

JOINT SCRUTINY PANEL OF SOMERSET RIVERS AUTHORITY

Minutes of a Meeting of the Joint Scrutiny Panel of Somerset Rivers Authority held in the Taunton Library Meeting Room, Paul Street, Taunton, TA1 3XZ, on Friday 20 September 2019 at 11.00 am

Present: Cllr A Groskop, Cllr John Hunt (Vice-Chair), Cllr L Leyshon, Cllr Osborne, David Tratt and David Vigar, Simon Coles (Chairman).

Other Members present: Cllr A Wedderkopp

Apologies for absence: Cllr N Cottle, Cllr Lisgo, Cllr Maxwell and Cllr Smedley

54. **Declarations of Interest** - Agenda Item 2

There were no Declarations of Interest.

55 **Minutes of the Previous Meeting held on 26 February 2019** - Agenda Item 3

The minutes of the meeting held on 26 February 2019 were confirmed and signed as correct.

56 **Public Question Time** - Agenda Item 4

There were no public questions.

57 **Somerset Rivers Authority Joint Scrutiny Panel - Draft Terms of Reference** - Agenda Item 5

The Somerset Rivers Authority (SRA) was launched on 31 January 2015 to play a key role in flood protection for the county. The Authority is run by a Board of partners including the Environment Agency, Natural England, the Somerset Internal Drainage Boards, the Lead Local Flood and Highway Authority (Somerset County Council) and the other Somerset Local Authorities in their roles as Flood Risk Management Authorities.

The SRA Board provided a strategic overview of the continued delivery of the Somerset Flood Action Plan; Flood Risk and Water Level Management in Somerset; and to provide a public forum and single point of contact for collective decision-making in respect of Flood Risk and Water Level Management in Somerset.

The SRA Board also had responsibility for identifying, prioritising, sourcing funding and overseeing the delivery of additional flood risk and water level management work across the whole of Somerset.

At its 23 March 2016 Board meeting, the SRA Board agreed to the establishment of a Joint Scrutiny Panel (similar to the Joint Waste Scrutiny model), which would meet twice a year, at the most critical and important times. This would ensure that officer attendance at Scrutiny Committees would be minimised, whilst providing all relevant partners with the opportunity to scrutinise the work of the SRA Board. Role of the Joint Scrutiny Panel was

examine the activities of the SRA and provide assurance to the SRA's constituent councils and partners that it is operating effectively.

To encourage wider involvement in the work of the Somerset Rivers Authority. Membership of The Joint Scrutiny Panel would consist of two non-executive elected members from each of the five Somerset councils and one from each Internal Drainage Board, totalling 12 Panel members. Each Local Authority and the Internal Drainage Boards would nominate or terminate the appointment of members serving on the Panel. The length of appointment was a matter for each partner represented on the body.

The Joint Scrutiny Panel would meet twice a year for the business stated. Additional meetings would be arranged as required. The date and time of each meeting would be agreed by the Chair and Vice-Chair of the Panel, in conjunction with the support officer. The host authority would be responsible for issuing the papers and producing the meeting notes to all attendees. This would be done electronically. The Panel member and/or the Local Authority or Internal Drainage Board they represent would be responsible for any additional costs or services which included:-

- Any printing or stationery requirements, travel and subsistence expenses incurred i.e. car parking costs, fuel, any equipment required for site visits, i.e., appropriate footwear, hard hat, etc.
- The quorum for the Joint Scrutiny Panel was set at 6 representatives, with a minimum of 1 representative from 4 separate partners.
- The Joint Scrutiny Panel shall elect a Chair and Vice-Chair annually.
- The Scrutiny Panel Chair and Vice-Chair were to agree each meeting agenda in consultation with the support officer and liaison with the Senior Manager of the Somerset Rivers Authority.
- Agenda Items for the meetings shall be a standing item on the Panel's agenda.
- It was intended that agreement will be reached by consensus, however if a vote is required each Panel Member will have one vote. In the event of a tie the Chair shall have the casting vote.

