

Report to the Cabinet

Report reference: C-045-2011/12
Date of meeting: 5 December 2011



**Epping Forest
District Council**

Portfolio: Environment

Subject: Transfer of flood warning telemetry systems to the Environment Agency.

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

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To agree not to transfer the Council's flood warning telemetry systems, associated maintenance and monitoring activities to the Environment Agency; and**
- (2) That subject to recommendation (1), Cabinet seek approval for a supplementary Capital estimate for 2011/2012 of £25,000, subject to tender, in order to replace the existing systems and a report be made to Council accordingly.**

Executive Summary:

Cabinet resolved at its meeting on 18 July 2011 to the transfer of the Council's flood warning telemetry systems subject to the agreement of a protocol with the Environment Agency (EA) to inform the Council when these systems raise an alarm. The EA has stated that it is unable to agree to such a formal protocol. This report informs Members about the position and recommends that in the absence of a formal protocol the systems are not transferred.

The current telemetry warning systems are at the end of their operating life and require replacing. Therefore, if Cabinet agree to this course of action a supplementary Capital estimate for 2011/12 of approximately £25,000, subject to tender, will required to procure and install the new systems.

Reasons for Proposed Decision:

The EA has stated that in the event the systems are transferred that it is unable to put a formal protocol into place such that they will notify the Council when the flood warning telemetry systems alarm. This is contrary to the decision made by Cabinet on the 18th of July 2011 (Minute 26 – 18/7/2011). This requirement was sought in order to ensure that the Council's land drainage and flooding team could be aware of any flooding issue and prepare for that accordingly.

Even if the systems are transferred to the EA, the Council will still retain its riparian owner responsibilities. In order to ensure that these responsibilities can be properly discharged and in the absence of an agreed protocol, the report recommends the systems are not transferred to the EA and that the existing systems, which are at the end of their useful life, are replaced.

Other Options for Action:

There are no other options with regard to the transfer of the telemetry systems. The Council either accepts the situation and transfers the systems to the EA with no protocol in place to warn the Council when the systems alarm or the Council does not agree to the transfer.

The current systems are at the end of their operating life and in need of upgrading; approximately £25,000 will be required to replace them. If the systems are not transferred to the EA and these funds are not made available, the systems will fall into disrepair and eventually will not work.

The Council could transfer the systems to the EA, in the absence of a protocol and demonstrate that it was taking its riparian owner responsibilities seriously by installing additional local monitoring measures on land owned by the Council. This could be achieved through the installation of CCTV camera monitoring equipment on the flood defence assets. The estimated cost of suitable CCTV is £15,000. However, this method of monitoring would not measure the level of water as existing telemetry does and would not provide any early warning systems.

The Council could transfer the systems to the EA, in the absence of a protocol, with no additional local monitoring measures in place on the grounds of duplication and cost. However, the Council's responsibilities as a riparian owner will remain after the transfer.

Report:

1. Following the decision of Cabinet in July, officers have had discussions with the EA with regard to implementing a protocol whereby the EA informs the Council when any of the flood warning systems raise a flood alarm. Despite various suggestions from the Council as to how such a protocol could be implemented, the EA has stated that it is unable to enter into any agreement. The EA has stated that; "If we take over your telemetry systems then they will be updated and added to the many outstations that we already have. Because of the huge area that we cover and the number of telemetry outstations it will not be possible to be advising third parties of alarms we receive". At the time of writing this report, a further more detailed formal written response from the EA was still pending.

2. In the absence of a formal protocol, concerns around the EA's management of previous flooding incidences within the District and given that the Council will retain its riparian owner responsibilities it is suggested that the transfer of telemetry to the EA should not proceed. **(Recommendation (1))**

3. The Environment Portfolio Holder is meeting with senior officers from the EA on the 29 November 2011 in an effort to try to persuade the EA to reconsider its position. A verbal update about the outcome of this meeting will be given at the forthcoming Cabinet meeting.

4. The current Council owned telemetry warning systems are bespoke and the original contractor carries out ongoing maintenance and repair of these systems. The contractor has indicated that it is very unlikely that it will be able to provide a service post January 2012. Other contractors, including those who work for the EA, have stated that they would not be willing to provide a service on the existing systems and would only seek to enter into an operation and maintenance agreement on systems that they have installed. The cost of replacement systems is estimated at £25,000. A supplementary Capital estimate for this year is sought in order to upgrade the existing systems that have reached the end of their operating life. If agreed this estimate will have to be approved by Council. **(Recommendation (2))**

Resource Implications:

£25,000 Capital in 2011/12 for replacement flood warning telemetry systems and associated CCTV monitoring equipment. Although every effort will be made to procure and install the new systems in the current financial year, it is possible that some or all of the expenditure will need to carry forward into 2012/13.

Legal and Governance Implications:

Where the Council is the riparian owner of, or responsible for, Flood Storage Areas (FSA) and other flood defence assets, that responsibility will remain irrespective of the transfer of or retention of the Council's flood telemetry. Therefore, if the systems were to be transferred, and if during or following heavy rainfall a FSA fills up, the telemetry system will alert the EA of a potential overtopping of the FSA embankment. If the EA cannot respond and water floods over the embankment, it remains the responsibility of EFDC to manage the flooding. The EA cannot indemnify a riparian owner but they will assist to the best of their ability and resources.

If Members agree to the Council providing its own telemetry, the Council will clearly be seen to do its utmost to protect its residents from the effects of a potential flooding incident.

Safer, Cleaner and Greener Implications:

If the Council fulfils its statutory duties as set out above and in addition supplements any systems provided by the EA, it will fulfil any obligations under the Council's Safer, Cleaner and Greener strategy.

Consultation Undertaken:

Correspondence between the Council and EA available as background papers, EFDC Emergency Planning.

Background Papers:

Correspondence between the Council and EA.
Cabinet reports C-086-2008/2009, C-081-2009/2010, C-010-2011/2012

Impact Assessments:

Risk Management

The impact of not being able to maintain/upgrade the Council's flood defence assets is itemised in the risk matrix in the Environment and Street Scene Service Plan 2011/12. If the transfer does not go ahead and the funds are not allocated to upgrade the flood defence assets then the risk matrix would have to be amended.

Flooding is listed as a predominant risk in the Council's Emergency Planning Local Risk Register; the lack of provision of flood warning systems would be inconsistent with the Council's statutory duties to take reasonable action to eliminate or mitigate the risk having identified it.

If the systems are transferred to the EA, the Council will retain its riparian owner responsibilities. In order to ensure that these responsibilities can be properly discharged the Council must be able to demonstrate that it has carried out all appropriate measures. Concerns have arisen previously through what was considered to be an unsatisfactory response by the EA to the protection of residents during heavy rainfall incidents. Whilst even with its own telemetry the Council cannot guarantee to be able to respond to every incident or

potential incident, being able to monitor its own telemetry clearly provides the Council with the capability to judge where best to allocate resources during a potential flooding incident, reducing the risk of any subsequent claim(s) by residents.

Equality and Diversity:

A flooding event would affect all members of the community. However, the impact could be higher on elderly and those residents less able to assist themselves.

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? N/A

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