

CLIMATE CHANGE ACT: ADAPTATION REPORTING POWER - RESPONSE TO NATIONAL PROPOSALS

To: **Cabinet**

Date: **Tuesday 8th September**

From: **Executive Director, Environment Services**

Electoral division(s): **All**

Forward Plan ref: **n/a** *Key decision:* **NO**

Purpose: **To introduce the proposed Adaptation Reporting Power, and seek agreement to a response.**

Recommendation: **Cabinet is recommended to:**

- **Note that local authorities are not currently included in the Reporting Power because of existing commitments and performance management through National Indicator 188.**
- **Agree the suggested response to the Department for Environment, Food and Rural Affairs (Defra) set out in Appendix 1.**

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1. INTRODUCTION

- 1.1 The Climate Change Act, introduced in 2008, gave the Government the power to ask public sector organisations, and other statutory bodies such as energy companies, to report on the work they are doing to adapt to our changing climate. This is known as the Adaptation Reporting Power.
- 1.2 As a result of greenhouse gas emissions already in the climate system, the world is locked-in to several decades of climate change, regardless of emissions reduction policies we put in place now. The only response available to deal with climate change impacts resulting from this in the next few decades is adaptation. The introduction of the Reporting Power will ensure that adaptation becomes a key issue across a range of key sectors; a similar objective to that of the new performance indicator (NI 188) for local government.
- 1.3 The Department for Environment, Food and Rural Affairs (Defra) is consulting on the planned use of the power. The consultation outlines the proposed list of 'reporting authorities' affected by the Reporting Power, the strategy for issuing the Reporting Direction, and the draft statutory guidance to assist authorities in assessing their level of preparedness for climate change. The consultation will close on Wednesday 9th September, 2009. The full consultation documents can be viewed at:
<http://www.defra.gov.uk/corporate/consult/climate-change-adapting/consultation.pdf>
- 1.4 Due to the timescales for consultation it has been necessary to bring this report to Cabinet without first going to a meeting of Growth and Environment Policy Development Group (PDG). Members of the PDG have had an opportunity to comment on the document and feedback has been incorporated, specifically with respect to the housing sector, Highways Agency and advisory role of United Kingdom Climate Impacts Programme (UKCIP).
- 1.5 Key points relevant to the County Council are highlighted in section 3. A full response from Cambridgeshire County Council to consultation questions is attached as Appendix 1.

2. ORGANISATIONS AFFECTED BY THE REPORTING POWER

- 2.1 Reporting authorities are defined in the Act as any "persons or bodies with functions of a public nature". This definition excludes central government departments and executive agencies of those departments.

The consultation proposes the following methodology for identifying authorities for direct reporting:

- a) Identify authorities who are responsible for national infrastructure
 - b) Identify those authorities that are potentially most vulnerable to climate change
 - c) Identify those authorities that have limited or no current regulatory framework exploring adaptation
 - d) Target reporting authorities proportionately
- 2.2 Using these criteria, the Government proposes the following bodies and/or regulators as priority reporting authorities during 2010/11:

Sector	Authority
Health and Social Care:	Care Quality Commission
Environment:	Environment Agency
Water:	Water Service Regulatory Authority (Ofwat) Water companies
Energy:	Office of Gas and Electricity Markets (Ofgem) Electricity Generators (>10TWh per annum) Electricity transmitters Electricity distributors Gas Transporters
Electronic Communications:	Office of Communications (Ofcom)
Transport:	Office of Rail Regulation Network Rail The Channel Tunnel Civil Aviation Authority National Air Traffic Services Strategic Air Operators Harbour Authorities (>10 million tonnes cargo per year) Lighthouses (in consultation with the Harbour Authorities)
Emergency:	HMI Constabulary
Regional:	Greater London Authority

In addition to those authorities requested to report, the consultation proposes to invite additional organisations to report on their progress:

Invited to report:	Natural England England National Parks and Broads Authority British Waterways Electronic communication companies Maritime and Coastguard Agency
Invited to report voluntarily:	Forestry Commission England The food sector Petroleum companies Highway Agency

The Police sector will be included through their regulator Her Majesty's Inspectorate (HMI) Constabulary. The fire sector has no appropriate regulator but adaptation progress will be picked up through the Fire and Rescue National Framework. Also, the contribution of both sectors to adaptation outcomes on a local scale will be evaluated through the Comprehensive Area Assessments.

