

Somerset Rivers Authority Local Funding Options

- 1.1 This document is a summary of potential local funding options for the Somerset Rivers Authority (SRA). It does not recommend a particular option or mechanism and there is no presumption that any of these options will be taken forward.
- 1.2 The funding options were identified through engagement with the SRA and other stakeholders. During that engagement some respondents raised the possibility of creating a Somerset Regional Flood and Coastal Committee, central government funding in the form of a grant or through business rates retention. As these options do not constitute a local funding solution they are not described here.

Creating a new precepting body

Mechanism

- 1.3 Under this option, the SRA would be established as a new statutory body with precepting powers using primary legislation. The body could additionally be given powers to charge landowners/land occupiers or landowners/land occupiers outside internal drainage board areas. This option would require primary legislation. Legislation could be introduced in Parliament using a public (government) bill or as a private bill sponsored by an external body like Somerset County Council.
- 1.4 The precepting authority would be able to raise funds directly through council tax, with district councils collecting the precept on the SRA's behalf. The SRA could be funded by all households in the five district council areas of Somerset. Somerset partners have proposed that one district council, Sedgemoor, be exempt from any precept on householders in recognition that the majority of the internal drainage districts fall within Sedgemoor. A charge of £12.60 per band D household (2015/16 figures) in four of the five district council areas and £3.50 per hectare for land occupiers would raise £2.7million.
- 1.5 In order to exempt Sedgemoor district council from any precept, a different rate could, in theory, be precepted to tax payers in different district council areas. This would make the SRA different to other existing precepting authorities in England, which charge the same level of precept across all the billing authorities within its area. Providing the SRA with the ability to precept at different rates would require special provision within the legislation setting up the SRA.

Discussion

- 1.6 The new charge would be identified on the council tax bill and it would be directly evident to tax payers that this element of council tax is exclusively for the SRA. Funding would be directly hypothecated for and ringfenced for the SRA. This option would have no implications for local authority budgets although it would result in increased bills for council tax payers. The SRA's funding would not be subject to annual negotiation with local authorities in Somerset.
- 1.7 The SRA would become a new tax-raising authority. Under the proposal put forward by local authorities in Somerset it would not be directly elected, relying on the local authority representation on the SRA board for its democratic accountability. It would have a power to collect directly from householders a charge it decided based on a programme of work it created.
- 1.8 If a precepting body were to be created, government would wish to consider whether a referendum seeking a mandate for the body was needed. It could be

practically and politically difficult to gain agreement to a precepting authority as it constitutes a new tax-raising body.

- 1.9 This option would require primary legislation, and may take several years to enact. Inclusion of a Bill to set up the SRA as a precepting body in a Government's programme of legislation would be subject to cross-Government agreement. In order for the bill creating this power to become law, parliamentarians in both Houses would have to be convinced of the need for a new, tax-raising power and that there was no better way to achieve the same outcome.
- 1.10 On 6th November 2014, members of the Somerset Levels and Moors Flood Action Plan Leaders' Implementation Group agreed that their preferred option was a precepting authority. During the course of the stakeholder engagement days, several partners explained that it was the only acceptable funding solution and that unless they could set up a precepting authority they could not support the SRA. Other members of the SRA Board stated that they would prefer alternative options so this option is no longer unanimously supported.

Creating a new levying body

Mechanism

- 1.11 An alternative to a precepting body is a levying body. There are existing precedents for flood risk management levies in the form of internal drainage board levies and the Environment Agency's local levy. Primary legislation would be needed to set up the SRA as a statutory body with new powers to charge all Somerset local authorities, or only the county council, a flood risk management levy. A levying body could either cover the whole of Somerset or it could be limited to areas not currently covered by internal drainage districts.
- 1.12 The levy raising powers could share many of the features of a precept, such as ring-fencing and direct hypothecation and could be set at the same rates. Unlike a precept, levies regularly raise different amounts in different areas so this feature would not be new. Levies are not currently outlined separately on council tax bills. Additional information on levies can nevertheless be provided by billing authorities in accompanying council tax documents. If a levy of £2.7m was placed on Somerset County Council this would not raise council tax above a 2% referendum threshold.
- 1.13 Unlike the precepting proposal, a levying body provides a more direct democratic accountability as the levy is taken into account by the elected council when it sets its council tax. An additional levy charge on councils would, however, limit their ability to raise their council tax for all their other services within the referendum threshold.
- 1.14 As with the precepting option, this proposal will require primary legislation. It could not be set up immediately and would require cross-Government agreement.
- 1.15 This option has not been considered by local partners as it has emerged during this review

Council Tax

Background

- 1.16 Council tax is a charge applied to households by a council to provide local services. Local authorities determine their own level of council tax. In doing so, they will have regard to the council tax referendum threshold, which is set by central government subject to approval of the House of Commons.
- 1.17 The council tax referendum threshold is determined annually, usually between December and February. The referendum threshold was set at 2.0% for 2015/16. There is no limit on the amount of council tax a local authority can raise if it obtains the approval of its local electorate in a referendum. Council tax freeze grants equivalent to a 1% council tax increase were provided by central government to local authorities in the previous Parliament. There is no commitment to provide funding for any new freeze schemes from 2016/17.