Members of Local Authorities and Internal Drainage Boards on the Joint Scrutiny Panel will be bound by their own Codes of Conduct.

All Panel Members would need to comply with the principles of the Host Authority's Members' code of conduct as it applies to the declaration of interests, and compliance with the principles of public life set out by the Nolan Committee on Standards in Public Life.

Panel members were encouraged to participate fully in meetings, but would be aware of the limitations in capacity of officers to respond to detailed, individual queries between meetings.

Members of the Joint Scrutiny Panel must declare any interest during meetings of the Panel (and withdraw from the meeting if necessary) in accordance with their Council's Code of Conduct or as required by law.

All meetings of the Joint Scrutiny Panel would be open to the public unless it was necessary to exclude the public in accordance with Section 100A(4) of the Local Government Act 1972. In accordance with their Council's Code of Conduct, elected Members of the Joint Scrutiny Panel must not disclose any information considered confidentially 'exempt' in accordance with Section 100A(4) of the Local Government Act 1972.

The Joint Scrutiny Panel would be hosted under Local Government arrangements by Somerset County Council and supported by officers from the County Council's Democratic Services team. The Joint Scrutiny Panel would review its Terms of Reference on an annual basis.

Debate

- Vice Chair highlighted the relatively low attendance by Panel Members and requested that Panel Member make every effort to attend otherwise this would deny others wanting to be on the committee the opportunity to be involved and have input.
- Vice Chair requested that SRA scrutiny meetings were listed on each council's meeting calendar to help raise awareness about them.
- The four partners included the internal drainage board. What is the context of this statement?

Resolved:- that the Somerset Rivers Authority Joint Scrutiny Panel approved the Terms of Reference

58 Somerset Rivers Authority - Draft 2018/19 End of Year Report - Agenda Item 6

The draft End of Year Report was introduced by Jonathan Hudston. The report informed the SRA Joint Scrutiny Panel about SRA activities in 2018-19, as detailed in the SRA Annual Report 2018-19.

The SRA Joint Scrutiny Panel would meet twice a year. One traditional purpose of the Panel's first meeting would give members a chance to look back at the year gone-by, while the second meeting would look ahead to the SRA's proposed programme of works for the next financial year.

Appendix 1 set out to members the full SRA Annual Report 2018-19, a detailed account of work undertaken between the start of April 2018 and the end of March 2019.

Appendix 2 detailed a shorter version of the SRA Annual Report 2018-19, offering a summary. Information in both appendices was broken down by SRA workstream and where appropriate, activities were broken down into geographical areas. The presentation provided Panel members with some detailed examples of SRA-funded projects from each workstream and across the county.

At the meeting on 21 June 2019, the SRA Board took a preliminary look back at 2018-19. New members commented on the large variety of projects that the SRA was in the process of delivering. The Board highlighted the need to raise

awareness as much as possible of the work the SRA delivered. The Board discussed the SRA's current mix of projects and considered the balance of projects across workstreams. Members signalled their wish for a review of the SRA's short, medium and long-term priorities.

Debate

- Panel members emphasised the importance of educating organisations about the projects and work of the Somerset Rivers Authority and ensuring that information around this reached the right place, success stories were published and landowners played a part and felt engaged.
- This ensured work benefited everyone and work on Highways and flooding was taken into account.
- Suggestion was made that for this to be taken forward as an update that's provided at Parish Councils, although it was recognised that this required resource.
- The SRA were requested to present to District Councils on the work of the SRA to raise awareness off the work being done across the county.
- An action point of an update leaflet to distribute with annual billing was suggested to inform and make taxpayers aware of the authority and its purpose.
- There was an extended discussion on riparian responsibilities and the need to do more to raise awareness of landowners responsibilities. The Panel felt the SRA should do as much as possible to help the Environment Agency and others raise awareness.

The Somerset Rivers Authority Joint Scrutiny Panel noted the SRA project delivery in 2018/19 and encouraged wider participation from al organisations.

59 **Possible Exclusion of the Press and Public** - Agenda Item 7A

The panel were not required to go into Confidential Session.