- 2.3 A number of sectors are not included on the priority list for Adaptation Reporting, though it is possible they may be required to report in the future. These include:

Local Authorities

Local authorities are already required to report on Adaptation through the Local Government Performance Framework, specifically National Indicator 188. Whilst the reporting requirements for NI 188 are much less onerous, the adaptation process required is closely aligned. Local Authorities are not indefinitely excluded from Reporting power, and the period 2009-11 will be crucial to evaluate the benefits of NI 188.

Planning and regional development

Regional Development Agencies (East of England Development Agency - EEDA) will not be included because new legislation (the Local Democracy, Economic Development and Construction Bill) will require single regional strategies (incorporating regional spatial and economic strategies) to have

regard to national climate change policy, and this is felt to be sufficient.

Schools

Schools are not classified as national infrastructure and are therefore not included. State schools falling under Local Authority responsibility will be covered under National Indicator (NI) 188 anyway.

Housing

Housing is not classified as national infrastructure and is not included. It is planned to make amendments to the Code for Sustainable Homes to include adaptation.

- 2.4 Directions to Report will be issued to Reporting Authorities between 2010 and 2012 in accordance with the priority list. Each reporting authority will be expected to report on progress 12-22 months from the date of the Direction. The report is not required to be in any specific format. Further directions may be made to other organisations, where a future event exposes vulnerability or evidence is obtained of bodies' poor performance against adaptation objectives. This could include local authorities that have demonstrated poor performance through Comprehensive Area Assessment.
- 2.5 The Direction sets out what is required from each Reporting Authority:
- A summary of the functions of the reporting authority
 - The methodology used to assess the current and predicted impacts of climate change in relation to those functions
 - The findings of the assessment of the current and predicted impacts of climate change in relation to those functions

Draft guidance has been issued alongside the Direction which sets out a process Reporting Authority should follow. The key stages for adaptation can be broadly aligned with the levels for NI 188, though there is less emphasis on the initial process for building support and engagement.

- 2.6 Following submissions and analysis of the Adaptation Reports, the adaptation Sub-Committee (of the Climate Change Committee) will advise the Secretary of State on level of preparedness to climate risk and the future use of the Reporting Power.

3. WHAT DOES IT MEAN FOR CAMBRIDGSHIRE?

- 3.1 The decision not to include Local Authorities in the priority list for Reporting is recognition of the work that Local Authorities like Cambridgeshire County Council are already doing to tackle Climate Change Adaptation. The requirement to report formally to Government would be a considerable extra burden on top of this.
- 3.2 There are potentially benefits to Cambridgeshire County Council from the Reporting Power in that it will encourage and influence organisations that are partners in Cambridgeshire Together, in their response to climate change. This should help Cambridgeshire County Council in engaging with partners on adaptation issues – a requirement as part of Levels 2 - 4 of NI 188.
- 3.3 Whilst the requirement to address adaptation through NI 188 has been very

powerful in helping to focus local authority work on adaptation, there are however two issues to consider in the longer term:

- That NI 188 is a 'process' indicator, and at some point in the future it is intended that most councils will have been through this process and are in the implementation and review stage. The Indicator itself may require review within 5 years from now.
- Whilst all local authorities are required to submit details on NI 188, not all will be part of a Local Area Agreement (LAA) that has identified it as a priority as we have done in Cambridgeshire.

