

TO: Head of Health and Community Protection

C.C.: Chief Executive
Deputy Chief Executive (AJ)
Head of Finance
Environmental Sustainability Manager
Civil Contingencies Officer

SUBJECT: Flood Risk Management

REF: JK/JW/FRM

FROM: Audit and Risk Manager

DATE: 27 November 2014

1. Introduction

- 1.1 As part of the 2014/15 Audit Plan an audit has recently been completed on the systems and procedures in place to manage the risk of flooding.
- 1.2 This report outlines the approach to the audit and presents the findings and conclusions arising.

2. Scope and objectives of the audit

- 2.1 The audit was undertaken in order to establish and test the controls in place over managing the risk of flooding.
- 2.2 The audit programme identified the controls that were expected to be in place and the possible risks arising from the absence of controls.
- 2.3 The control objectives examined were as follows:
 - a) There are appropriate management, structural and operational procedures in place to deal with the risk of flooding.
 - b) The council's legal obligations are being complied with.
 - c) All watercourses on council land are identified, recorded and maintained.
 - d) Proposed developments in the district are referred to Health and Community Protection (H&CP) for comment on flood risk implications.
 - e) Work is ordered in accordance with the Code of Procurement Practice.

- f) Work carried out for Warwickshire County Council (WCC) is covered by a formal agreement.
- g) Corporate budgetary control procedures are being followed.
- h) The risks associated with the service are identified, recorded and managed.

3. Background

- 3.1 The council has plans in place to deal with the possibility of all manner of peacetime emergencies and as necessary plans will be formulated to address new threats that arise eg Avian Flu.
- 3.2 Historically, emergency situations have occurred as a result of extreme weather and flooding. As this has happened on a number of occasions, most memorably Easter 1998 and summer 2007, and as there are no certainties about climate change, there is every chance that major flooding will occur again at time in the future.
- 3.3 The consequences of flooding for householders and for council properties and services are such that responding to flooding and mitigating the risk of flooding are very high on the council's agenda.
- 3.4 Dealing with the consequences of flooding can impact on all service areas. The overall responsibility for planning for the possibility and responding if it happens and mitigating the risk on an ongoing basis lies with Health and Community Protection and specifically Environmental Sustainability.
- 3.5 Estimated expenditure on mitigation work, flood alleviation, in 2014/15 is £138,200. Expenditure on civil contingencies, which includes flooding but also planning for and responding to all emergencies, is estimated to be £110,500.

4. Findings

- 4.1 In overall terms the audit drew the conclusion that there are sound controls, systems and procedures in place to manage the risk of flooding. There are some areas where control and compliance can be improved and these will be detailed below.
- 4.2 In terms of the controls objectives listed at 2.3 the findings are as follows:

4.3 Appropriate management structure and procedures

- 4.3.1 Responsibility for civil contingencies and for flood alleviation was previously exercised by Engineers and then incorporated into Community Protection. Following a recent restructure both currently sit in Environmental Sustainability in H & C P.

- 4.3.2 The Environmental Sustainability Manager is responsible for both aspects of flood risk management: the more strategic side that is Civil Contingencies and the ongoing maintenance works and advisory side that is Flood Alleviation
- 4.3.3 Consequently the mitigation of flood risk, responding to emergencies and working with relevant agencies feature prominently in the H&PC Service Delivery Plan and in the job descriptions for the Civil Contingencies Officer and Area Engineers.
- 4.3.4 Civil Contingencies was considered as part of the audit but not in any detail as both Emergency Planning and Business Continuity Management are the subjects of audits in their own right.
- 4.3.5 All Services Areas will have plans in place to deal with the aftermath of flooding, as it affects their own functions and services, and will have identified and recorded the corresponding risks. These plans will feed into the Emergency Planning process and so were not examined as part of the audit.