60 **Somerset Rivers Authority - 2018/19 Finance Report** - Agenda Item 7

Somerset Rivers Authority 2018-19 Finance Report provided information on the financial position at the end of the 2018-19 financial year. The paper set out an overview of the funding available at the start of the year and a summary of how much was spent on each workstream. The total amount of funding allocated to projects for 2019-20 onwards was detailed. Members were reminded by the SRA Senior Manger that the vast majority of the funding was allocated to projects which were currently in the process of being delivered. Only £220,000 remained unallocated, with this forming the SRA contingency fund.

Somerset Rivers Authority did not deliver works, the partners that made up the SRA partnership delivered works on behalf of the SRA and once works were complete, claimed back the cost of the works. There were two main sources of funding which the SRA draws upon:

a. Local Partner Funding – money raised annually by an additional amount on Council Tax and direct contributions from the Internal Drainage Boards.

b. Growth Deal Funding – £13.049m of funding allocated in 2014 through the Heart of the South West Local Enterprise Partnership (HotSWLEP) for specific large-scale capital projects.

Financial Performance set out the spend as at 31 March 2018 and funds allocated to schemes 2018-19.

Table A summarised the financial position as at the end of 2017-18. It also shows the total amount of funds carried forward and available in 2018-19.

The SRA actual and committed spend during 2018-19 was set out in a table as part of the report.

For the purposes of this report, actual and committed were defined as followed:

- Actual – total funds that have been paid to delivery partners (DPs).
- Committed – is where DPs have either completed, but not yet drawn down the funds from the SRA or where DPs have contracted to have works undertaken.

SRA delivery partners can only draw down SRA funding after works are completed and invoices have been paid. This results in a delay between what SRA delivery partners have spent and how much has been claimed from the SRA. As the 2018-19 financial year has now ended there is no committed or forecast spend for 2018-19, all spend is what has been paid to delivery partners (actual). Chart A shows the total actual spend for 2018-19.

During 2018-19 the SRA processed delivery partner claims totalling:- £3,815k, £1,122k (29%) of which was paid during Quarter Four.

Of the total amount paid: 44% (£1,693) related to Growth Deal funded actions including Bridgwater Tidal Barrier, delivery of 'Slow the Flow' Capital Grant Schemes, the Sowy/KSD Enhancement Scheme and Pioneer Dredging.

51% (£1,952) relates to Enhanced Programme works (funded from Local Partners funding). 5% (£170k) relates to administration and staffing.

Table A detailed breakdown of spend by project has been provided to Panel Members in 'Confidential Appendix 2018-19 Financial Detail'

Table B summarised the financial position as at the end of Quarter Four 2018-19.

Change in contingency from Quarter Three 2018-19, the total contingency held has increased by £41k since Quarter Three. The total amount of contingency held was £220,000. Contingency could be used to fund project overspends, increases in project scopes and new projects.

Table C below detailed the changes to the contingency fund.

Table D summarised the financial position at the end of 2018-19. It set out the total amount of funds allocated to projects and carried forward to 2019-20.

Debate

- The SRA detail by type for 2018/19 was reported by Jonathan Hudson.
- It was recognised that more could be done to educate and get information to the correct place. Further suggestion and offer was made to take forward where requested and report to Parish Councils. Landowners would need to be engaged and played a part in flood prevention.
- An update would be presented to the District Councils, along with a leaflet on the SRA to be included if possible in annual billing to residents setting the purpose of the precept.
- Publish the successes of the Authority was something being addressed for the future.
- Assurance was given that the ongoing works would benefit everyone and include flooding impacts on the highways network. There were resource implications in addressing all Councils separately so a combined briefing could be a preferred option.
- Work undertaken by the SRA would feed into the climate change framework which would be reporting back to Scrutiny in October.

The Panel noted the finance position as at the end of the 2018/19 financial year.

61 **Somerset Rivers Authority - Precepting Legislation Update** - Agenda Item 8

The Panel were updated on progress towards securing the passing of legislation enabling the SRA to be put on a sound legal and financial footing to become a precepting and risk management authority.