- 3.4 There may be scope in the longer-term for inclusion of local authorities in the Reporting Power, and this could be especially valuable to help encourage any areas that have shown poor performance. Whilst the reporting procedure would be more onerous, the actual process to understand climate impacts, undergo assessment and develop adaptation responses is based on the same risk management principles. Indeed there are probably many lessons that can be learnt for priority Reporting Authorities from the experience of local authorities like Cambridgeshire, in tackling adaptation.
- 3.5 Work undertaken by Cambridgeshire County Council in 2005, prior to the introduction of NI 188, has been critical in identifying the priority areas for adaptation within the authority. The sectors highlighted as priority reporting authorities do reflect these same priorities at a more local level; health and social care, emergency services and transport. However there is a notable exception in that housing and planning for new communities are not included as a sector.
- 3.6 Cambridgeshire is a growing county with at least 73,300 new homes being delivered in the period up to 2021. We will experience hotter, drier summers and warmer, wetter winters like most of the rest of the UK, but have particular vulnerabilities to flooding and summer drought. This could be exacerbated by new development if adaptation is not taken into account. For this reason further consideration of the involvement of the housing sector in the Reporting Power is needed, alongside other national and local policy changes to influence adaptation of housing.
- 3.7 Our experience as a highways authority means that we are fully aware of the importance of considering climate impacts in planning for the local road network. For this reason it is of some concern that the Highways Agency is only invited to report voluntarily. The County Council needs to be assured that the Highways Agency have taken account of climate impacts and responded to this in their planning for the four strategic routes in Cambridgeshire.

4. SIGNIFICANT IMPLICATIONS

RESOURCES AND PERFORMANCE

- 4.1 Finance: Whilst there are no significant financial implications now, it should be noted that should local authorities be included in the Reporting Power at a later date, it is estimated that the costs of reporting over four years are £25-60K, or £6-15K per year. This is only the cost of gathering relevant information for purposes of Reporting, and not the cost of actually

implementing the risk assessment, developing adaptation plans etc. for which resources are already allocated in Cambridgeshire through the ongoing County Council Climate Change Programme.

- 4.2 Performance: The Reporting Power may indirectly influence performance (positively) as there is a strong relationship with NI 188 – Adaptation to Climate Change. For example the adaptation response of our partners may inform our own and partnership responses. The reporting Power is also likely to inform the future development of this indicator.
- 4.3 The County Council is currently at Level 1 of NI 188 – meaning that we have made a public commitment to adaptation and have a prioritised assessment of climate impacts. We have a target to reach Level 3 (requiring development of a comprehensive adaptation action plan), and a cross-authority adaptation project is underway to help us reach it. It is also a LAA priority and County Council officers are working together with district and other partners where there is added value from doing so.

STATUTORY REQUIREMENT AND PARTNERSHIP WORKING

- 4.4 Statutory Requirements: The Climate Change Act provides the necessary statutory arrangements to require authorities to report on adaptation. This legal framework allows Defra to include local authorities in the Direction in the future if they feel it appropriate.

CLIMATE CHANGE

- 4.5 The consultation itself concerns the need to adapt to the impacts of climate change. There are no further significant impacts.

ACCESS AND INCLUSION

- 4.6 No significant impacts.

ENGAGEMENT AND CONSULTATION

- 4.7 Consultation: Key officers – including stakeholders identified in the adaptation project – and Members from Growth and Environment PDG have had opportunity to input to the developing consultation response.

Source Documents	Location
Adapting to climate change: ensuring progress in key sectors. Consultation on the Adaptation Reporting Power in the Climate Change Act 2008	http://www.defra.gov.uk/corporate/consult/climate-change-adapting/consultation.pdf
Submission to Defra on NI188. Self-assessment matrix for Cambridgeshire County Council 2008-09.	Held by Environment Policy and Projects Service – 01223 715560, or epp@cambridgeshire.gov.uk

Appendix 1:

SUGGESTED CAMBRIDGESHIRE COUNTY COUNCIL RESPONSE TO DEFRA ADAPTATION REPORTING POWER CONSULTATION

Q1. Are there any other sectors which you believe should have been included?

The County Council broadly supports the list of sectors and organisations that will be included as priorities for reporting.

However, we feel also it is important that the Highways Agency is strongly encouraged to report - more than just a voluntary commitment - in recognition of the strategic importance of the roads for which they are responsible. Certainly we have evidence in Cambridgeshire of the extent to which severe weather events have affected the road network, including local and strategic routes. Inclusion of the Highways Agency in the Reporting Direction will also help ensure parity, given that all other roads will be included within the requirement for local transport authorities to report via NI188.

Q2. Do you agree that the criteria for identifying eligible authorities are reasonable?

Yes.

Q3. Do you agree the Option 2 should be the preferred option given costs and benefits (including those detailed in the impact Assessment)?

Yes, we agree that Reporting organisations should fulfil all three criteria, but that proportionality criteria should be used to remove the smallest identified authorities from the list.

