

Report to the Cabinet

Report reference: C-076-2011/12

Date of meeting: 23 April 2012



**Epping Forest
District Council**

Portfolio: Environment

Subject: Staffing resource to deal with residual private sector drainage work post the transfer of most private sector sewers to the Water and Sewerage Companies.

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

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To retain the post ETD/02 (Drainage Co-ordinator) on the establishment; and
- (2) That subject to recommendation (1) to submit to the Council's Job Evaluation Panel under the existing Maintenance Policy a revised job description and person specification.

Executive Summary:

Cabinet resolved at its meeting on 12 September 2011 (C-018b-2011/12) that following the transfer of most private sector sewers to the Water and Sewerage Companies on 1 October 2011, to retain the post ETD/02 (Drainage Co-ordinator) until 1 October 2012. Cabinet further resolved to receive a report when the Council was able to quantify the residual private sector drainage work and the demand for assistance from the public. That assessment has now been undertaken and this report recommends the retention of the post to deal with the residual private sector drainage work, other drainage issues, water quality and flood risk related work. If the post is not retained, there may be a financial impact due to potential redundancy.

Reasons for Proposed Decision:

To retain post ETD/02 (Drainage Co-ordinator) to ensure the Council has sufficient staffing resources to deliver an effective private sector drainage service, following the transfer of most private sector sewers to the Water and Sewerage Companies on 1 October 2011.

Other Options for Action:

To delete post ETD/02 from the establishment on 1 October 2012, or shortly after as determined by the relevant contract conditions. However, there will not be a resource to deal with the residual private sector drainage work and to assist the residents with other drainage and water pollution issues.

Report:

1. The transfer for the responsibility of most private sewers and lateral drains from property owners to the Water and Sewerage companies took place on 1 October 2011.
2. Not all private sewers transferred. The Council still has a statutory duty under various pieces of legislation to ensure public health is not compromised due to sewerage and water pollution. This duty includes ensuring that private sewerage systems are maintained in good working order and to affect repairs to defective/failing systems by way of the service of statutory notices.
3. Prior to the transfer on 1 October 2011 the private sector drainage team consisted of two officers. Cabinet resolved at its meeting on 12 September 2011 (C-018a-2011/12) to delete one of these posts resulting in a saving of around £25,000 per annum. However, given the nature of the District and its associated drainage problems, it was considered prudent to retain the other post for a further year and then review the situation.
4. Service demand has been monitored since the transfer took place. Whilst there is a reduction in the numbers of requests received there is still significant demand and a need for an officer to deal with private sector drainage work, to liaise with Thames Water and to resolve other water pollution issues. Therefore, it is suggested that the post ETD/02 (Drainage Co-ordinator) be retained on the establishment (**Recommendation 1**).
5. To reflect the change in the responsibilities and duties carried out by the current post holder, it is considered appropriate to change the job title, revise the job description and person specification and submit to the Job Evaluation Panel under the existing Maintenance Policy to establish the correct level of remuneration. (**Recommendation 2**).

Resource Implications:

If a decision is made to not retain the post, the Council will save the salary and on costs associated with the post: - Scale 7/8 - £33,510 plus £1,900 essential user car allowance. If the post is not retained, and the post holder cannot be redeployed, then compulsory redundancy will be necessary.

Redundancy figures can be seen in the separate appendix.

Subject to the findings of the Job Evaluation Panel, it is anticipated that the revised job description for ETD/02 will result in a lower grade, which would result in a small saving in the Continue Services Budget. However, it should be noted that pay protection would be applied for a period of 18 months as follows: 75% for six months, 50% for the next six months and then at 25% for the remaining six months, at which point the new salary for the post would be applied.

Legal and Governance Implications:

Although responsibility for the management of most private sewers and lateral drains transferred in October 2011 to the Water Utility Companies, Local Authorities retain statutory duties under the Building Act 1984, the Public Health Acts and the Environmental Protection Act 1990 to ensure efficient and effective drainage of their areas and to maintain public health from sewerage and water pollution. Currently local authorities have no jurisdiction over the Water and Sewerage Companies, but it is not known whether this will change. They are regulated directly by OFWAT and central government.

In the report to Cabinet in September 2011, reference was made to the possibility that The

Transfer of Undertakings (Protection of Employment) Regulations (TUPE) may be applicable and therefore the future costs of the loss of this post might be mitigated. However, due to the retention of the post in the interim and Thames Water's insistence that TUPE cannot be applied, following careful consideration and evaluation of the legal options available, it has been concluded that it is not viable to seek to challenge Thames Water in this regard and therefore the TUPE option is not available. This position is reinforced through the recommendation in this report that the Council needs to retain this expertise.

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 to receive requests for assistance.

Consultation Undertaken:

None.

Background Papers:

CEF report 11 November 2009 – Proposals for the revised Private Sector Drainage Team. Cabinet reports 12 September 2011 - C-018a-2011/12 and C-018b-2011/12 (restricted) – Transfer of Private Sector Sewers to the Water and Sewerage Companies and the impact on the Council's Private Sector Drainage Team.

Impact Assessments:

Risk Management

Effective delivery of a private sector drainage service, post the transfer of most private sector sewers to Thames Water, is itemised in the Risk Matrix in the Environment and Street Scene's Business Plan 2012/2013. It is currently considered that there is no need to amend the risks associated with this action. However, If adequate staffing resources are not retained to deal with the residual private sector drainage work and Thames Water do not provide an efficient and effective service there will be increase risks to both public health and the environment from sewerage and water pollution. In this case, it will be necessary to amend the Risk Matrix in the 2012/13 Environment and Street Scene's Business Plan and consideration given to escalating the matter into the Corporate Risk Matrix.

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