

## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Executive Member – Environment and Transport
<b>Date:</b>	24 July 2012
<b>Title:</b>	Flood & Water Management Act 2010 Shared Service Arrangements
<b>Reference:</b>	3993
<b>Report From:</b>	Director of Economy, Transport and Environment

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### 1. Executive Summary

1.1. The purpose of this paper is to set out proposals for shared services arrangements, which are intended to address specialist technical skills shortages and capacity issues in Hampshire County Council and in Hampshire district authorities, in order to deliver the new duties and functions under the Flood and Water Management Act, 2010.

### 2. Contextual information

2.1. The Flood and Water Management Act, 2010 (FWMA) places a number of new duties on Hampshire County Council in its new role as a Lead Local Flood Authority (LLFA) as well as defining new roles and responsibilities for District and Borough Councils.

2.2. In preparation for the commencement of the FWMA, the County Council and New Forest District Council will need to develop capacity to fulfil their new statutory duties. Both parties recognise that combining to jointly discharge certain functions under a shared services arrangement has the potential to make a significant contribution towards their obligations under the FWMA. The opportunity to set up a shared services arrangement can be capitalised upon in the ongoing search for service improvements and the delivery of efficiency savings. Furthermore, this is a good opportunity to build something more lasting and more ambitious in the spirit of the Government's "Open Public Services" White Paper and the County Council's own "Open for Business" agenda.

2.3. The most onerous draw on resources is associated with the Sustainable Drainage Systems (SuDs) Approval Body (SAB). The County Council will have a new statutory duty, responsible for approving and adopting the SuDs

associated with new development. Implementation of the SAB role is likely to be April 2013, possibly later.

- 2.4. A Hampshire –wide audit of all local authorities has found that the technical skills to deliver the broad duties and functions across the FWMA, in particular the SuDS design and assessment, are scarce and the capacity within those service areas to deliver the anticipated demand is not available.

### **3. Shared Services Proposal**

- 3.1 “Shared service” models for specialist technical support to enable Hampshire authorities to deliver their duties under the FWMA have been explored with New Forest District Council. The aim, initially, was to support both Hampshire County Council and New Forest District Council in these new duties. However, it is proposed to open the offer to all Hampshire local authorities with a flood risk management responsibility.
- 3.2 The most appropriate and least bureaucratic way forward is under the Joint Discharge of Functions, Section 101 (5) Local Government Act 1972. This provides for joint discharge of functions by two or more local authorities (LAs). Joint arrangements may include the discharge of functions by a joint committee or by an officer of one of the LAs. A legal agreement would be entered into by the LAs clarifying how the arrangements would operate, including contributions to budget and the bearing of liabilities arising. The suggested governance structure under this model is set out in Appendix 1 attached.
- 3.3 The proposed model for the joint discharge of the FWMA function would have the flexibility to widen the partnership offer to other Hampshire local authorities. It would ultimately be self financing from contributing Hampshire district authority partners in the discharge of their own functions or acting as agents on behalf of the County Council to deliver the SuDs and SAB role. The fundamental principle being that partners “buy into” the model, making a financial contribution for access to a pool of specialist officers, underpinned by a legal shared services agreement. The budget would need to cover staff resource and management costs on a non- profit making, cost recovery basis.

### **4. Finance**

- 4.1 The Government intends that development fees should cover the cost of the SuDs/SAB function. Until the Department for Environment, Food and Rural Affairs (DEFRA) publishes its response to the recent consultation on SuDs, there is currently uncertainty about the fee regime that would be applied. DEFRA set out a proposed national standard on fees in its recent consultation on SuDs. Another option for consideration would be to apply the existing development planning fee regime. The two regimes will deliver widely differing fee income. Based on these two options and the anticipated development in Hampshire over the next two years for large scale development (200 + houses), the estimated income from fees could range from £77,000 to £807,000 for the period 2012-14.

- 4.2 Using the DEFRA national standard, if all the remaining thresholds of development were included (from 1 dwelling upwards) the potential fee income for the period 2012-14 could be as much as a further £860,000. It is possible that different thresholds for development may be introduced in phases and that this additional funding would not be released until 2014 onwards. Furthermore, not all the fees would be available for the shared service arrangements as they would be required to cover other development planning costs.
- 4.3 Given the uncertainty of timing of the implementation of the SuDs/SAB role and the limited ability to secure commitment to the shared services arrangements from other local authority partners as a consequence, a proposed phased budget strategy has been prepared to reduce the initial risk to the two core partners, (Hampshire County Council and New Forest District Council). This can be found in Appendix 2. It is proposed that the cost of an initial skeletal shared service would be underpinned for a maximum period up to 31 March 2014 using the DEFRA grant received by Hampshire County Council to discharge its functions under the FWMA.
- 4.4 A full cost recovery budget for the service has also been prepared along with an outline approach for pricing service packages to District Councils, which will be the basis for costs recovered from external partners as part of the pricing strategy (Appendix 2).

