

## Decision Report - Executive Decision

Forward Plan Reference: FP/23/01/04

Decision Date – 06/03/2024

Key Decision – Yes

Confidential Information – Yes



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### **Executive Decision in relation to Somerset Council's role as Host Authority and Accountable Body to the Somerset Rivers Authority partnership.**

Executive Member(s): Lead Member for Environment and Climate Change

Local Member(s) and Division: All

Lead Officer: Kirsty Larkins, Service Director - Climate, Environment and Sustainability

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### **Summary / Background**

1. Somerset Council took on the role of Host Authority and Accountable Body for the Somerset Rivers Authority (SRA) in 2023, carrying on the role that Somerset County Council had performed since 2015. Once approved, this decision will ensure that the residents of Somerset continue to benefit from extra funding and extra actions that reduce the risks and impacts of flooding across the county. These extra activities are only possible because of the unique arrangements we have in Somerset to fund the Somerset Rivers Authority.
2. Winter 2013-14 was the wettest in Somerset for 250 years. Around 150km<sup>2</sup> of land was submerged for weeks, 165 homes flooded, 7,000 businesses affected, 81 roads closed. An Economic Impact Study estimated the cost to Somerset as being up to £147.5m. The Somerset Rivers Authority (SRA) was launched in January 2015 to provide an extra level of flood protection and resilience for Somerset. Through the SRA an additional £25.9m has already been raised to reduce the frequency, depth and duration of flooding and increase resilience to flooding across the county. 2024-25 will be the tenth year that the SRA funds an 'Enhanced Programme' of projects to tackle flood risks. As the impacts of climate change are felt more and more, the risk of flooding increases. The flooding we are seeing now is as likely to be surface water flooding in steep-sided catchments as it is flooding that slowly builds across the Somerset Levels and Moors. Between the start of January 2023 and the end of January 2024, more than twice as many houses were flooded across the county as were flooded in 2014 – mostly as a result of intense downpours.

3. Somerset is unique in having the SRA and the ability to raise funds in the way it does. The SRA is a partnership of Somerset Council, the Environment Agency, the Axe Brue Internal Drainage Board, the Parrett Internal Drainage Board, Wessex Regional Flood and Coastal Committee, Natural England and Wessex Water.
4. In 2024-25, a further £3,078,886<sup>1</sup> will be raised locally and spent on 12 different projects and activities. SRA activities stretch across the county. Full details are provided in Appendices 3 and 4.
5. A key decision has been taken each year by the Host Authority to approve the allocation of funds, raised through an Alternative Notional Amount on Council Tax and contributions from Somerset Internal Drainage Boards for use in the coming financial year by the SRA.
6. The Alternative Notional Amount (ANA) is the formal name for the process used by central government to allow Somerset councils to make a small increase to council tax charges in the 2016-17 financial year solely for the purpose of funding the activities of the Somerset Rivers Authority. This mechanism ensured that funding the SRA did not reduce funding for other council services. This ANA is rolled forward each year to fund the SRA. The amount charged is currently fixed at 1.25% of the 2016-17 council tax charge. For 2024-25 the charge per band D property will be £14.65, resulting in approximately £3.059m being raised for the SRA.
7. The purpose of funding raised for the SRA is to provide an extra level of flood protection and resilience for Somerset residents using locally raised funding to deliver on locally agreed priorities. The SRA Board each year approves a series of projects which are collectively referred to as the Enhanced Programme. Since 2015 the SRA Board has approved funding for approximately 240 schemes and activities. The 2024-25 Enhanced Programme will see a further 12 separate projects funded: full details are contained in Appendix 3 (confidential) and Appendix 4 (public).
8. The Executive is asked to review the 2024-25 SRA Memorandum of Understanding (MOU) and approve the signing of the current MoU by the Lead Member for Environment and Climate Change on behalf of the council.

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<sup>1</sup> Includes £10,000 from the Axe Brue Internal Drainage Board and £10,000 from the Parrett Internal Drainage Board.