Mechanism

- 1.18 Somerset County Council and the 5 district councils could fund the SRA at the same level as in 2015/16 from council tax. The councils could use a one-off increase in council tax, within the referendum threshold (which was 2% in 2015/16), to generate additional funding for the SRA from households. This could apply from April 2016. In subsequent years the funding would be considered part of the baseline and would not require future council tax increases.
- 1.19 Table 1 below sets out the increase in council tax income ('council tax requirement') which would accrue to local authorities in Somerset in 2016-17 based on an increase of 2% and assumptions about the tax base. The figures do not assume any freeze grant in 2016/17; if there were to be a freeze grant in 2016/17, the estimated additional revenue would be less than indicated in the table.
- 1.20 Table 1 below shows an estimate of how much extra council tax revenue could be raised by councils in Somerset within a 2.0% referendum threshold.

Table 1: Somerset councils' Council Tax requirement for 2015/16 and the estimated extra revenue for 2016-17 with a 2% increase¹.

Authority	2015-16 Council Tax Requirement	Extra revenue available from a 2% rise assuming an increase in the Tax Base²	Extra revenue available from a 2% rise assuming no increase in the Tax Base³
Somerset County Council	£189.4m	£7.06m	£3.79m
Mendip District Council	£5.6m	£0.20m	£0.11m
Sedgemoor District Council	£5.3m	£0.19m	£0.11m
South Somerset District Council	£8.4m	£0.32m	£0.17m
Taunton Deane Borough Council	£5.3m	£0.21m	£0.11m
West Somerset Council	£1.9m	£0.06m	£0.04m
District Councils total	£26.5m	£0.98m	£0.54m
Combined total	£215.9m	£8.04m	£4.33m

1.21 Table 2 shows the percentage council tax increase the county and district councils could apply to collectively raise additional funding of £2.7m per year for the Somerset Rivers Authority, assuming no change in the tax base. These figures are for illustration only. The figures show that the councils would be able to increase their council tax within a 2% threshold while still allowing some scope to increase funding for other services.

¹ Department for Communities and Local Government figures

² Figures assume an average Tax Base increase in 2016-17 of the same level as in 15-16. Figures exclude parish precepts

³ Figures assume Tax Base remains constant at 2015-16 level. Figures exclude parish precepts.

Table 2: Council tax percentage increase required to raise £2.7m, assuming no increase to Tax Base

Authority	2015-16 Council Tax requirement	% increase (no Tax Base change)	Additional amount raised
Somerset County Council	£189,389,700	1.25	£2,368,389
Mendip District Council	£5,603,077	1.25	£70,069
Sedgemoor District Council	£5,255,424	1.25	£65,721
South Somerset District Council	£8,442,979	1.25	£105,583
Taunton Deane Borough Council	£5,330,400	1.25	£66,659
West Somerset Council	£1,885,584	1.25	£23,580
Total	£215,907,164	-	£2,700,000

1.22 Table 3 shows the additional revenue the authorities would raise assuming their tax base grows at the same rate as in 2015-16. It is recognised, however, that any tax base increase would lead to an increase in demand for services.

Table 3: Council tax increase assuming Tax Base grows at 2015-16 rates

Authority	Estimated percentage tax base increase⁴	Additional council tax revenue generated
Somerset County Council	1.7	£3,211,552
Mendip District Council	1.6	£89,313
Sedgemoor District Council	1.6	£86,084
South Somerset District Council	1.8	£150,825
Taunton Deane Borough Council	1.8	£97,032
West Somerset Council	1.4	£26,483
Total	-	£3,661,290

⁴ Tax based increase: Somerset County Council 1.7%, Mendip 1.6%, Sedgemoor 1.6%, South Somerset 1.8%, Taunton Deane 1.8% and West Somerset 1.4%

