

CABINET

2 NOVEMBER 2010

REPORT OF THE CABINET MEMBER FOR ENVIRONMENT

Title: Proposed Provision of a Shared Civil Contingencies Service for Barking and Dagenham and Waltham Forest	For Decision
<p>Summary:</p> <p>This report proposes the formalisation of the joint Barking and Dagenham and Waltham Forest Civil Contingencies service which has been operating on a pilot basis since 1 April 2009. This will provide the framework for the delivery of further efficiencies whilst allowing the resilience and flexibility of the service to be maintained. It also proposes that the potential of the joint service model continue to be explored with other Boroughs, particularly those in North East London.</p> <p>Wards Affected: All</p>	
<p>Recommendation(s)</p> <p>The Cabinet is asked to recommend the Assembly:</p> <ul style="list-style-type: none"> (i) That the Council and the London Borough of Waltham Forest form a single Civil Contingencies Unit to meet the needs of their joint populations and the requirements of the Civil Contingencies Act; (ii) That the Council enter into a formal agreement with the London Borough of Waltham Forest in a form to be agreed by the Legal Partner, under which the Council accepts a delegation of function from the London Borough of Waltham Forest in respect of their duties and obligations under the Civil Contingencies Act 2004, in return for funding and other contributions to be made by the London Borough of Waltham Forest; and (iii) That the Cabinet be authorised to agree the extension of the joint service arrangement to include other Local Authorities in the event that it is considered to be in the Council's interests to do so. 	
<p>Reason(s)</p> <p>In order to meet the statutory requirements of the Civil Contingencies Act (2004) in a more resilient and cost effective way.</p>	
<p>Comments of the Chief Financial Officer</p> <p>The creation of the joint service between the Council and Waltham Forest is estimated to produce a combined initial saving of £34,000 as a result of staffing efficiencies, of which Barking & Dagenham's share will be £14,000. Once sufficient operational experience has been gained, there will be a further review of the service to examine both its operation and its costs which may lead to additional benefits and savings arising. However should any subsequent review result in changes to the level of funding contributions from each Authority, the Council will need to ensure that any proposed changes in cost allocation do not adversely effect the Council unless it achieves significant additional benefits that it is prepared to fund.</p>	

Comments of the Legal Partner

This report proposes that the Council enter into a formal arrangement with the London Borough of Waltham Forest under which the Council accepts a delegation of function of the Waltham Forest's duties and responsibilities under the Civil Contingencies Act 2004. The Council will in effect be operating a shared service on behalf of itself and Waltham Forest by accepting this delegation of function from Waltham Forest, and the arrangement will be governed by the formal agreement to be entered into by both Councils. Both Councils have the power to enter into such an arrangement, firstly under the general delegation of functions powers of the Local Government Act 1972, and more specifically in relation to civil contingencies under the Civil Contingencies Act 2004.

The Council's Constitution requires that the delegation of functions to or from another local authority are reserved to the Assembly (paragraph 3.7, section A (The Assembly, Part C (Scheme of Delegation) of the Council's Constitution).

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1. Background

- 1.1 The Civil Contingencies Act 2004 has several major implications for Local Government. Chief among these is the essential element of cooperation in all stages of risk identification, planning, training, exercising and response.
- 1.2 Under the Act Local Authorities are designated as Category One responders, alongside services such as the Police, NHS, etc. However all other Category One Responders in London have a Pan-London command and control process. In essence this means that all of their duties under the Act are carried out on a much wider base than any single London Local Authority is able to provide.
- 1.3 On 1 April 2009 the London Boroughs of Barking and Dagenham and Waltham Forest commenced a pilot project to deliver a Civil Contingencies Joint Service. Staff from the London Borough of Waltham Forest were seconded to Barking and Dagenham to form a single team delivering a service to both Boroughs. The objectives included improving the resilience and flexibility of the service, reducing the duplication involved in the formulation of single Borough strategies and plans and making the best use of allocated resources to deliver a service that would follow the approach adopted by the other Category One Responders. It is considered that these objectives have been achieved and it is therefore proposed to formalise the joint arrangement and to seek to extend it.

