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**PROVISION OF FLOOD RISK MANAGEMENT SERVICES**

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**Responsible Cabinet Member - Councillor Chris McEwan,  
Economy and Regeneration Portfolio**

**Responsible Director - Richard Alty, Director of Place**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To seek permission from Council to waive contract procedure rules and agree that the Council enter into a service contract with Stockton-On-Tees Borough Council for the provision of flood risk management services.

**Summary**

2. Several pieces of legislation, the main one of which is The Flood and Water Management Act 2010, have provided Darlington Borough Council with a number of new powers and duties. The Council is not resourced to deliver these new duties and powers, some of which are onerous and / or require specific skill sets.
3. Discussions have taken place within the Tees Valley to identify opportunities to share resources or identify lead authorities to reduce the burden on individual authorities and maintain capacity and resilience. The conclusion of those discussions is that there is an appetite for Stockton-on-Tees and Darlington Borough Councils to work together, with Stockton providing the service on behalf of both authorities. The benefits would be:-
  - (a) Stockton already have a skilled resource capable of delivering the new duties and powers,
  - (b) Efficiencies can be achieved by delivering for two authorities,
  - (c) One lead authority will be able to develop a consistent harmonised approach across both authorities areas which will be simpler and more transparent to other agencies

## **Recommendation**

4. It is recommended that :-
  - (a) Council waives contract procedure and approves the development of a service contract arrangement with Stockton-on-Tees Borough Council for the delivery of flood risk management services.
  - (b) The Director of Place Services be authorised to negotiate and enter into a service contract with Stockton-on-Tees Borough Council to deliver flood risk management services on behalf of Darlington Borough Council.

## **Reasons**

5. The recommendations are supported to ensure the efficient and effective delivery of statutory duties and powers relating to flood risk management.

**Richard Alty, Director of Place**

## **Background Papers**

- (i) Flood And Water Management Act 2010
- (ii) Flood Risk Regulations 2009

Bill Westland: Extension 2552

S17 Crime and Disorder	There are no implications.
Health and Well Being	Flood risk will be identified and mitigated, reducing the adverse health and well-being issues that flooding can cause.
Carbon Impact	There are no carbon impact implications in this report
Diversity	There are no implications for diversity.
Wards Affected	All wards will be affected in so much as they may suffer from risk of or actual flooding.
Groups Affected	The whole community will benefit from increased flood resilience.
Budget and Policy Framework	This decision does not represent a change to the budget and policy framework.
Key Decision	This is not an Executive decision.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	The report contributes to the safe and healthy themes of the Community Strategy by identifying and mitigating flood risk.
Efficiency	The proposed arrangements will help to ensure the efficient delivery of duties and powers under the Flood And Water Management Act 2010 by sharing officer resources and costs.

## MAIN REPORT

### Information and Analysis

6. Under the Flood And Water Management Act 2010 local authorities are designated as Lead Local Flood Authorities (LLFAs), and as such are required to exercise a number of duties and powers and are responsible for local flood risk. Local flood risk is defined as the risk of flooding from surface runoff, groundwater and ordinary watercourses (as opposed to main rivers such as the Tees and Skerne, which remain the responsibility of the Environment Agency). Some duties and powers are already in place and others are still to be implemented. Other related legislation also introduces new duties and powers. The main specific duties arising are:

7. **Investigation of flooding incidents** (required under Section 19 of the Flood and Water Management Act 2010) – This includes investigation of flooding of properties and roads and results in the production of an investigation report will be published.
8. **Consenting** – Assessing and making decisions upon applications for consents (under Section 23 of the Land Drainage Act) to undertake works on ordinary watercourses, and taking regulatory action when non-consented works are carried out to ordinary watercourses.
9. **Designation of Features** – Section 30 of the Flood and Water Management Act 2010 allows a Lead Local Flood Authority to designate flood risk features.
10. **Register of flood defence features** – Production and maintenance of an asset register as required under section 21 of the Flood and Water Management Act, and must be available for inspection
11. **Preliminary Flood Risk Assessment (PFRA)** – The PFRA provides a high level overview of flood risk from local flood sources including surface water, ground water and ordinary watercourses. The assessment was completed in June 2011 but will need to be updated from time to time.
12. **Sustainable Urban Drainage (SUDS)** – This key requirement is yet to be implemented but will require the Council to establish a SUDS Approval Body to assess and determine the suitability of SUDS application schemes that will be required of developers (subject to certain thresholds and exemptions). The Council will also have to adopt and maintain SUDS where they have been approved and serve more than one property.
13. **Local Partnerships** – The LLFA is required to form effective partnerships with other relevant authorities, all of which are required to co-operate and share information with each other.
14. Darlington Borough Council currently does not possess the resources to meet these new requirements.

### **Financial Implications**

15. New burdens funding has been made available by the Government to assist local authorities to discharge these new duties and powers. Darlington Borough Council has received un-ringfenced revenue funding of £113,800 in 2011/12, and is receiving £127,600 in the current and future financial years.
16. It is fully anticipated that the annual cost of the contract will not only be less than the above amounts but will also be competitive compared with developing an in-house resource. Initial discussions have identified an indicative cost of £89,500 per annum.

17. The proposed services contract is advised to be compliant with relevant EU procurement requirements set out in case law. The principle is that where two or more authorities are joining together to provide a joint service then such arrangement is exempt from the procurement requirements of EU procurement law. The proposal being put forward meets the tests required to satisfy this exemption; in particular there is no profit element in the costs, it is a statutory function under the Flood and Water Management Act 2010 and Darlington Borough Council will exercise a sufficient level of control over the service by means of an agreed governance structure.

### **Consultation**

18. Discussions have taken place with all of the Tees Valley local authorities to identify whether there is an appetite to develop a lead authority approach. These discussions have identified Darlington and Stockton-on-Tees as the two authorities that believe they will benefit from such an approach.