Q4. Are there any authorities whom the Government proposed to direct which you believe should not be included in the priority list; or any authorities who have not been included in the list which you believe should be?

There is a need to ensure appropriate adaptation responses are considered in housing, particularly for vulnerable households. This a particular concern in Cambridgeshire given our planned growth rates, and specific climate vulnerabilities. Updates to the Code for Sustainable Homes (CSH) to consider adaptation are very welcome, but this will be insufficient to drive adaptation planning at the local level, as the Code is likely to remain voluntary beyond building regulation standards.

The Social housing sector could play an important role by adopting minimum adaptation standards, just as it has done for other aspects of sustainability by adopting minimum levels of the CSH. For housing authorities with retained stock, adaptation will be included within their NI 188 duty. However, inclusion of Registered Social Landlords should also be considered.

The inclusion of the health sector is supported, but we would question why this does not translate into full range of health and social care service providers. Health services are especially vulnerable to heat waves and long-term effects of heat. There are also potential severe weather issues affecting the ability to reach and care for patients. Many social care services will be covered through local authority reporting via NI188, but for other locally provided services we do not feel it sufficient

to rely only on reporting from the regulatory body Care Quality Commission. Defra should consider remitting the reporting duty to the 10 Strategic Health Authorities as well, as strategic overview bodies for local NHS services.

It is not really clear why executive agencies of government are not included. Perhaps they should all be invited to report at least on a voluntary basis - though please see comments on Q5 with regard the Highways Agency.

Q5. Are there any other authorities that would like to be invited to report on a voluntary basis?

The County Council supports the suggestion that organisations that meet the criteria but do not sit within the legal definition of reporting authority, should be strongly encouraged to report on a voluntary basis.

We would also suggest a general invitation to business sector (rather than focusing solely on the food sector), would be appropriate, perhaps targeting larger companies. This would be an opportunity for them to demonstrate sustainability credentials and ensure climate risks are taken account of in a competitive environment.

Q6. Do you agree with the additional situations in which reporting authorities may be asked to report? Are there any others that you can suggest?

Regarding the involvement of Local Authorities, we would support the move to exclude them from the list for the time being on the basis of reporting that is already taking place through the Local Government Performance Framework. However, this is not a long-term solution and the following should be taken into account:

- For NI 188 a distinction is to be made between having to report, and actually taking significant action. For those authorities that have not identified adaptation as a priority area and identified targets for NI188, the requirement to report via NI 188 is not onerous, requiring only the most basic completion of a simple template.
- Similarly, there is no direct penalty for poor performance by local authorities on adaptation – the broader CAA process should pick up poor performance, but NI188 might easily be disguised by the scores of other NIs and activity in other areas.
- There is no minimum required standard for NI 188 – only an ‘expectation’ on local authorities.
- NI 188 is a process indicator and thus has a limited time span. One might expect that 5 years from now, large numbers of local authorities – certainly those that have set NI 188 as a priority area - have been through the process set out and are in an implementation and monitoring phase, i.e. performing at levels 3 and 4 of NI188.

We would agree with the principle that poorly performing local authorities might be required to report under the Reporting Power. This would help to address the issue that the requirement to report against NI188 is not, in itself, an incentive to take action.

Additionally, it is clear that there will need to be a review of NI188 several years from now to ensure it is still working to ensure local authorities are managing climate risks to delivery. This might be an opportunity to reconsider the inclusion of all local authorities within the Adaptation Reporting Power, and/or to streamline the reporting and guidance processes for both. Whichever path is taken it is absolutely imperative

that Defra work closely with local authorities to establish the most appropriate mechanisms for monitoring performance on adaptation, ensuring there is not an inappropriate reporting burden, and that clear guidance is available to support organisations in developing climate risk management and adaptation responses.

If there is a time when local authorities are included under the Reporting Power, it is important that the extra resources required to formally report are taken account of, and appropriate assistance provided from Government.

Q7 Are there any changes you'd like to make to the Reporting Direction?

It is not clear the extent to which this is a one-off requirement to report. Will all authorities be included in the second Direction to report after 3 years? Will there be any mechanism to monitor performance by authorities after several years have passed? It is important that the Direction provides clarity in this respect, as a climate risk management approach is an ongoing responsibility, not a one-off. There needs to be regular reporting and checking by government into the future to be assured that authorities continue to perform in this area, and are taking account of changing circumstances that may be affect climate risk.