Discussion

- 1.23 Councils set their tax rate annually and the initial increase would then be added to the baseline for all future years meaning that further annual increases are not required. Changes could be applied at the next council tax rate setting so funding could be agreed in advance of 2016/17.
- 1.24 The tables above show the additional funding that could be raised through council tax. If this route were to be used there may have to be a process for establishing local agreement on the best way of dividing the funding between the councils. Contributions through council tax could be varied between councils to reflect the amount of work to be carried out in each district, the amount of special levy already paid to internal drainage boards or in reference to other factors, such as pressures on the existing budget.
- 1.25 Increasing council tax specifically to fund the SRA would be subject to local authorities agreeing to allocate to the SRA part of their increased budget from the higher council tax. However, it would limit their ability in 2016/17 to raise council tax for other services without a referendum. Any increased funding would not be ring-fenced or hypothecated directly for the SRA and would be subject to annual renegotiation.
- 1.26 An agreement or memorandum of understanding could be drawn up between the SRA and local authorities to ensure there is a long term funding commitment. Information about the agreement could be provided with council tax bills.
- 1.27 This option could be used in combination with other proposals outlined below to ensure that sufficient funding was raised and to include contributions from landowners/land occupiers and businesses.
- 1.28 This option is already open to local partners. There is, however, no support for this option from local partners.

Internal Drainage Boards (IDBs) extend boundaries or increase levy

Background

- 1.29 Under s36 of the Land Drainage Act, the expenses of IDBs are met by drainage rates from agricultural land and special levies issued on district and unitary authorities in internal drainage districts.
- 1.30 The two internal drainage districts in Somerset (the Axe Brue IDB and the Parrett IDB) span all of Somerset's district council areas. The drainage districts do not cover the whole of Somerset. District councils are levied by the internal drainage boards according to the total value of agricultural and non-agricultural land and buildings within those district council areas that lie in an internal drainage district. This means that each district council is levied a different amount.
- 1.31 Table 4 shows the different amounts levied on each district council and the percentage this represents in terms of each authority's council tax requirement. In practice the district councils spread the cost of paying the special levy across their whole council tax base. Table 5 shows, for illustration only, the average equivalent amount for each Band D household in each district reflecting the different amount and value of land in each district which falls within the IDB area. Table 6 outlines the different drainage rates charged to land occupiers.

Table 4: Total amount levied on each district council in 2015/16 (note the IDBs currently raise funds from North Somerset Unitary Authority as well as Somerset district councils)

District Council	Levy amount and (% of Council Tax requirement)
Mendip District Council	£100,065 (1.8%)
Sedgemoor District Council	£1,238,071 (23.6%)
South Somerset District Council	£58,215 (0.7%)
Taunton Deane Borough Council	£20,738 (0.4%)
West Somerset Council	£2,739 (0.1%)
North Somerset Unitary Authority	£12,379

Table 5: 2015/16 Special Levy charges – expressed as an average charge across all band D households in each district for illustration⁵

District Council	Charge
Mendip	£2.63
Sedgemoor	£33.15
South Somerset	£0.95
Taunton Deane	£0.52
West Somerset	£0.21

Table 6: 2015/16 Drainage rates on agricultural land for Parrett and Axe Brue Internal Drainage Boards

Internal Drainage Board	Charge (average £/hectare)
Axe Brue	7.05
Parrett	6.83

Mechanism

1.32 Internal drainage boards charge rates and levies to cover their annual expenses. This means that levies and rates are reviewed and approved by the Board each year. Under this option both the internal drainage boards in Somerset would have to show that their expenses had increased and would generate the additional £2.7m funds by increasing special levies and charges paid by districts and agricultural land occupiers. As the proportions collected through agricultural rates and special levies are fixed it is not possible to increase funding from one source without the other (unless land types change).

1.33 Any increase in special levy would have a direct impact on council's decisions on council tax and would be subject to the referendum threshold.

⁵Figures provided by Somerset Rivers Authority. Table 6 figures show, for illustrative purposes, Table 5 levies as equivalent Band D charges. These vary by district as each local authority paying Special Levy passes on the cost to all households in their area including those outside drainage board areas.

- 1.34 The existing budgets of the internal drainage boards amount to £1.762m in total (£1.432m from special levies on districts (including North Somerset) and £0.33m from agricultural charges). Increasing total funds raised by £2.7m would require a 153% increase in charges and levies. As the current Drainage Board area falls predominantly within Sedgemoor, their existing levies, as shown in Table 4, are higher, and represent a higher proportion of their total council tax requirement. This level of increase in special levy in Sedgemoor District Council would result in an increase in their council tax of 36%. Mendip District Council would also see an increase above the referendum limit, of 2.7%. The increase in other districts would remain within the referendum limit.
- 1.35 Any agreement to raise levies would be subject to the agreement of the internal drainage boards, on which district council members and land owners/land occupiers are represented.
- 1.36 Alternatively, or in addition to increasing current rates and levies, the internal drainage boards could work with the Environment Agency and Defra to seek to extend their boundaries under the Land Drainage Act.
- 1.37 The Land Drainage Act provides that Internal Drainage Districts can be in areas, or can be extended to areas, which 'derive benefit, or avoid danger, as a result of drainage⁶ operations'.
- 1.38 Guidance on identifying areas which will derive benefit or avoid danger as a result of land drainage activities was set out in the *Medway Letter*, written by Ministers in 1933. The letter sets out guideline heights above last known flood levels and high tide marks which are used to set water levels to define the boundaries of a Board. The principles set out in the *Medway Letter* have come to be seen as the benchmark on whether an area can be seen as one which will derive benefit or avoid danger as required by the Land Drainage Act. The Association of Drainage Authorities and Environment Agency produced guidance on establishing internal drainage boards⁷ which states that the broad modern interpretation of the Medway Letter is that internal drainage district boundaries can extend to land within Environment Agency's Flood Zone 2.
- 1.39 By extending their boundaries to Flood Zone 2, Somerset's internal drainage boards could extend their areas by 8954 hectares.