Since the inception of the Somerset Rivers Authority as an unincorporated association, it was the aim of the SRA partners to secure the long-term future of the SRA by putting it on a sound legal and financial basis. The Government committed itself to passing legislation necessary to secure the future of the SRA; the Department of Environment, Food and Rural Affairs (Defra) drafted the Rivers Authorities and Land Drainage (RALD) Bill1.

This Bill would give the Secretary of State the power to create Rivers Authorities (RA) as major precepting and flood risk management authorities. Defra was unable to secure government time to take the Bill through Parliament therefore David Warburton, MP for Somerton and Frome, picked up the Bill as a Private Members' Bill.

David Warburton MP presented the Rivers Authorities and Land Drainage Bill to the House of Commons (HofC) on 6 March 2018 (First Reading). The Bill eventually completed all stages in the HofC on 15 March 2019 and moved to the House of Lords (HofL).

The Bill was presented to the Lords by Lord Bethell on 18 March and passed its 2nd Reading on 16 May. The Bill received support from all parties and cross-benchers. There were several detailed interventions in the debate. Themes emerged around ensuring appropriate accountability, consultation, environmental responsibilities and climate change amongst others.

Current Status The next stage was due to be Committee Stage in HofL. On 4 June the Delegated Powers and Regulatory Reform Committee (DPRRC) published a report challenging whether the Private Members' Bill is the correct approach for the RALD Bill. The report conclusion was set out below:

'We were not only surprised but concerned at the proposals in this Bill. It is an attempt, upon flimsy grounds, to set aside the procedures which Parliament has put in place to protect the interests of citizens who would be unfairly affected by legislation. It would authorise the issuing of precepts—in effect, taxation—in a way which would be unaccountable and unscrutinised. It would allow the framing of Ministerial guidance in a way which would have legislative effect, without Parliamentary scrutiny. It would allow rules in primary legislation about the valuation of agricultural property to be replaced wholesale by statutory instrument with no requirement for consultation or other procedures for protecting private interests. And in order to set up one rivers authority in one part of England it would make provision for this approach to be replicated in every part of the country.'

Subsequently the Select Committee on the Constitution supported the DPRRC view by stating:

'We agree with the Delegated Powers and Regulatory Reform Committee and reiterate our view that it is constitutionally inappropriate to establish public bodies through delegated powers— particularly if the purpose of doing so is to avoid the bill having to go through the hybrid bill procedure.'

At the end of July we received confirmation from David Warburton that he would no longer be taking the Bill any further as a result of the objections raised by the committees above. David stated;

'As you can imagine, I am personally extremely disappointed, having worked on the Bill for Somerset for more than a year. But I am now working with Defra to try to ensure that all of its measures can form part of the forthcoming Environment Bill, which I hope will mean that we'll get there one way or another in the end.'

Given the recent turmoil in parliament it has not been possible to get any clear commitments from Defra about future legislation in relation to the Somerset Rivers Authority.

Despite the absence of clarity from Government the SRA Board continued to plan for the SRA to become a major precepting authority and risk management authority to keep the issue live in the minds of current and prospective government ministers.

A general election seemed highly likely it would be important to ensure current and prospective MPs were fully briefed on SRA activities to date, the long term

plans for the SRA and to seek commitments from candidates so they would support the passing of the legislation that would see the SRA put on a sound legal and financial basis.

If the RALD Bill had been passed into law, it would have been necessary to submit a detailed proposal to the SoS setting out exactly how the SRA would fulfil its legal functions and comply with all pertinent legislation; this would then have to be approved by Parliament. A proposal would also have to have been consulted on with residents of Somerset to ensure support for the creation of a new precepting authority. It was likely that whatever legislative process would eventually be applied, the process to create a Rivers Authority would be very similar in terms of the detail and consultation required.