Q8 What in your view are the areas, if any, in which we should make specific changes to the Direction for a particular sector or organisation?

No comments

Q9 If your organisation is a proposed priority reporting authority how long do you think it will take to respond in the detail outlined here and in the Statutory Guidance?

Cambridgeshire County Council is not a proposed reporting authority, but we urge Defra to note that our recent experience - albeit with limited resources - would suggest that to reach a point where we have a clear adaptation plan based on climate risk assessment, and with widespread cross-authority buy-in to that process, *at least* two years is required. This is not the time taken to produce an Adaptation Report, but the time taken to develop a comprehensive adaptation response based on a firm foundation throughout the organisation. We also note that formal guidance has not been available previously. We would suggest therefore that the date for submission of reports is put back, allowing organisations a little more time to mobilise resources for a comprehensive response to adaptation – at least in the first round of reporting for this new requirement.

Q10 Are there particular confidentiality issues that you believe will need to be taken into account in your organisation?

n/a

Q11 What additional help. Guidance and support might an authority want from the Adapting to Climate Change Programme?

We note the proposal that Government will use Reports to inform national adaptation strategy. Any analysis done to compare reports on a sector or geographical basis will be particularly valuable for reporting authorities in their own planning, and also for local government especially LAA/LSPs. In particular we would like to see highlighted any examples of good and bad practice in other organisations that might inform adaptation responses in our own area.

UKCIP will have a critical role in advising Reporting Authorities, and this should be an ongoing responsibility given that for many their adaptation work will be in early

stages. Cambridgeshire Climate Change Partnership has benefited from direct support and advice from this organisation, and an ongoing commitment from UKCIP to provide support and advice for local authorities, our partners and other organisations affected by the Reporting Power would be helpful.

Q12 Do you agree with the proposed role for the Adaptation Sub-Committee in considering the reports?

Yes, we would support their role in analysing preparedness of Reporting Authorities and advising on future reporting strategy.

Q13 Is there any more detail that you would like to see in the draft guidance?

Yes. There are a number of issues that require further explanation:

- Adaptation should not be considered by organisations as an 'environmental issue'; rather it is about risk management and is likely to have implications across the full range of functions. Staff responsibilities for leading on adaptation should ideally reflect this more corporate approach.
- It should provide sector specific guidance on the importance of engaging with partners in responding to climate risk most effectively, for example through Local Resilience fora. Reporting authorities rarely operate in isolation.
- We note that the draft guidance currently does not give any particular emphasis to ensuring leadership and public commitment, project planning and other activity to ensure the groundwork for a strong approach to managing climate risk. This may need to be reconsidered to take account of the differing starting points of reporting authorities.
- The guidance should emphasize the importance of using evidence of the impacts of previous severe weather events to engage different parts of an organisation in thinking about the future, as well as informing potential responses. Well known process such as 'Local Climate Impacts Profile' and UKCIP 'Business Areas Climate Impacts Assessment Tool' may be useful in this respect, for the sectors included in the list of Reporting Authorities, as well as for the local authority and business sectors originally intended. Ongoing work in the East of England, lead by Cambridgeshire and Suffolk County Councils, is testing these two approaches in a business context and may be of interest when outputs are available in 2010.
- The guidance should be clear in the expectation that reporting authorities will monitor progress in managing climate risks, through an ongoing process of implementation, monitoring and review.

Finally, we note also that the guidance will include more up-to-date thinking than the guidance currently available for NI 188 for local authorities, as it will be able to draw from recent activity since NI 188 guidance was produced, and good practice examples. Certainly we will find it useful additional guidance in our own climate risk management and adaptation activity. It may be helpful to streamline these into a single guidance documents together in the long-term, though this would need to incorporate sector specific guidance. Any further development of guidance for local government on adaptation must be done in close consultation with local authorities.

Q14 Would you be able to provide us with other examples or case studies to use to support this guidance?

Local and Regional Partnership Board and UKCIP in particular are well placed to advise on examples and progress given their ongoing support role.

Questions 14-24 concern the Impact Assessment, and are intended specifically for organisations directly affected by the Reporting Duty.