9. The Somerset Rivers Authority partnership has been developing a new Strategy and Flood Action Plan during 2023-24. The Strategy follows on from the 20 Year Flood Action Plan (FAP) that was produced in 2014 in response to the floods of that year. Many actions in the FAP are now completed. The SRA's new Strategy and Flood Action Plan 2024-2024 will set the strategic direction of the SRA partnership for the next ten years and beyond. There are 6 Somerset Councillors on the SRA Board who have been involved in the development of the Strategy. The Executive is asked to review the final draft of the document in advance of the SRA Board approving and publishing the document on 8 March 2024.

## **Recommendations**

10. The Executive agrees:
  - a. To Somerset Council continuing in the role of Host Authority and Accountable Body for the Somerset Rivers Authority.
  - b. To review the revised 2024-25 Local Memorandum of Understanding and Constitution set out in Appendix 1 and authorise the Lead Member for Environment and Climate Change to sign this on behalf of Somerset Council.
  - c. To review the proposed SRA Budget and SRA Enhanced Programme for 2024-25, (Appendix 2 SRA Board 2024-25 Enhanced Programme and Budget) in accordance with the recommendations to be considered by the SRA Board at its meeting on 8 March 2024.
  - d. To the release of funding committed from all sources in 2024-25 for the purposes of the SRA, subject to receipt of those funds, in accordance with the budget for 2024-25 as set out in Appendix 2 SRA Board Paper 2024-25 SRA Enhanced Programme and Budget.
  - e. That Somerset Councillors that sit on the SRA Board can approve the publication of the SRA's new Strategy and Flood Action Plan at the SRA Board meeting on 8 March 2024.
  - f. That the detailed management of the 2024-25 SRA Budget and Enhanced Programme within the control total allocated to the SRA is undertaken in accordance with the constitutional, financial regulations and decision-making arrangements of Somerset Council as Accountable Body.
  - g. The case (set out in 'legal implications' for exempt information) for Appendix 3 CONFIDENTIAL 2024-25 SRA Enhanced Programme

scheme descriptions WITH COSTS to be treated in confidence, as the case for the public interest in maintaining the exemption outweighs the public interest in disclosing that information.

- h. To exclude the press and public from the meeting where there is any discussion at the meeting regarding exempt or confidential information (Appendix 3).

## **Reasons for recommendations**

11. Somerset Council is the accountable legal body for the Somerset Rivers Authority until such time as it becomes a separate legal entity. The recommendations, once approved, will confirm Somerset Council as the accountable legal body for the Somerset Rivers Authority. This will enable the SRA to continue to work with partners to deliver the actions within the agreed Somerset Flood Action Plan and the SRA's new Strategy and Flood Action Plan, leading to an enhanced level of flood protection and resilience in the county.
12. The majority of the £3,079,000 funding raised will be used to fund Enhanced Programme activities with the remainder (£310,000) covering SRA staff costs, overheads and running costs. The 2024-25 Enhanced Programme will consist of 12 projects aimed at reducing flood risk, increasing resilience to flooding and encouraging adaptation to the water-related impacts of climate change across Somerset. Full details are contained within Appendix 4.
13. The allocation of funding to specific projects within the 2024-25 Enhanced Programme is proposed, if required, to be considered in exempt session to avoid compromising the procurement position of the delivery partners (Appendix 3).
14. The Local Memorandum of Understanding (MoU) and Constitution which sets the context for the work of the SRA has been revised to reflect changes relevant to the 2024-25 financial year. The MoU has been revised to reflect that the SRA Board will be responsible for oversight of the new Somerset Rivers Authority Strategy and Flood Action Plan from April 2024. Proposed changes are shown in blue in Appendix 1.
15. The MOU must be formally agreed by all Partners to ensure the ongoing support of Partners in delivering the SRA Enhanced Programme of work and to provide a clear governance structure for setting and managing that work. SRA funds are not disbursed until the MoU has been signed by all parties. The MoU will be

signed on behalf of Somerset Council by the Lead Member for Environment and Climate Change.

### **Other options considered**

16. The only alternative option is for Somerset Council not to take on the role of the host authority for the SRA and not to approve the funding for use by the SRA. This would result in the SRA being unable to proceed in its current form, or at all. The funding raised through the Alternative Notional Amount is explicitly for the funding of SRA activities. If the funds are not used for the SRA they will be lost to the county and the extra benefits the SRA brings will also be lost. This is not considered to be a viable option. As SRA funding is raised through Council Tax no other organisation can fulfil the role that the council can.