4.4 Legal obligations are complied with

- 4.4.1 There are numerous Acts of Parliament and reports that have some reference to local authorities' responsibilities in respect of land, water and flooding and that influence the type of work undertaken. They include the Civil Contingencies Act 2004 (CCA), the Land Drainage Act 1991(LDA) as amended, the Flood and Water Management Act 2010 (FWMA) and the Pitt Review.
- 4.4.2 The CCA places a number of duties on local authorities which can be summarised as planning for emergencies. Areas covered are risk assessments, liaising and sharing information with other organisations and creating and testing emergency plans to name but a few. Warwick District Council has an Emergency Plan and also a Flood Defence Plan in place.
- 4.4.3 The LDA requires that owners of watercourses must maintain them in a condition that allows the free flow of water through them. In the council's case all of the streams and brooks flowing through council land are inspected and maintained on a programmed basis. Any exceptional works that are required outside of the schedule will be dealt with. The council has powers of enforcement and prosecution if owners of other watercourses fail to carry out their duties under the LDA.
- 4.4.4 The FWMA created the concept of a Lead Local Flood Authority (LLFA), in the council's case it is WCC, who are responsible for developing and maintaining a Local Flood Risk Management Strategy (LFRMS) for Warwickshire. In summary the Act has partnership working as a key theme together with the delivery of effective joined up management of flood risk avoiding duplication.

4.4.5 Following the floods of summer 2007 which devastated parts of the country and claimed 13 lives Sir Michael Pitt was asked to carry out a review of the country's flood defences. His report contained 92 proposals. Some of them were aimed directly at district and county councils and they influence the work undertaken in both civil contingencies and flood alleviation.

4.5 All watercourses are identified and maintained

4.5.1 All watercourses on council owned land are recorded and referenced on detailed maps, together with the details of trash screens ie metal grids that stop large debris and junk entering underground watercourses ie culverts.

4.5.2 These maps are held by H&CP and the contractor carrying out the inspection and maintenance work. At the beginning of the year a detailed schedule is prepared and sent to the contractor listing precise details of which watercourses and screens need to be maintained and when the work needs to be carried out.

4.5.3 As part of the process the contractor provides before and after photographs of the trash screens that have been maintained.

4.6 Advice on proposed developments

4.6.1 As part of the planning process a list of planning applications validated each week is sent to H&PC for observation and comment on any flood risk implications. This will cover not only the location of the proposed development in relation to a flood zone but also the design and construction of a proposed development and how that might increase the risk of flooding.

4.6.2 Evidence was produced of responses to individual applications that demonstrated a very thorough, detailed and comprehensive approach to the enquiries.

4.7 Work ordered complies with the Code of Procurement Practice

4.7.1 Work to WDC watercourses, WCC watercourses (covered at 4.8) and to WDC pumping stations is carried out by Wilkinson Environmental and has been the case for many years. There is no contract in place and it is unknown if there ever was one.

4.7.2 The net amount paid to Wilkinsons in 2013/14 was £41,131 which far exceeds the Procurement Code threshold of £20,000 above which contracts should be advertised and market tested.

4.7.3 Failing to market test work raises doubts about value and leaves the council open to criticism and possible challenge.

4.7.4 As mentioned earlier, responsibility for flood risk management has only relatively recently transferred to H & C P where it was soon

recognised that the work undertaken by Wilkinsons needed to be market tested. Work has been undertaken in readiness for inviting tenders and entering into a contract. The Procurement Team will need to be contacted for advice on the mechanics of the process and the best way to proceed.

Risks

Failing to invite tenders for work means that the value of the current arrangement cannot be demonstrated.

The council could be falling foul of EU procurement directives and open to challenge.

Recommendation

The Procurement Team should be contacted for advice on market testing the work currently undertaken by Wilkinsons.