Preparing a proposal would require extensive input from various subject specialists e.g. local government legislation, organisational governance, employment, finance, procurement, communications, consultation, etc. In June SRA Board Members approved the allocation of up to £100,000 from SRA contingency funding for use in 2019-20 to commission the necessary expertise to prepare a proposal. SRA Officers would continue to develop a proposal for the creation of the SRA as a precepting authority so that when the opportunity occurred the authority could proceed swiftly. However, what work to undertake will be carefully considered to minimise the risk of undertaking any abortive work.

Debate

- It was reported that the current position, whereby the SRA is funded by a 'shadow precept', will continue as long as the councils choose to raise it. It remains the case that every year at Budget setting councils will be required to make a decision to approve the precept.
- The SRA Board will continue to lobby Rebecca Pow MP, in her new role in the Department for Environment, Food and Rural Affairs (Defra), for government to take forward necessary legislation to enable the SRA to become a precepting authority. She has voiced her support for the SRA board and the need to put the SRA on a stable financial footing to enable future works.
- Accountability and Scrutiny of the SRA was assured so that all districts were facilitated to engage with the SRA.

The SRA Joint Scrutiny Panel noted the latest position in relation to progress of the Rivers Authorities and Land Drainage Bill.

62 Somerset Rivers Authority - Key Projects Update - Agenda Item 9

The report provided the Panel with a summary update of each of the 'key' SRA projects as reported to the SRA Board. Key projects are generally those which are of larger scale and high value, and in receipt of a significant amount of Heart of the SW Local Enterprise Partnership (HotSWLEP) Growth Deal funding.

HotSWLEP allocated £13.049m of Growth Deal funding towards 'Somerset Flooding' in the aftermath of the 2013-14 Floods. The SRA Board is updated on key projects as they are important elements of Somerset's 20 Year Flood Action Plan.

Previously the Panel received individual reports on each project. All projects are now to be reported within one document to make the process more efficient and reduce the amount of information the Panel must review in advance of the meeting.

Background and context The SRA currently receives regular updates on 6 projects that are classed as key projects which are in the process of being delivered and upon which the SRA Board gets quarterly update on at Board meetings.

Current key projects were set out detailing LEP Funding, SRA Funding and Total Estimated Cost:-

Bridgwater Tidal Barrier (BTB) (£2m LEP) (£100m total cost)

River Brue (£0.275m LEP) (£0.225m SRA) (£0.5m total cost)

Oath to Burrowbridge Pioneer Dredging (£1m LEP) – (£1m total cost)

River Sowy – King's Sedgemoor Drain Enhancements (£4.193m LEP) (£2m SRA) (£6.193m total cost)

Taunton Strategic Flood Alleviation Improvements Scheme (TSFAIS) (£0.065m LEP) (£0.235m SRA) (£6.8m total cost)

Strategic Approach to Mitigation (£0.050m LEP) – (£0.050m total cost)

Each project supports the delivery of Somerset's 20 Year Flood Action Plan. Some projects, such as the BTB and TSFAIS, have been in development for many years and the SRA is supporting their further development as part of a much wider funding package. Some projects, such as dredging, are only possible as a direct result of the LEP & SRA funding and came to the fore as a priority during and after the floods of 2013-14.

An important point to note is that LEP funding must be spent by March 2021. This a deadline set by central government. SRA funding does not have any limitations on its use.

Key Projects Summary and Latest Status

Bridgwater Tidal Barrier: The Environment Agency and Sedgemoor District Council (SDC) are working in Partnership to deliver the Bridgwater Tidal Barrier Scheme by 2024, subject to funding and statutory approvals. The project will reduce tidal flood risk to 11,300 homes and 1,500 businesses. The present value of benefits is £1,331 million. The current estimated cost of the Barrier and downstream banks work is £100 million. The benefits cost ratio is 13.

Wessex Regional Flood and Coastal Committee approved £4M Local Levy contribution to the scheme 2021/22 to 2024/25 at their meeting 09 July 2019.

The outcome of a bid to the Housing and Infrastructure Fund for £10m towards the scheme is expected in Autumn 2019.

