and sewerage issues and maintain good public health in order to keep the residents of the district safe and healthy in accordance with the Council's Safer, Cleaner, Greener Strategy and its statutory responsibilities. It should also be noted that despite these legislative changes, which are predicated on making the situation simpler for residents/owners/landlords to understand, drainage law will remain complex for the ordinary citizen and it is likely that the Council will continue for some time to receive requests for assistance.

Consultation Undertaken:

None.

Background Papers:

CEF Report 11 November 2009 – Proposals for the revised Private Sector Drainage Team

Impact Assessments:

Risk Management

To facilitate the transfer of private sector drainage to the Water and Sewerage Utility Companies is itemised in the Risk Matrix in the Environment and Street Scene's Business Plan 2011/2012. It is currently considered that there is no need to amend the risks associated with this task.

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

What equality implications were identified through the Equality Impact Assessment process?
N/A.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
N/A.