### **Links to Council Plan and Medium-Term Financial Plan**

17. SRA schemes and activities support the priorities of Somerset Council.
18. The work of the SRA addresses a number of the priorities in the adopted Somerset Council Plan and the “Vision” for Somerset Council. The vision states:

“Somerset Council will build a fairer, greener, more flourishing, Somerset that cares for the most vulnerable and listens to you.”

SRA activity delivers against the priorities of:

- A greener, more sustainable Somerset
- An environmentally sustainable and more resilient Somerset

Climate change is increasing the likelihood and impacts of flooding. The work of the SRA helps Somerset prepare for, mitigate the impacts of, become more resilient to and ultimately adapt to, the impacts of climate change

19. The work of the SRA directly supports achieving Goal 3 of the Climate Strategy – ‘To have a Somerset which is prepared for, and resilient to, the impacts of Climate Change. Through delivering the Somerset 20 Year Flood Action Plan and the SRA’s new Strategy and Flood Action Plan, the SRA partners undertake schemes and activities that contribute towards tackling many of the climate change related risks identified in the Somerset Climate Emergency Strategy.
20. The work of the SRA directly supports the objectives contained within Somerset Council’s Local Flood Risk Management Strategy.

21. Medium Term Financial Plan: It was resolved at Full Council on the 20 February 2024 to agree to set a Council Tax precept of £14.65 (Band D) within the base budget for the Somerset Rivers Authority. This results in a Council Tax Requirement of £3,058,886. As explained in paragraph 6, SRA funding does not impact on council tax funds available for other council services.

### **Financial and Risk Implications**

22. Funding amounting to £3,655,785 is available to the SRA for 2024-25, of which Somerset Council will contribute £3,058,886 from Council Tax receipts (as confirmed at the Full Council meeting on the 20 February 2024). Funds raised for use by the SRA do not reduce the funds available to Somerset Council through council tax.
23. SRA funding is raised by a 1.25% 'Alternative Notional Amount' (ANA) added to council tax bills. The funds raised are in addition to that raised for core SC functions. Funds raised for the SRA cannot be used for other reasons as this would be in contravention of why the Alternative Notional Amount was originally approved by central government.
24. Somerset Council, as the Accountable Body, will be responsible for the proper oversight, management and accounting of all funds raised for, and spent by the SRA. All SRA funds are overseen by a Somerset Council Finance Manager. The SRA Board allocates SRA funding as grants. The SRA's constitution defines the Board's purpose and authority of the Board and sets out delegations for financial decisions. All SRA Board decisions must align with Somerset Council Standing Orders and, where necessary, a key or non-key decision will be taken by the relevant council officer or Executive Member to ratify decisions of the SRA Board.
25. The flexibility afforded to Somerset Council to raise a funds through Council Tax for SRA activities will continue for as long as Somerset Council chooses to raise it.
26. The primary risk of not approving the SRA funding and Enhanced Programme would be that the SRA could ultimately be wound up. Without funding, the SRA would be unable to deliver its objectives of an extra level of protection from flooding and an increase in resilience to flooding. The momentum achieved since the SRA's inception in 2015 in mitigating the intensity and duration of flooding events would not be maintained.

