

Decision Report - Executive Decision

Forward Plan Reference: FP/23/01/03

Decision Date - 15/03/23



Somerset Rivers Authority (SRA) 2023-24 Enhanced Programme of Flood Risk Management Works and signing the SRA Memorandum of Understanding and Constitution

Executive Member(s): Cllr Sarah Dyke - Lead Member for Environment and Climate Change

Local Member(s) and Division: All

Lead Officer: Michele Cusack, Director Economic and Community Infrastructure Commissioning

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1. Summary / Background

- 1.1.** Winter 2013-14 was the wettest in Somerset for 250 years. Around 150km² 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 £22.8m has already been raised to reduce the frequency depth and duration of flooding and increase resilience to flooding across the county. 2023-24 will be the eighth year that the SRA funds an 'Enhanced Programme' of projects to tackle flood risk
- 1.2.** Somerset is unique in having the SRA and the ability to raise funds in the way it does. The SRA is currently a partnership of Somerset County Council, the four district councils, two Internal Drainage Boards, the Environment Agency, Wessex Regional Flood and Coastal Committee and Natural England. After vesting day all councillor representation will come from Somerset Council
- 1.3.** In 2022-23, a further £3,030,000¹ will be raised locally and spent on 12 different projects and activities. SRA activities stretch across the county. Full details are provided in Appendix 3 and 4.
- 1.4.** As Somerset County Council has been the accountable body for the Somerset Rivers Authority (SRA) for the last eight years each year a key-decision has been taken 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. This year Somerset County Council Executive is being asked to take the decision on behalf of the new Somerset Council.

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

- 1.5.** 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 ensured funding the SRA did not reduce funding for other services. This ANA is rolled forward each year to fund the SRA. The amount charged is fixed at 1.25% of the 2016/17 council tax charge. For 2023-24 the charge per band D property will be £14.65, resulting in approximately £3.01m being raised for the SRA.
- 1.6.** The purpose of funding raised for the SRA is to deliver an extra level of flood protection and resilience to 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 projects. The 2023-24 Enhanced Programme will see a further 12 separate projects funded; full details contained in Appendix 3 (confidential) and 4 (public).
- 1.7.** Finally, the Executive is asked to review the 2023-24 SRA Memorandum of Understanding (MOU) and approve the signing of the current MoU by the Lead Member for Environment and Climate Change. The MoU and Constitution will be completely reviewed to reflect the situation and new SRA appointments under the new Somerset Council between 1 April and 16 June 2023.

2. Recommendations

2.1. That the Executive agrees

1. To Somerset Council taking on the roles of Host Authority and Accountable Body for the Somerset Rivers Authority.
2. To approve the revised Local Memorandum of Understanding (including the Constitution of the SRA) set out in Appendix 1 and authorise the Lead Member for Environment and Climate Change to sign this on behalf of Somerset Council.
3. The case (set out in 'legal implications' for exempt information) for Appendix 3_ CONFIDENTIAL_2023-24 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.
4. To exclude the press and public from the meeting where there is any discussion at the meeting regarding exempt or confidential information (Appendix 3).
5. To approve the SRA Budget and SRA Enhanced Programme for 2023/24, (Appendix 2 ITEM 9 2023-24 Enhanced Programme and Budget) in accordance with the recommendations of the SRA Board from its meeting on the 3rd of March 2023.

6. To the release of funding committed from all sources in 2023/24 for the purposes of the SRA, subject to receipt of those funds, in accordance with the budget for 2023/23 as set out in item 5 above.
7. That the detailed management of the 2023/24 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.

3. Reasons for recommendations

- 3.1** Somerset County Council is the accountable legal body for the Somerset Rivers Authority until such time as it becomes a separate legal entity.
- 3.2** 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, leading to an enhanced level of flood protection and resilience in the county.
- 3.3** The majority of the £3,013,125 funding raised will be used to fund enhanced programme activities with the remainder (£280,000) covering SRA staff costs, overheads and running costs. The 2023-24 Enhanced Programme will consist of 12 different 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.
- 3.4** The allocation of funding to specific projects within the 2023-24 Enhanced Programme is proposed, if required, to be considered in exempt session to avoid compromising the procurement position of the delivery partners (Appendix 3).
- 3.5** The Local Memorandum of Understanding (MoU) and Constitution which set the context for the work of the SRA has been revised to reflect changes relevant to 2023-24 and the transition period to Somerset Council. Changes made to the MoU are highlighted in in the document itself in Appendix 1.
- 3.6** 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 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 County Council by the Lead Member for Environment and Climate Change.

4. Other options considered

- 4.1.** 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.

5. Links to County Vision, Business Plan and Medium-Term Financial Strategy

5.1. SRA schemes and projects add to the wider priorities of Somerset's local authorities and the forthcoming Somerset Council and support the new council's strategies and objectives. The SRA is also reviewing Somerset's 20 Year Flood Action Plan.