2. Proposal

- 2.1 The proposal is that the London Boroughs of Waltham Forest and Barking and Dagenham form a single Civil Contingencies Unit to meet the needs of their joint populations and the requirements of the Civil Contingencies Act in a more resilient manner and more cost effectively. This will enable further financial savings to be made and shared across each authority. It is also proposed that the joint service continue to explore the potential to expand the model to other London Boroughs, particularly those in North East London.
- 2.2 Listed below are some of the main advantages of joint working identified since that date:
- (i) Reduction of duplicated work in key activities that each authority previously had to deliver:
 - A single Multi Agency Flood Plan was prepared and forwarded to the Environment Agency. It was one of only 8 across London to receive approval- by the due deadline.
 - The gaps in both Boroughs' plans identified under the requirements of the Minimum Standards for London Tranche 2 (MSL2) have been identified and all 26 Plans are now completed. Again the joint service is among only a few Boroughs to have done this work
 - Although not identified under MSL 2 the more corporate level Business Continuity Plans are now also a single document with minor adjustments in terminology. The longer term aim is for a single approach to Business Continuity.
 - Work has started on a single Community Risk Register following the requirements of the National Risk Register produced by the Cabinet Office. This will have both a professional version and a public facing document to increase awareness of emergencies among the population of both Boroughs
 - Joint presentations to pupils during the Local Democracy Days 2009 and 2010
 - (ii) Increased resilience of response to emergencies through common shared practices. As all plans, training and exercising are brought together the whole unit will be available for response to either Authority helping to meet the needs of the Minimum Standards for London Tranche 1.
 - (iii) A greater number of trained Civil Contingencies staff is already showing benefits in delivering advice and support across both Authorities even if the lead person is not at their desk
 - (iv) An established back up Borough Emergency Control Centre (BECC) from which to carry out the command and control elements of a Major Incident response thus allowing either BECC to support either Authority.
 - (v) A unified approach to training and developing shared skills across both authorities.
 - Development and delivery of a joint programme of Training for Rest Centre Managers and Staff.
 - Two joint Business Continuity Exercises have taken place for Sheltered Housing and Care Homes one in each Authority

- Exercises at Gold (Strategic) and Silver (Tactical) level have been conducted within each Borough and facilitated by the other.
 - A Business Continuity Exercise was provided to the Waltham Forest Senior Management Team.
 - A joint training and exercise programme for 2010/2011 is being developed.
 - The larger number of people in the team has given an increased knowledge base, allowed lead officers for specific areas but at the same time a reduced meeting burden.
- (vi) An improved and consistent level of delivery to all Service Heads across both authorities.
- Business Continuity Strategy meetings at Waltham Forest previously chaired by the Director People, Policy and Performance have been chaired by the Joint Service lead
 - Regular joint briefings have been provided to both Lead Councillors, both Chief Executives and both Corporate Directors in their role as Line Managers.
 - A joint service plan for 2010/11 has been written.
 - Joint support documents for both Chief Executives and their London Local Authority Gold Teams and as above with one single support officer leading.
 - A Pan London Multi-Agency Gold exercise in which the Chief Executive of Waltham Forest participated supported by officers from both authorities.
- (vii) A collective voice for views to be presented to partner agencies and other London Emergency Planning units.
- (viii) A chance to be a flagship authority in London for Civil Contingencies with a new and improved ways of working.
- We are now leading the work on Civil Contingencies being carried out by East London Solutions.
 - We achieved Customer Service Excellence in July 2010. We are the only Joint Service to do so and the only service delivering both Emergency Planning and Business Continuity.
 - The Warning and Informing approach developed by Waltham Forest has been adapted for use within Barking and Dagenham and has been taken up by a number of other Boroughs
 - We now have a greater pool of Civil Contingencies trained responders than any other single organisation in London.

3. Financial Issues

- 3.1 The current staffing level is that Barking and Dagenham has the Group Manager, Emergency Planning, and two members of staff, Waltham Forest had a Deputy Manager and three members of staff. The Deputy has recently moved on to a more strategic role for a pan-London response with the other staff remaining. In the light of this it is proposed to delete the post of Deputy and share the savings across both Councils, with Waltham Forest saving approximately £20,000 on its current staffing budget of circa £202,000 and Barking and Dagenham saving approximately £14,000 on its current staffing budget of circa £152,000.

- 3.2 Once staff have been consolidated into a single unit there will be an opportunity to examine the true service cost and agree any necessary changes in the level of funding contributions from each Authority.
- 3.3 A review of the current staffing levels will be carried out. Account will be taken of the needs of both Authorities to reduce expenditure as well as investigating any new work resulting from, for example, Government Legislation such as the Flood and Water Management Act 2010, the Civil Contingencies requirements of the Olympic Games and any developments from the East London Solutions project about partnership working with other North East London Boroughs.
- 3.4 The structure of the team will be investigated to ensure that supervision is available even in the absence of the Group Manager.
- 3.5 The expenditure on Contracts from these budgets such as the current use of two different Mass Messaging systems will be reviewed in order to address any duplication in expenditure which can then be removed and the savings shared by both Councils.
- 3.6 Having achieved a saving in year 1, it is proposed that the two Authorities will continue to fund their services to the existing levels (less the saving) for the current financial year, with any further savings on staffing and Contracts coming in subsequent years.
- 3.7 Officers of the two Authorities have met to discuss the practicalities of the merger and there is a general consensus that, as far as finance is concerned, there are no major obstacles. There will be a need for Barking & Dagenham to invoice Waltham Forest in respect of the costs of the employees that transfer over and agreement needs to be reached on the exact arrangement for this process. In addition, there needs to be an agreed process for invoicing supplies and services costs as and when necessary between the two Authorities.
- 3.8 In summary, there are no financial issues at this stage that would prevent the proposed partnership from proceeding in line with the scheduled timetable.