27. There is a risk of reputational damage to Somerset Council if funding is not approved and the SRA ceases to continue in any meaningful form.
28. If funding is not approved there is a risk of (4) staff redundancies within the SRA team and a potential financial liability for Somerset Council from redundancy payments. This is mitigated by the agreement to use any remaining SRA funds to settle this liability in the first instance.
29. The SRA provides grant funding, paid in arrears, to SRA delivery partners upon evidence of agreed and eligible works being completed. Organisations delivering SRA-funded projects must first settle any charges and then claim funds back from the SRA by submitting a grant claim. Claim forms must be signed off by a suitably qualified financial officer from the delivery organisation giving the SRA assurance that any claim is for eligible spend. This process minimises the risk of funds being spent on ineligible activity. The SRA undertakes an audit annually of selected claims to provide an additional level of assurance that SRA funds are being spent for the intended purpose.
30. Just as some projects underspend, so some SRA projects occasionally face cost increases. In such a case, there is a risk that an SRA delivery partner may be unable or unwilling to absorb those costs. In this instance the SRA may be asked to fund the cost increase. When this occurs the delivery partner must seek approval for additional funding from the SRA Board. This approval process allows the SRA Board to consider funding requests in advance of committing to those cost increases and allows the Board to manage its available funds in a prudent manner and to consider any impacts on the overall Enhanced Programme and budget. Where a cost increase occurs that could not be identified in advance, the SRA Board has the option to not fund that cost increase and the delivery partner would be liable for that cost. Any decision taken by the SRA Board must also follow council Standing Orders and, where necessary, a key or non-key decision will be taken to ratify the SRA Board decision.
31. The Local Enterprise Partnership (LEP) granted £13.049m to a 'Somerset Flooding' project in 2015. These LEP funds are now fully claimed. Project delivery is still underway using match funding. There is a risk that the LEP could claw back previously granted funds if a project was not completed or it was found that the funds had been incorrectly spent. This is mitigated by the SRA claims procedure which requires any partner claim to be certified by a suitably

qualified finance officer or other senior officer of the organisation claiming, and also by annual auditing procedures.

- 32. Somerset County Council agreed to ‘own’ the risks associated with spending of LEP funding on behalf of the SRA. This commitment has now passed to Somerset Council (SC). This risk is mitigated by the fact that SC has signed ‘strategic grant agreements’ with SRA delivery partners which makes the delivery partner liable for the risk of LEP funding clawback. All LEP funds have now been claimed from the LEP, further reducing this risk.
  
- 33. Due to the measures and procedures set out above, financial risk to Somerset Council as Host Authority and Accountable Body for SRA is deemed to be low. The SRA follows strict processes for the allocation and management of the grant funding that it provides. These processes mean there is a low likelihood that the SRA will exceed its available budget. The likelihood and impact of the above risks coming to fruition have been assessed as having a low likelihood but a high impact.

<b>Please enter risk description</b>					
<b>Risk that Somerset Council is liable for any cost associated with the winding up of the SRA or of SRA grant-funded projects going over budget.</b>					
<b>Likelihood</b>	<b>2</b>	<b>Impact</b>	<b>4</b>	<b>Risk Score</b>	<b>8</b>
<b>Please enter mitigation here</b>					
<b>The SRA has clear governance and decision-making processes that minimise the risk that costs associated with SRA grant-funded projects will exceed the available SRA funds.</b>					

**Legal Implications**

- 34. If Somerset Council agrees to be the Accountable Body for the SRA, then all decisions will be taken in accordance with Somerset Council’s Standing Orders and procedures. This means that SRA Board decisions, where relevant, will be decisions in principle until ratified by the Accountable Body. For example, if the



SRA Board takes a significant financial decision, this will be accompanied by a key or non-key decision by the Accountable Body.

35. The amendments to the SRA's Memorandum of Understanding (MoU) and Constitution do not carry any legal implications for Somerset Council or any of the SRA partners. The MoU confirms organisational support for the SRA and codifies the governance arrangements for the proper operation of the SRA Board.
36. Appendix 3 contains exempt information. "Exempt information" is defined by Section 100 of the Local Government Act 1972 and by Schedule 12A to that Act. The information in Appendix 3 is exempt information because it is considered to fall within paragraph 3 of Schedule 12A:

"Information relating to the financial or business affairs of any particular person (including the authority holding that information)".

The public interest test is then applied and in this instance it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information for the reasons set out in paragraph 1.3 in the Background section below.

### **HR Implications**

37. Somerset Council will act on behalf of the SRA Board as Host Authority. It will employ SRA staff (4 full-time permanent staff and 1 part-time - 2 days per week - member of staff employed through an agency). As such Somerset Council will be responsible for all HR-related matters for the SRA team.