5.2. SRA activities directly contribute towards meeting priorities of the current County Business Plan. Specifically County Business Plan Outcome 2: Safe, vibrant and well-balanced communities able to enjoy and benefit from the natural environment whilst addressing climate change. The Key priorities supported are:

- A Somerset which is prepared for, and resilient to the impacts of Climate Change
- Ensure flood prevention remains a focus for the protection of communities in Somerset.

5.3. The work of the SRA addresses a number of the priorities in the recently adopted Somerset Council Plan and the "Vision" for Somerset Council. The draft vision states:

"The new 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, become more resilient to and ultimately adapt to the impacts of climate change

5.4. 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, the SRA partners undertake projects and activities that contribute towards tackling many of the climate change related risks identified in the Somerset Climate Emergency Strategy.

5.5. The work of the SRA directly supports the objectives contained within Somerset County Councils Local Flood Risk Management Strategy.

- 5.6.** It was resolved at Full Council on the 22 February 2023 to agree to set a Council Tax precept of £14.65 (Band D) within the base budget for the Somerset Rivers Authority. This amount replaces the council tax requirement previously set by the districts and the county council. This results in a Council Tax Requirement of £3,013,125.

6. Consultations and co-production

- 6.1.** No specific consultations were undertaken. However, represented on the SRA board are Somerset County Council (SCC), the district councils and Internal Drainage Boards (IDBs), the Environment Agency, Natural England and Wessex Regional Flood & Coastal Committee. The Board is responsible for overseeing the delivery of the Flood Action Plan. The SRA Enhanced Programme of works, which delivers against the Flood Action Plan objectives, was developed by all the partners working together to address issues of concern to local communities and local stakeholders.
- 6.2.** SCC representation on the current SRA Board includes Councillor Mike Stanton (SRA Chair) and Sarah Dyke, Lead Member for Environment and Climate Change. The SRA Board approved the 2023-24 SRA Enhanced Programme on the 3rd of March 2023. In considering this proposed decision, the conclusions and recommendations of the SRA Board have been taken into account.

7. Financial and Risk Implications

- 7.1.** Funding amounting to £4,005,000 is available to the SRA for 2023-24, of which Somerset Council will contribute £3,013,125 from Council Tax receipts (as confirmed at the Full Council meeting on the 22nd of February 2023). Funds raised for use by the SRA do not reduce the funds available to SCC through council tax.
- 7.2.** 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 SCC 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.
- 7.3.** 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 will be managed through Somerset Council and 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 the decision of the SRA Board.

7.4. The long-term aspiration is to see the SRA established as a major precepting authority. This would remove the need for Somerset Council to raise the precept on behalf of the SRA. However, securing the major precepting status will continue to be difficult. In December 2020 Rebecca Pow MP, and Parliamentary Under Secretary of State at the Department of Environment Food and Rural affairs, in a response to a letter from the SRA Chair reiterated the government's support for the SRA but explained that due to a full legislative agenda and coronavirus it had not been possible to make any progress with legislation for Rivers Authorities.

7.5. The flexibility afforded to Somerset's current local authorities to raise a 'shadow precept' through council tax for funding of SRA activities will continue for as long as the new Somerset Council chooses to raise it.

7.6. Key Risks:

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 objective 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 will not be maintained.

7.7. 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.

7.8. 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.

7.9. The SRA provides grant funding, paid in arrears, to SRA delivery partners upon evidence of agreed and eligible works being completed to the required standard. 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.

7.10. 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.

- 7.11.** The Local Enterprise Partnership (LEP) granted £13.049m to '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
- 7.12.** Somerset County Council agreed to 'own' the risks associated with spending of LEP funding on behalf of the SRA. This commitment will pass to the new council. This risk is mitigated by the fact that SCC has signed 'strategic grant agreements' with the 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.
- 7.13.** 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.

Likelihood	2	Impact	5	Risk Score	10
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8. Legal and HR Implications

- 8.1.** 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.
- 8.2.** The amendments to the SRA's memorandum of understanding 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.

- 8.3.** 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.

- 8.4.** Somerset Council will act on behalf of the SRA Board as Host Authority. It will employ SRA staff (x4). As such Somerset Council will be responsible for all HR related matters for the SRA team.

9. Other Implications

9.1. Equalities Implications

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 'SRA shadow precept' for the activities of the SRA as set out within the SRA's Enhanced Programme.

- 9.2.** Equalities and due regard issues have been considered. Project specific due regard issues will be considered on a project by project basis. The SCC Lead Equalities Officer has confirmed a full equalities impact assessment is not required for this decision.
- 9.3.** The SRA Enhanced Programme of works is a series of mostly relatively small-scale interventions related to flood risk management. The work often has very localised impacts and is developed in consultation with landowners, property owners and statutory bodies such as Lead Local Flood Authority, Environment Agency and Natural England
- 9.4.** 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 standards on publications, communication and consultation.
- 9.5.** 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 community engagement officers that work in communities at risk of flooding across Somerset. SRA meetings are public meetings.