4. Legal Issues

- 4.1 As has been described earlier in this report, the Council has various duties and obligations to discharge under the Civil Contingencies Act 2004. Each local authority in England and Wales also shares these same duties and obligations, along with other types of authorities such as the police authorities and the fire and rescue authorities.
- 4.2 Although each local authority has these duties, local authorities do have powers from two sources under which one authority can perform the duties of another authority in relation to civil contingencies. The first such power comes from the general delegation of functions provisions contained in section 101 of the Local Government Act 1972, which allows a local authority to arrange for the discharge of any of their functions by another local authority.
- 4.3 Secondly, the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005, which are regulations made under the 2004 Act, also contain such powers in relation to civil contingencies duties. Under Regulation 8, local authorities may

- (i) perform duties jointly with another authority; or
- (ii) make arrangements with another authority for that authority to perform their duties

4.4 The arrangements that are proposed between Barking and Dagenham and Waltham Forest will come within the powers of both the 1972 Act as well as the 2005 Regulations described above. The proposed arrangements therefore have a clear legal basis.

4.5 Provided that the Cabinet agrees to the recommendations within this report, the approval of the Assembly will also be required, in order for the establishment of the Shared Service to proceed. This is due to the fact that delegating functions and accepting delegations of functions from other local authorities are matters reserved to the Assembly under paragraph 3.6 of the Assembly's Scheme of Delegation which forms part of the Constitution.

4.6 If the Assembly subsequently approve the proposed arrangements, Barking and Dagenham would then formalise the shared service arrangements by entering into a contract that would cover the duties and obligations of each council to the other.

5. Other Implications

5.1 **Risk Management:** The Joint Service has been operating as a pilot since 1 April 2009 and no risks associated with the Joint Service have been identified.

5.2 **Staffing Issues:** Staff currently employed by Waltham Forest will be transferred to Barking and Dagenham under TUPE arrangements. Both sets of staff will still work predominantly from their current locations but will increasingly be more mobile as the development of the IT structure allows this to happen.

The service will have a Management Board, with each Council represented by the relevant Corporate Director (or their nominee) and an officer from Finance.

A review of the current staffing levels will be carried out by the Management Board. Account will be taken of the needs of both Authorities to reduce expenditure as well as investigating any new work resulting from, for example, Government Legislation such as the Flood and Water Management Act 2010, the Civil Contingencies requirements of the Olympic Games and any developments from the East London Solutions project about partnership working with other North East London Boroughs.

The structure of the team will be investigated to ensure that supervision is available even in the absence of the Group Manager.

In the event of the Councils agreeing to terminate this Agreement or not renewing this Agreement;

- it will be the responsibility of the Management Board for the exit management of any employee including the allocation of funding of any redundancy costs.
- Each Council shall use their best endeavours to redeploy all the employees having regard so far as is practical to the following considerations:

- the continuing requirement for the performance of the Functions by the individual Councils;
- the special needs to the Councils in terms of service skills in the performance of the Functions; and
- the residence and travel to work arrangements of the Employees concerned.
- Each Council will have the responsibility to review the Job Descriptions to cover the reduced responsibilities

5.3 **Customer Impact:** The customer base for Civil Contingencies is wide ranging and covers 'Before', 'During' and 'After' a Major Incident. Customers therefore include internal Council Services, Multi-Agency Category 1 Responders under the Civil Contingencies Act, internal response staff and volunteers, Councillors and other politically elected representatives, Residents and Community groups, Businesses in the Boroughs of all sizes as well as London-wide bodies involved in Civil Contingencies and also Government departments. The stabilisation of the team into one cohesive whole will provide greater resilience to ensure that Customer needs can be met in a more cohesive and structured manner.

5.4 **Property / Asset Issues:** Under the Civil Contingencies Act there is a requirement for each Local Authority to develop a Control Centre from which an incident can be managed. The Act also requires that Boroughs can continue to supply their services despite any Major Incident. This includes the Command and Control functions for the incident. This proposal means that instead of each Borough providing and funding their own back-up control centre they will have available to them the Control Centre of the other Borough.

6. Options appraisal

6.1 The alternative to providing a joint service is to revert to being two separate teams. However there are risks with this approach and these are:

- Failure to deliver all of the required elements of the Civil Contingencies Act
With the increasing responsibility for planning, exercising and training both internally in areas such as the new Reservoirs and Flood Planning requirement and the pan-London requirements of the London 2012 Olympics there is a risk that two single services will be unable to deliver the totality of the new agenda
- Insufficient available trained staff both within the two single Units and at a wider level within each authority. The joint team improves overall resilience and capacity.

6.2 There is also an option of continuing the pilot arrangement and not formalising the joint arrangement but it is considered important to provide certainty to staff in the joint team and to harmonise the terms and conditions under which they are employed. It is also considered that the prospect of extending the arrangement to other authorities, and thereby improving the resilience and value for money of the service, is strengthened by putting in place a more formal agreement.

7. Background Papers Used in the Preparation of the Report:

The Civil Contingencies Act (2004)

8. **List of appendices:** None