### **Other Implications:**

### **Equalities Implications**

38. This decision relates purely to the role that Somerset Council will fulfil as Host Authority and Accountable Body for the Somerset Rivers Authority (SRA). In this role the council will take a formal decision to allocate the funds raised through the Council Tax for the activities of the SRA as set out within the SRA's Enhanced Programme.
39. Equalities and due regard issues have been considered. Project-specific due regard issues will be considered on a project by project basis. The Somerset

Council Lead Equalities Officer has confirmed a full Equalities Impact Assessment is not required for this decision. Grant funding recipients are required to have due regard to equalities issues when planning and undertaking work funded by the SRA.

40. The SRA Enhanced Programme of works is a series of mostly relatively small-scale interventions related to flood risk management. The works often have localised impacts and are developed in consultation with landowners, property owners and statutory bodies such as Lead Local Flood Authority, Environment Agency and Natural England.
41. Where community-based work is undertaken as part of the Programme, such as building community resilience, these will be undertaken in an inclusive manner with reference to Somerset Council expectations on equalities and inclusion.
42. Representation of the communities of Somerset, and their various characteristics, will be achieved through councillor representation on the SRA Board. SRA projects often involve stakeholder groups from across Somerset. The SRA funds two community engagement officers who work in communities at risk of flooding across Somerset. SRA meetings are public meetings.
43. The local Memorandum of Understanding sets out that the SRA shall, where relevant and unless otherwise agreed, operate in accordance with Somerset Council practices and procedures, relating to:
  - Equalities policies.
  - Policies for dealing with access to information and data protection.

### **Community Safety Implications**

44. There are no implications with regard to crime, but the aim of the funding is to improve community safety by reducing risks associated with flooding

### **Climate Change and Sustainability Implications**

45. The aim of setting up the SRA is to provide a long-term sustainable funding solution to enhance flood risk management in the county. The SRA will directly support Somerset Council to respond to the challenges of climate change. SRA funds will invest in projects that support adaptation to climate change and help communities and businesses be resilient and sustainable into the future. Many SRA-funded projects deliver multiple benefits such as water quality, improved

biodiversity, carbon sequestration, etc. SRA projects will directly support delivery of the Climate Emergency Strategy.

46. SRA grant proposal forms expressly require proposers to say how their project will help tackle climate change. The proposal form states:

Addressing Climate Emergency: The SRA encourages proposals which directly support Somerset's response to climate change by increasing resilience and encouraging adaptation to the effects of climate change. Please pay particular attention to the Water Sector Detailed Report (Appendix 12). Describe to what extent your proposal supports Somerset in achieving its goals of carbon neutrality and/or long-term resilience to the impact of climate change. Such as:

- Carbon reduction and energy conservation
- Support biodiversity and ecological adaptation and resilience
- Flood risk management through nature-based solutions
- Implementation of water conservation measures including agriculture, homes, business and industry
- Mitigation of environmental impacts
- Strategies to raise awareness and preparedness involving our communities

### **Health and Safety Implications**

47. None identified.

### **Health and Wellbeing Implications**

48. The aim of the Enhanced Programme as a whole is to improve community well-being. There are specific actions in the Enhanced Programme that are aimed at improving community resilience. The health and wellbeing of residents potentially impacted by flooding is improved through increasing resilience to flooding and protection from flooding.

### **Social Value**

49. This decision will not instigate any procurement directly but rather releases funds that can then be allocated as grants for SRA projects which are delivered by SRA partners. To date, SRA funds have been used to directly support local businesses on many projects – this will continue into the future. SRA funds support two community engagement officers who are helping local communities to increase

the capacity they have to respond to the risk of flooding and adapt to likely future impacts of climate change.

### **Scrutiny comments / recommendations:**

50. Scrutiny Committee – Climate and Place considered a draft version of the report on 17 January 2024. Reassurance was sought that SRA funding would not further exacerbate cost pressures on the council or increase costs to Somerset residents. One committee member recommended that costs and benefits of SRA-funded projects be carefully considered before funding is granted. Scrutiny Committee Members overall supported the work of the SRA. No amendments to the report were requested.

