

ITEM 9a

Somerset Rivers Authority Board Paper

Raising awareness of riparian responsibilities

RECOMMENDATIONS

The SRA Board is asked to:

1. Note David Jenkins' *Report of a review for the arrangements for determining responsibility for surface water and drainage assets* and its recommendations for national moves by the Environment Agency and Defra to review guidance on riparian owners' responsibilities, to promote that guidance, and to consider further steps.
2. Consider what actions the SRA could take to support progress on the recommendations about riparian responsibilities made by Mr Jenkins.

Purpose of this item

Firstly, to report how Somerset Rivers Authority (SRA) partners have responded to Board members' instruction at their last meeting on 24 July for a proposal to be prepared about raising awareness of riparian responsibilities in Somerset. Secondly, to seek members' guidance on some possible local priorities for SRA action. Thirdly, to draw attention to a new report by SRA Board member David Jenkins that covers riparian responsibilities and consider what the SRA could do to support this.

Background

The issue of riparian responsibilities is one that has continually roused the SRA Joint Scrutiny Panel and the SRA Board. At the last SRA Board meeting on 24 July the Board asked the SRA Senior Manager David Mitchell to come back to the next Board meeting on 11 September with some initial thoughts about raising awareness of riparian responsibilities in Somerset. One Board member suggested that many people may not even understand what the term 'riparian' means.

Since September 2017, the SRA has employed a part-time Riparian Responsibilities Officer (RRO). A lot of time, effort and enthusiasm has gone into this role and into discussions about riparian responsibilities, but the SRA collectively has struggled to make much progress in line with its remit of doing *extra*. Recently the RRO's time has mostly been devoted to useful but small and very local matters.

Current status

Following the SRA Board meeting on 24 July, riparian responsibilities were discussed at an SRA Technical Group meeting on 14 August. Questions for debate included current

activities and gaps in Somerset as regards riparian responsibilities, SRA partnership working and the role of the SRA's Riparian Responsibilities Officer, and "What do we want people in Somerset to feel, think and – crucially – **do** differently as a result of any awareness-raising activities?" One subject discussed was the sale and purchase of properties and land, and what could possibly be done to raise awareness about riparian responsibilities during this process, as it tends to get people far more interested than usual in matters concerning ownership and responsibilities.

On 26 August Defra published a review into surface water and drainage issues by the Chair of the Wessex Regional Flood & Coastal Committee, and SRA Board member, David Jenkins. Mr Jenkins' *Report of a review for the arrangements for determining responsibility for surface water and drainage assets* has a section devoted to 'Riparian and landowners' responsibilities' (pages 50-56; attached as Item 9b Appendix). Page 53 features Somerset Rivers Authority and Somerset Drainage Boards Consortium, and draws in part on a previous SRA Board discussion.

Mr Jenkins notes that frustrations over riparian responsibilities are widely felt beyond Somerset. He says "a common theme" in many written submissions to him is "that riparian owners' responsibilities with regard to flood risk management and maintenance are ill defined and poorly understood". He adds that he has "given considerable thought, and discussed with others" how matters could be improved but "there has not been a single or predominant view that has emerged, other than a consensus that this is a significant issue that the public interest calls to be addressed".

Approaches suggested by Mr Jenkins to this "complex and difficult topic" include, in summarised form:

- ascertaining, clarifying, and publicising the responsibilities of riparian owners under the existing law;
- changing the law so that riparian owners become duty-bound to maintain assets or features to a particular standard;
- entering into agreements with riparian owners, to accommodate or maintain structures or features on their land, which make a contribution to surface water flood risk management, "possibly involving payment of public funds" (maybe through Defra's new Environmental Land Management Scheme);
- getting the Environment Agency to provide an advisory framework to facilitate risk management authorities entering into agreements with landowners to accommodate or maintain structures or features on their land, which make a contribution to surface water flood risk management.

Defra and the Environment Agency have indicated to Mr Jenkins that they are not attracted to the last two suggestions.

It will be clear from even this very brief outline that there are national matters here which go way beyond the powers of the SRA.

One vital point highlighted by the Environment Agency to Mr Jenkins is that “there is no responsibility for flood and coastal asset owners to maintain their defences to a particular standard or the ability for risk management authorities to enforce a level of maintenance”. This is particularly relevant when thinking about any awareness-raising activities that might try to get riparian owners in Somerset doing more maintenance.

In short, there will be limits to what the SRA can realistically expect to achieve as regards riparian responsibilities. That does not mean we should not try.

Next steps

In his review, Mr Jenkins makes two recommendations about riparian responsibilities. They are:

- That in accordance with the commitment set out in the Surface Water Action Plan, the Environment Agency, in consultation with others as appropriate, review their guidance to landowners on Owning a watercourse, in particular to ensure that this is as clear and comprehensive as possible on riparian owners’ responsibilities for maintenance of watercourses and related features, and that this guidance be promoted widely to those affected by it;
- That Defra consider what further steps the public interest requires to be taken, to ensure the maintenance of privately owned watercourses and related features, including culverted watercourses.

The Government has accepted these recommendations. On the second, Defra has told the SRA: “The government’s policy statement includes a commitment to review of the statutory powers and responsibilities to map, monitor, inspect and maintain all assets. This will aim to ensure that responsibilities are clear and that there are effective powers in place to enable inspection and maintenance to be undertaken.”

Before agreeing any course of action the SRA should fully consider Mr Jenkins’ review, and the Government’s acceptance of his recommendations about riparian responsibilities. Then, part of the point of the SRA is that it has an unusual degree of freedom to pursue what the Board determines to be local priorities. If the Board so desires, SRA partners could seek to carry out a range of awareness-raising activities that work within all the national constraints and complexities but still have an impact in Somerset, in line with the SRA’s remit of doing *extra*.

Questions for the SRA Board

There are three key questions for the Board.

Firstly, given that riparian responsibilities are currently judged to be “complex and difficult”, is it the Board’s wish that all SRA partners should together seek to find

creative ways to raise awareness of the current situation or would the Board prefer partners to hold off until Defra and the Environment Agency have had more time to act upon Mr Jenkins' recommendations?

Secondly, if the Board's wish is for SRA action to continue now, to help partners ascertain local priorities, what are members' views on what they would like Somerset people to feel, think and **do** differently as a result of any awareness-raising activities?

Thirdly, as Mr Jenkins' report has persuaded the Government to accept his recommendations about riparian responsibilities, are there actions that Board members would like to take in response to this? One possibility could be to write to Rebecca Pow MP as Flooding Minister to welcome the Government's acceptance of Mr Jenkins' recommendations and to encourage Defra to expedite this work.

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- 2.** To consider what actions the SRA could take to support progress on the recommendations about riparian responsibilities made by Mr Jenkins.

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