⁶ As defined in S72 of the Land Drainage Act 1991

⁷ http://www.ada.org.uk/downloads/other/downloads_page/Establishing%20New%20Internal%20Drainage%20Boards%20National%20Guidance.pdf

1.40 Extending the existing internal drainage district areas would mean drainage works could be undertaken over a wider area, leading to an increase in the number of landowners liable to pay drainage rates and in contributions from households and in turn leading to an increase in funds available to the internal drainage boards. If the rate for this extended area were to be set at the existing rate, it is estimated that this would raise £580k. Funds would be collected and retained by the internal drainage boards. The impact on districts would vary and is shown in Table 7 below.

Table 7: Impact on Districts of extending existing Internal Drainage Board boundaries

Authority	Band D households £/h'hold	Council tax increase %	Increase in levy paid £k
Mendip District Council	+£0.79	0.5%	+£30k
Sedgemoor District Council	+£2.38	1.7%	+£89k
South Somerset District Council	+£3.15	2.1%	+£178k
Taunton Deane Borough Council	+£4.36	3.1%	+£167k
West Somerset Council	+£4.96	3.6%	+£67k

Discussion

1.41 Subject to the agreement of the internal drainage board members, rates and levies could be increased before April 2016. In order to extend the drainage districts, internal drainage boards would work with the Environment Agency to draw up a scheme for altering the boundaries which would then be subject to local consultation. Assuming local agreement, an extension may be brought into effect via an Order made by Ministers which is laid before Parliament. Extensions can be approved and implemented in a couple of months, if there are no objections, meaning in theory this option could be implemented for 2016/17. In practice, the process of consultation and local agreement has taken several years.

1.42 Funds raised by internal drainage boards are directly hypothecated and ring-fenced for flood risk management and land drainage. Funding would be raised and retained by the internal drainage boards.

- 1.43 Internal drainage boards have powers to exercise supervision over land drainage issues and managing flood risk on ordinary water courses in their district. They are able to undertake works on behalf of other flood risk management authorities via Public Sector Cooperation Agreements. This arrangement would enable the drainage boards to undertake the functions of another risk management authority including works outside the internal drainage district and on main rivers. The Land Drainage Act could restrict the use of funding for some of the activities set out in the Action Plan such as community resilience work and upper catchment land management work.
- 1.44 Under the Land Drainage Act, internal drainage boards must charge their special levy to district councils with reference to values set out in 1990 ratings lists. The 1990 ratings lists for the area of Somerset beyond the existing internal drainage districts are not thought to be available. This could mean that boundary extension is not currently practically possible without a change in legislation requiring use of alternative values.
- 1.45 Under this option, the Somerset Rivers Authority would not have its own ability to raise, hold or spend funds. It would act as a coordinating body for risk management authorities in Somerset. This would limit the role for the district councils and Somerset County Council.
- 1.46 The main barrier to these options is the effect that any increase in rates and levies, or extension, would have on district council budgets. The increase in special levy will result in council tax increases far higher than a 2% referendum threshold. Local authorities have stated that they are not willing to consider any impact on their budgets.
- 1.47 In addition concerns have been expressed over an IDB led funding and spending programme, perceiving it to be too land drainage driven and lacking in wide accountability.
- 1.48 This proposal has received some support from the Association of Drainage Authorities, NFU and Country Land and Business Association, and some internal drainage board members. It is not supported by other local partners.

County Drainage District

- 1.49 A further option presented by the Association of Drainage Authorities was the creation of a new kind of internal drainage board in a county drainage district. This could cover the area inside Somerset but not currently covered by internal drainage districts. Unless it was possible to show that all of this land would derive benefit or avoid danger from land drainage activities, this would require new legislation. The option of a new kind of levying body for flood risk management is discussed on page 4.