4.8 There is an agreement in place for work undertaken for the County Council

- 4.8.1 Following the demise of the Highways Agency Agreement, Warwick District Council no longer maintained WCC watercourses and screens. This proved to be problematic on occasion so as a result of some pressure by the former Head of Engineering it was agreed that Warwick District Council would undertake the work as before and recharge the County.
- 4.8.2 It wasn't clear if there was a formal document in place to evidence this arrangement but there was on file a copy of a draft agreement from 2004 setting out in broad terms how the agreement would operate.
- 4.8.3 More recently the County's agreement to have the work undertaken at the price quoted is governed by an exchange of emails. For 2014/15 the value of the agreement is £18,419 which comprises around £12,400 for work undertaken by the contractor and £6,000 for the council's administrative costs.
- 4.8.4 While the arrangement is not ideal the risk is seen as being low as if WCC wanted to make other arrangements then WDC would no longer order the work.
- 4.8.5 Although the draft agreement seen states that WCC will pay one twelfth of the amount due on 25th of each month in reality the council raises two invoices every six months (the total cost is split between two budget holders). The raising of invoices is erratic and confusing.
- 4.8.6 So far this year only one invoice for £2,686.08 from a total for the year of £18,418.66 has been invoiced. In 2013/14 (when four invoices should have been raised) there were eight invoices raised.

Two were cancelled but six were raised, paid and allocated to 2013/14.

- 4.8.7 It looks as though the invoices for the second stage payment were raised twice. The invoices raised on 28 March 2014 clearly state 2013/14 but also state "first stage payment". It must be assumed that they were duplicates raised in error and that WCC perceived them as being the first payments for 2014/15, always assuming that WCC haven't paid them twice in error.
- 4.8.8 No convincing explanation has been forthcoming but the bottom line is that income for 2013/14 on that particular cost centre is overstated by £9,209.93.
- 4.8.9 Again the recent transfer of staff from Community Protection to H & C P is having a bearing on the situation as invoices were raised by them and not in line with H & C P financial controls. In future invoices will be channelled through the Business Support Officer who will be responsible for ensuring that they are raised on a timely basis. For information it is said that WCC are hampering the raising of debtor invoices by insisting that their purchase order number appears on the invoice and then adopting a tardy approach in supplying it.

Risks

Lack of control over raising invoices means they may be raised late, not at all, or, as in this case, allocated to the wrong year.

Raising invoices twice creates an impression of an inefficient organisation.

Raising invoices in arrears increases the possibility of delayed payment and is at odds with the Code of Financial Practice.

Recommendations

Invoices for work undertaken for WCC should be raised at regular intervals on predetermined dates.

Invoices should be raised in advance and not in arrears in accordance with the Code of Financial Practice.

4.9 Budgetary control is observed

- 4.9.1 Budgetary control procedures are less evidential these days and more likely to take the form of face to face discussion around key areas and known problem areas.
- 4.9.2 Assurance was provided by both the Environmental Sustainability Manager and by accountants in Finance that regular budget monitoring does take place.

- 4.9.3 Despite that assurance there was no convincing explanation forthcoming as to why, in 2013/14, there was income of £28,000 in the WCC Highway Culvert Maintenance budget against an estimate of £14,000 and no enquiries were made or action taken. (See 4.8.7)
- 4.9.4 It would seem likely that income for 2014/15 will suffer a shortfall as a result.

Risk

Incorrectly allocating income can result in overstatements and corresponding shortfalls in the council's accounts.

Inadequate budgetary control can result in significant variations going undetected

Recommendations

The situation with income from the County for Highways Culvert maintenance in 2013/14 should be investigated and reported as part of the corporate budget monitoring process.

As part of ongoing monthly budget monitoring any significant variations should be investigated and reported so that action can be taken as appropriate.

4.10 Risks are identified and managed

- 4.10.1 Most risk registers contain a number of references to flooding as it can impact on service delivery, ICT services and office accommodation across the council.
- 4.10.2 The H&CP risk register contains the usual generic risks as above and specific references to emergency situations and the Emergency Plan and also flood alleviation.

5. Conclusion

- 5.1 The audit identified some areas where control could be improved but concluded that there are sound systems and procedures in place to manage the risk of flooding.
- 5.2 The audit can therefore give a **SUBSTANTIAL** level of assurance that the systems and procedures in place are appropriate and working effectively.

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