River Brue Projects: In 2015 the SRA allocated £500,000 of its Local Enterprise Partnership (LEP) Growth Deal funding towards delivering dredging on the River Brue. LEP funding must be spent by March 2021. The project was being led by the Axe-Brue Internal Drainage Board. Progress has been difficult, in part due to the environmentally sensitive nature of the area of works. In December 2019 it was reported to the SRA Board that the Axe-Brue Internal Drainage Board could no longer lead on the project due to financial risks associated with failing to spend Growth Deal funding by the 2021 deadline. In March 2019 the SRA Board agreed to set up a sub-group and to delegate responsibility for finding a way forward to that group.

Latest Status: The group met on 15 March 2019 at Wells Town Hall. It was agreed that in order to remove the risk associated with the use of LEP funding for the dredge, £225k of local partner funding would be switched from the Oath to Burrowbridge dredge with LEP funds from the Brue dredge. Local partner funding can then be used to develop a legally compliant dredging proposal for the Brue free from the risks associated with the LEP funding.

Next Steps:

- Set up the senior officer project officer group.
- Develop and agree the project scope
- Appoint the project manager to deliver and manage the project to completion
- The project team will then take a draft project programme to the Board for consideration.

The remaining LEP funds (£275k) have been re-allocated to the following projects within the River Brue catchment.

Field Way, Highbridge, match-funding contribution to Wessex Water scheme to protect 21 houses from surface water and foul sewer flooding (£100,000 contribution to a circa £1.5m scheme).

Further updates were provided in relation to the following key projects:-

- Bridgwater Tidal Barrier
- River Brue Projects
- Oath to Burrowbridge Pioneer Dredging
- River Sowey – Kings Sedgemoor Drain Enhancements
- Taunton Strategic Flood Alleviation Improvement Scheme

Debate

- A concern was raised about the The Bridgwater Tidal Barrier relating to navigation not being possible when the barrier is closed. The Panel was

advised that addressing this was not part of the project scope but should others wish to fund a solution the EA would work with them on this.

- The Panel emphasised the importance of improvements on the River Brue and the need to see progress with plans for dredging. The panel supported proposals to invest in North Drain Pumping Station enhancements.
- The Environment Agency is a statutory consultee in the planning application process. In the majority of cases the EA's recommendations were accepted by local planning authorities.
- Flood Risk Assessment Permits would need approval from the Environment Agency to ensure benefit from applications through the land drainage process.
- Oath to Burrowbridge dredging – the Panel asked why the EA was not undertaking these works. The Panel was advised that the role of the SRA is to enable works that would not otherwise happen and the partners had worked together to deliver these works with the IDB delivering them. ..
- The dredging works are on target to be completed within the next 10 weeks. An update on progress will be provided at the next SRA Scrutiny meeting.
- The Panel was advised that maintenance of the previously dredged sections of river continued to be undertaken by the River Parrett IDB on behalf of the SRA using a 5 year contract with the contractor Van Oord.
- The Panel asked if dredging is financially sustainable and was advised that SRA funding has enabled the Parrett IDB to find a much more cost effective approach to dredging making it more affordable in the longer term. Maintenance is now undertaken using water injection dredging.
- Work along the River Sowey and Kings Sedgemoor Drain will increase their capacity; these act as a flood relief channel for the River Parrett. This will increase flexibility in the way that the system can be operated.
- The Oath to Burrowbridge and Sowey and KSD works will also require mitigation measures to offset the impact of changes to the river system which could negatively impact sensitive environmental areas or flood risk in other areas. These works will be funded using Heart of the SW LEP funds. The panel was advised that LEP funds have to be used by March 2021. Panel members emphasised the need to ensure projects complied with the terms of the LEP funding and any mitigation requirements. .

The SRA noted the latest position with key SRA projects.

63 **Joint Scrutiny Panel Work Programme and Future Training** - Agenda Item 10

The Panel endorsed its proposed work programme for 31 January and noted that a date for the Summer meeting 2020 would be circulated.

Panel members were invited to identify any subjects about which they would like to have information.

64 **Any Other Business of Urgency** - Agenda Item 11

There were no other items of business.

(The meeting ended at 13:00)

CHAIRMAN