## **5. Other key issues**

- 5.1 One of the major risks of setting up the shared services arrangements is that until there is more certainty about the actual fee income for the SuDs/SAB role there will not be sufficient encouragement for local authorities to make a commitment to entering into a partnership arrangement. This would place a burden on the two core partners (Hampshire County Council and New Forest District Council) to bear the costs of the shared services arrangement.
- 5.2 The timing of the enablement of the SuDs/SAB role is yet to be confirmed. Early indications are that it will be April 2013. If the County Council was unable to access a range of suitable specialist advice in its new role as a SAB, or any other function under the new duties, there would be a risk that this could result in legal challenge of the County Council's decisions by way of a judicial review, which might result in cost to the authority.
- 5.3 In order to mitigate the risks, it is proposed to phase the shared service arrangements, initially setting up a skeletal specialist resource to meet the possible April 2013 deadline, thus keeping costs to a minimum for the core partners in the initial phase up to 31 March 2014. The next phase proposed would be to move towards a full cost recovery basis, with an increase in specialist staff resources to respond to demand and the associated need of skills and capacity. This will be matched to projected income from partners and fees from developers.

## **6. Future Direction**

- 6.1 It is proposed that once more information becomes available and a clearer understanding of the efficacy and financial surety of this proposal is understood that a further report be brought to the Executive Member for Environment and Transport to confirm that the arrangements in place are the best approach to expedite the duties under the Flood and Water Management Act, 2010.

## **7. Recommendations**

- 7.1 That the proposal to set up shared services arrangements to support the discharge of new functions under the Flood and Water Management Act 2010, as set out in paragraphs 3 and 4 of this report, be approved.
- 7.2 That a Shared Services Agreement for the Joint Discharge of Functions, under Section 101(5) of the Local Government Act 1972 be entered into with New Forest District Council, in the spirit of the co-operation requirement in Section 13 (1) of the Flood and Water Management Act 2010.
- 7.3 That the shared services arrangement be open to and offered to other Hampshire Local Authorities, and that legal agreements be entered into by Hampshire County Council as required in its capacity as lead authority under the Shared Services Agreement.
- 7.4 That a further report be brought to the Executive Member for Environment and Transport in 2014 to confirm that the arrangements in place are the best approach to expedite the duties under the Flood and Water Management Act, 2010.

**CORPORATE OR LEGAL INFORMATION:****Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	yes
Corporate Improvement plan link number (if appropriate):	

**Other Significant Links**

<b>Links to previous Member decisions:</b>		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Cabinet: "The Flood and Water Management Act"	2280	19 November 2010
<b>Direct links to specific legislation or Government Directives</b>		
<u>Title</u>		<u>Date</u>
The Flood and Water Management Act		8 April 2010

**Section 100 D - Local Government Act 1972 - background documents**

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

## **IMPACT ASSESSMENTS:**

### **1. Equalities Impact Assessment:**

- 1.1. It is proposed that once more information becomes available and a clearer understanding of the efficacy and financial surety of this proposal is understood that a further report be brought to the Executive Member for Environment and Transport to confirm that the arrangements in place are the best approach to expedite the duties under the Flood and Water Management Act (2010).
- 1.2. The proposals in this report have been developed with due regard to the requirements of the Equality Act 2010, including the Public Sector Equality Duty and the Council's equality objectives. An assessment of the impacts in this service area can be found at [EQIA](#)
- 1.3. It is considered that the issues covered by this report will not have impacts requiring further specific actions by the Council above those already established in its existing policies and working procedures.

### **2. Impact on Crime and Disorder:**

- 2.1. There will be no direct impact, but the decision will contribute to the delivery of functional and well maintained drainage infrastructure in the County, contributing to the orderly conduct of business and community life.

### **3. Climate Change:**

- a) How does what is being proposed impact on our carbon footprint/energy consumption?

The delivery of effective drainage will help prevent flooding and, therefore, reduce the considerable energy use required in clearing up and responding to flooding events.

- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

Climate change is expected to result in more regular and more intense flooding events. Fostering the use of sustainable drainage and developing an infrastructure of this kind across the county will be invaluable to the Council's efforts to contain these events and avert damage to property.