# Medway LLFA Statutory Consultee Performance Report 1 April 2016 – 31 March 2017

1. **Introduction**

Medway Council in its remit as Lead Local Flood Authority was made statutory consultee in respect of surface water for major development on April 15, 2015. The role of statutory consultee is defined through the Town and Country Planning Act 1990; Town and Country Planning (Development Management Procedure) (England) Order 2015; and, Planning and Compulsory Purchase Act 2004.

Statutory consultees have a duty to respond to statutory consultations within 21 days in accordance with Article 22 of the Development Management Order. The 21-day period does not begin until the statutory consultee in question has such information to enable a substantive response.

Subsection (5) of Article 22 defined a substantive response as one which:

* 1. states that the consultee has no comment to make;
  2. states that, on the basis of the information available, the consultee is content with the development proposed;
  3. refers the consultor to current standing advice by the consultee on the subject of the consultation; or
  4. provides advice to the consultor.

# Performance reporting

In accordance with Article 23 of the Development Control Management Order, statutory consultees are required to provide reports on their performance for the period of 12 months commencing 1 April in the preceding year (on this occasion 15 April). The reports should be sent to the Ministry of Housing, Communities and Local Government, and published on the statutory consultees’ website.

The report must contain:

* A statement as to the number of occasions on which the consultee was consulted by a person other than a Local Planning Authority and the number responded to within the reporting period (for example pre-application stage consultations).
* A statement as to the number of occasions on which the consultee was consulted by a Local Planning Authority and the number responses to within the reporting period.
* In relation to occasions on which the consultee has given a substantive response outside the period referred to in section 54(4) of the 2004 Act, The reports should be sent to the Ministry of Housing, Communities and Local Government, and published on the statutory consultee’s website.
* The number of incidences where negotiated extensions to the 21-day deadline are agreed with the Local Planning Authority a summary of the reasons why the consultee failed to comply with the duty to respond within that period.

# Overview of compliance based on consultation type

Table 1 below provides an overview of compliance for every consultation type received followed by a brief assessment of compliance in the relating to different consultation types.

# Table 1: Statutory Consultee compliance results 1 April 2016 – 31 March 2017

|  |  |  |  |
| --- | --- | --- | --- |
| **Consultation Type** | **Number received** | Responded to within 21 days | % compliance |
| Condition Discharge | 45 | 35 | 77.8% |
| EIA\* | 10 | 9 | 90.0% |
| Major (Full) | 28 | 20 | 71.4% |
| Minor | 18 | 12 | 66.7% |
| Reserved Matters (Major) | 2 | 2 | 100.0% |
| **Total** | **103** | **78** | **81.2%** |

*\*EIA: Environmental Impact Assessment*

*Consultations overview*

We have an internal objective to achieve a minimum of 80% compliance for statutory consultations applications (including Condition Discharge, Major and Reserved Matters applications). This was not achieved for Condition Discharge, or Major applications due to resourcing issues primarily.

*Consultations outside remit:*

Although we are only a statutory consultee for major applications, we have responded to consultations for minor applications where there may be concerns relating to potential drainage issues which could result in a significant impact on localised drainage and flooding problems. These do not account for a high number of applications, but the Local Planning Authority is requesting more informal advice on minor applications in recognition of the fact that even minor development can have a significant impact on localised drainage and flooding problems. This is also supported by evidence of flood incidents relating to new build minor developments which received permission prior to the LLFA statutory consultee role.

We have considered developing standing advice and guidance which could address some of the potential issues applicable to minor applications, however often, problems are very site specific which require review at a more detailed level to ensure that there will be no detriment to flood risk and therefore our involvement is limited to those applications where there are known problems supported by appropriate evidence.

# Summary

Medway Council has not achieved overall internal compliance to respond to statutory consultations due to resourcing issues. Staffing and resource are being looked at with a view to take on another officer to assist with the planning elements of the role. Any consultations received that were not responded to within the 21-day deadline, were responded to at a later date in agreement with the Local Planning Authority in all instances.