### **Background**

51. Winter 2013-14 was the wettest in Somerset for 250 years. Around 150km<sup>2</sup> of land was submerged for weeks, 165 homes flooded, 7,000 businesses affected, 81 roads closed. An Economic Impact Study estimated the cost to Somerset as being up to £147.5m. The SRA was launched in January 2015 to provide an extra level of flood protection and resilience for Somerset; it was an Action in Somerset's 20 Year Flood Action Plan (FAP) drawn up at the Government's request in 2014 to reduce the severity, duration, frequency and impact of flooding.
52. The SRA is a partnership of existing Flood Risk Management Authorities (FRMAs). Its members are Somerset Council, the Environment Agency, Natural England, the Wessex Regional Flood & Coastal Committee, the Axe-Brue Internal Drainage Board and the Parrett Internal Drainage Board and Wessex Water. The SRA does not diminish the roles, funding and responsibilities of any of its Flood Risk Management partners - nor indeed of landowners (who have their own riparian responsibilities). Somerset Council appoints 6 council representatives to the SRA Board.
53. Through the use of SRA funds, additional work is undertaken with increased coordination. The aim is to ensure that Somerset residents benefit from organisations' collective experience and knowledge. The SRA does extra, not instead of. It delivers an extra level of flood protection and resilience for the whole of Somerset. It raises extra money. It enables extra work.

54. The 2024-25 General Fund Revenue Budget and Medium-Term Financial Plan (MTFP) was considered by Somerset Council on 20 February 2024. The Council resolved to continue the Council Tax precept of £14.65 within the base budget for the Somerset Rivers Authority. This results in a Council Tax requirement of £3,058,886 as detailed in ITEM 11, appendix 16, Council Tax Setting 2024-25. The outcomes of that meeting can be found by visiting the Somerset Council website -Full Council Agenda and Decisions. This funding raised through Council Tax plus £10,000 from the two Somerset Internal Drainage Boards totals £3,078,886 and is ring-fenced to finance the SRA in 2024-25, its 10th financial year. The SRA budget will have a neutral impact on Somerset Council's own budget.
55. This local funding will deliver a range of flood risk management activities across all areas of Somerset as part of the SRA Enhanced Programme. Appendix 3 of this report gives details of the projects with costs. Appendix 4 has project details without costs for the public. Appendix 3 is confidential to avoid compromising commercial negotiations with contractors when tenders are published for project delivery by grant recipients.
56. The Scheme of Delegation referenced in the SRA Constitution will be met by adherence to the Somerset Council constitutional arrangements and schemes of delegation. This is appropriate given that Somerset Council will be the accountable body, and the SRA in its current form lacks status as a decision-making body. Appendix 6 of the SRA Constitution (contained within Appendix 1 of this report) outlines the SRA decision making processes and reflects that these decisions are decisions 'in principle' and are subject to formal approval by its host authority and the accountable body for all SRA funding.
57. The proposed budget and associated SRA Enhanced Programme are scheduled to be approved by the SRA Board on 8 March 2024.

## **Background Papers**

None

## **Appendices**

- Appendix 1 - DRAFT SRA 2024-25 Memorandum of Understanding and Constitution
- Appendix 2 - SRA Board paper 2024-25 Enhanced Programme and Budget

- Appendix 3 - CONFIDENTIAL 2024-25 SRA Enhanced Programme scheme descriptions WITH COSTS
- Appendix 4 - 2024-25-SRA Enhanced Programme scheme descriptions
- Appendix 5 - Draft Somerset Rivers Authority Strategy and Flood Action Plan 2024-2034

### Assurance checklist

	Officer Name	Date Completed
Legal & Governance Implications	David Clark	13/02/2024
Communications	Peter Elliott	13/02/2024
Finance & Procurement	Nicola Hix	23/02/2024
Workforce	Alyn Jones	14/02/2024
Asset Management	Oliver Woodhams	22/02/2024
Executive Director / Senior Manager	Mickey Green	22/02/2024
Strategy & Performance	Alyn Jones	14/02/2024
Executive Lead Member	Dixie Darch	22/02/2024
<b>Consulted:</b>	Councillor Name	
Local Division Members	All	When published
Opposition Spokesperson	Steve Ashton	22/02/2024
Scrutiny Chair	Martin Dimery	06/02/2024