

REPORT TO COUNCIL MEETING HELD ON 26 November 2012

AGENDA ITEM NO : 21

**SUMMARY OF REPORT:**

Discussion paper presented to Roads and Transportation SPC on 12/04/2012 setting out the proposed policy of Donegal County Council on drainage water running on roads.

**DECISION REQUIRED:**

To approve Council Policy on drainage water running on roads.

John G. McLaughlin  
DIRECTOR OF SERVICE

20 Nov. 2012  
DATE

20 November 2012

*Document File: M1*

To: Chairman and Each Member of Donegal County Council

Subject: Policy regarding Drainage/Water Running on Roads

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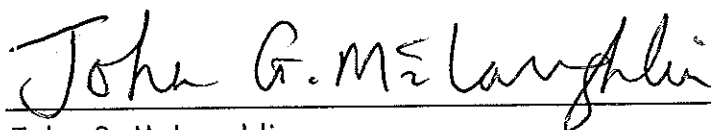
The Roads and Transportation Strategic Policy Committee has developed the attached policy during 2012. It has been circulated to each electoral area during its development and some comments were received and incorporated. At its meeting on 19 November 2012, the SPC recommended it for approval by the Corporate Policy Group and the Full-Council.

#### **Decisions Required at Council Meeting**

The following decisions are required at the Council Meeting on 26 November 2012:

1. To approve and adopt the attached Policy regarding Drainage/Water Running on Roads.

Sincerely



John G. McLaughlin  
Director of Roads & Transportation

**Discussion Paper**  
**Roads Strategic Policy Committee**  
**12/4/12**

**Drainage / Water running onto roads from land.**

**1. Introduction**

Over a number of years Council Members have highlighted the need to address water flowing on roads at specific locations around the network. There are two principal reasons for this.

Most local and many regional and national roads have a limited road base comprising unbound stone on which a surface dressing of bitumen binder and chips is placed. The road base provides the structural layer which transfers the load from wheels to the underlying soil. When this becomes saturated the strength of this layer is reduced. Additionally in winter the cycle of freezing and thawing of saturated materials weakens the layer as well as damaging the surface dressing.

Secondly when water ponds on the road and freezes or when water and soil is left on the road this can present a driver with slippery conditions.

Given these items it is important that water flowing onto, or being prevented from flowing off, roads is minimised.

Land and property owners have responsibilities which are set out in the Roads Act. This discussion paper set out the legal responsibilities of land owners and occupiers, the Council's proposed policy in relation to water entering onto the public road and actions it is proposed to take in support of the policy for discussion by the Roads SPC.

**2. Roads Act:**

Section 76 of the Roads Act 1993 requires owners or occupier of any land adjacent to a public road to take all reasonable steps to ensure that:

- (a) water is not prevented, obstructed or impeded from draining into, onto, under, through or to his land from a public road,

- (b) water, soil or other material is prevented from flowing or falling onto a public road from his land.

Where, in the opinion of the Local Authority, a person is not taking these reasonable steps it may serve a notice in requiring them to carry out specified works or take specified measures—

The person may appeal the notice to the District Court on specified grounds and the court may confirm the notice unconditionally, or confirm or reject the notice subject to such modifications etc alterations or additions as the Court thinks reasonable. There is no appeal process and an owner or occupier who fails to comply with a notice shall be guilty of an offence.

Where the Council considers that the water etc. presents an immediate and serious hazard to persons using a public road or has caused, is causing or will cause serious damage to a public road it may take immediate action and recover costs from the land or property owner.

Separately a person who scours, deepens, widens or fills in any existing drain or excavates any new drain within 15m of a road or who carries out any works which interfere with, a bridge, culvert, retaining wall, embankment or other structure providing lateral or other support for a public road must get the consent of the Council.

### **3. Proposed Policy of Donegal County Council:**

The following is the proposed policy of the Council in relation to water entering onto roads.

*It is the policy of Donegal County Council that land and property owners should be encouraged in the first instance to comply with their responsibilities to take all reasonable steps to ensure that:*

- (a) *water is not prevented, obstructed or impeded from draining into, onto, under, through or to their land from a public road,*
- (b) *water, soil or other material is prevented from flowing or falling onto a public road from their land.*

*Where in the opinion of the Council a land or property owner fails to comply with their responsibilities the Council may take legal action against the land or property owner concerned and recover their cost in doing so in accordance with the law.*

**4. Proposed actions to be taken in support of the Policy:**

The following actions are proposed to support the policy.

Action	Responsibility
a. Advertisements are to issue re need for drainage (see attached drafts in Appendix One).	Senior Engineer
b. Local verbal contact is to happen in relation to particular issues with land or property owner.	Roads RSS/ Roads Area Engineer
c. Where the matter is not resolved a letter as per Appendix Two. Will be issued by the local office.	Roads RSS/ Roads Area Engineer
d. Follow up on issues raised at b. and c. will occur with land or property owner.	Roads RSS/ Roads Area Engineer
e. If required formal legal notice issue to issue.	Roads Area Senior Executive Engineer
f. Legal action to be taken as required.	Roads Area Senior Executive Engineer

**DONEGAL COUNTY COUNCIL  
(Comhairle Chontae Dhun na nGall)**

**NOTICE TO LANDOWNERS & OCCUPIERS  
WORKING ADJACENT TO ROADS  
ROADS ACT 1993**

Landowners and occupiers of land adjacent to a public road are reminded that when they carry out drainage works within 15 metres of a public road or do other construction works which may interfere with the road, consent from the Local Authority is required.

Application forms can be downloaded at [www.donegalcoco.ie](http://www.donegalcoco.ie) or are available from you local Public Service Centre.

John Mc Laughlin  
Director of Roads & Transportation

Water flowing onto roads damages the road and may cause an accident when it freezes or leaves mud and stones lying about.

Donegal County Council reminds landowners and occupiers of land that they are responsible for ensuring water is prevented from flowing onto roads from their land.

Checking and fixing drains on your property and ensuring you complete works on your planning permission will help you comply with your responsibilities. If you are unsure how to undertake the works please contact your local Public Service Centre who can provide advice.

Donegal County Council would like to thank the many members of the public who have already carried out this work.