- 9.6.** The local Memorandum of Understanding sets out that the SRA shall, where relevant and unless otherwise agreed, operate in accordance with Somerset County Council practices and procedures, relating to:
- Equalities policies.
 - Policies for dealing with access to information and data protection.

After vesting day, the same will apply with the policies of the new council.

9.7. Community Safety Implications

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.

9.8. Sustainability Implications

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

9.9. Health and Safety Implications

None identified.

9.10. Health and Wellbeing Implications

The aim of the Programme as a whole is to improve community well-being. There are specific actions in the 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.

9.11. Social Value

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 community resilience 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.

10. Scrutiny comments / recommendations:

- 10.1.** The Chair of the Scrutiny for Policies Environment Committee received a report on the SRA and potential implications of Somerset Council being Host Authority and Accountable Body on 28/02/2023. No concerns were raised, and committee members were supportive of the work of the SRA.

11. Background

- 11.1.** Winter 2013-14 was the wettest in Somerset for 250 years. Around 150km² 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.
- 11.2.** The SRA is a partnership of existing Flood Risk Management Authorities (FRMAs). Its members are currently Somerset County Council, the four district councils, the Environment Agency, Natural England, the Wessex Regional Flood & Coastal Committee, the Axe-Brue IDB and the Parrett IDB. 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 will appoint council representatives to the SRA Board.
- 11.3.** Through the SRA, 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.
- 11.4.** The Medium-Term Financial Plan (MTFP) 2023/24 to 2027/28 for Somerset Council was considered by Full Somerset County Council on 22nd February 2023. 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 £3,013,125 as detailed in paper A, appendix 15 of Item 5, *Budget, Medium Term Financial Plan and Council Tax Setting*. The outcomes of that meeting can be found by visiting the Somerset CC website - [Full Council Agenda and Decisions](#). This funding, committed by Somerset County Council on behalf of Somerset Council, plus £10,000 from the two Somerset Drainage Boards totals £3,033,125 and is ring-fenced to finance the SRA in 2023/24, its 9th financial year. The SRA budget will have a neutral impact on Somerset Council's own budget.
- 11.5.** 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.

- 11.6.** In January 2016, the Council entered into a Funding Agreement with the Heart of the SW Local Enterprise Partnership (LEP), committing £13.049m of Local Growth Fund to be used on a package of measures to reduce the duration, depth and frequency of flooding on the Somerset Levels and Moors. This project is known as 'Somerset Flooding Project'. These funds have now been spent and reclaimed from the Heart of the SW Local Enterprise Partnership (LEP) however the SRA continues to deliver the Somerset Flooding Project using other public and private matched funds until end December 2024.
- 11.7.** Based upon advice from Somerset County Council legal services it is recommended that current SRA Board Members that are county and district councillors should sign the SRA 2023-24 Memorandum of Understanding (MoU) on behalf of their current organisation. The MoU and Constitution will then be fully refreshed after vesting day to reflect any necessary changes as result of Somerset Council taking on the role of Host Authority and Accountable Body. A copy of the 2023-24 version of the MoU is attached as Appendix 1 of this report.
- 11.8.** 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.
- 11.9.** The proposed budget, and associated SRA Enhanced Programme was approved by the SRA Board on 4th of March 2023

12. Background Papers

- 12.1.** Appendix 1 SRA 2022-23 Revised Memorandum of Understanding and Constitution
Appendix 2 SRA Board paper ITEM 9 2023-24 Enhanced Programme and Budget
Appendix 3_ CONFIDENTIAL_2023-24 SRA Enhanced Programme scheme descriptions WITH COSTS
Appendix 4 2023-24-SRA Enhanced Programme scheme descriptions

Report Sign-Off

		Date completed
Legal Implications	Honor Clarke	08/03/23
Governance	Scott Wooldridge	06/03/23
Corporate Finance	Jason Vaughan	06/03/23
Customers, Digital and Workforce	Chris Squire	06/03/23
Property	Oliver Woodhams	06/03/23
Procurement	Claire Griffiths	06/03/23
Senior Manager	Michele Cusack	06/03/23
Commissioning Development	Sunita Mills	06/03/23
Executive Member	Cllr Sarah Dyke - Lead Member for Environment and Climate Change	08/03/23
<u>Sign-off Key Decision / Consulted on Non-Key Decision</u>		
Local Member	All – when published	
Opposition Spokesperson	Opposition Spokesperson - Environment & Climate Change - Cllr Connor Payne	08/03/23
Scrutiny Chair	Click here to select the relevant Scrutiny Chair	28/03/23