

Findings of the Environment and Sustainability Scrutiny Committee: The Herefordshire Local Flood Risk Management Strategy

Meeting: Cabinet

Meeting date: 26th January 2023

Report by: The Statutory Scrutiny Officer

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose:

The purpose of this report is to notify the Cabinet of the findings from the Environment and Sustainability Scrutiny Committee on the Herefordshire Local Flood Risk Management Strategy; a review of the development of the Local Flood Risk Management Strategy and Action Plan for Herefordshire, recorded at its meeting on 19th January 2023 and to request an Executive Response.

Recommendations

- a) That the findings on the Herefordshire Local Flood Risk Management Strategy; a review of the development of the Local Flood Risk Management Strategy and Action Plan for Herefordshire, made by the Environment and Sustainability Scrutiny Committee at its meeting on 19th January 2023 be noted.
- b) That an Executive Response to the scrutiny findings be prepared for consideration by the Cabinet within two months.

Alternative options

None proposed; it is a statutory requirement for the Cabinet to be notified and consider reports and recommendations made by a scrutiny committee.

Key considerations

1. Scrutiny committees have statutory powers to make recommendations to the Executive, and the Executive (Cabinet) has a statutory duty to respond. They may also make reports and recommendations to external decision making bodies.
2. Scrutiny recommendations are addressed to the Cabinet, as the main Executive decision making body of the council (or, where appropriate, an external agency).
3. Cabinet is being asked to note the scrutiny report / recommendations and that an Executive Response to the scrutiny recommendations be prepared for consideration by the Cabinet within two months.
4. The minutes of the meeting of the scrutiny committee provide the record of the scrutiny committee's consideration of the issue and the scrutiny recommendations made during the meeting.
5. The scrutiny committee will be notified of the Executive Response made in respect to the scrutiny recommendations and may track the implementation of the Cabinet decisions and any actions agreed. This enables the scrutiny committee to track whether their recommendations have been agreed, what actually was agreed (if different) and review any outcomes arising.

Local Flood Risk Management Strategy

6. Herefordshire Council is a Lead Local Flood Authority (LLFA) as set out in the Flood & Water Management Act 2010, as such, it is the Council's responsibility to lead in managing local flood risks (i.e. risks of flooding from surface water, groundwater and ordinary (smaller) watercourses). This includes ensuring cooperation between Risk Management Authorities (RMAs) in the area.
7. The Council as LLFA, has a statutory responsibility to publish a Local Flood Risk Management Strategy (LFRMS). The LFRMS provides a framework to enable the LLFA to lead and co-ordinate flood risk management across Herefordshire and was adopted by Cabinet in September 2017.

Scrutiny Review of the Herefordshire Local Flood Risk Management Strategy

On 18th November 2022 the Environment and Sustainability Scrutiny Committee considered the development of the Local Flood Risk Management Strategy, What the Council and its statutory partners are doing to manage flood risk in the county and a review of progress against the five objectives outlined in the current Herefordshire Council Local Flood Risk Management Strategy.

8. At the end of this meeting, the committee drew together some findings that it would like the Cabinet and the planning directorate to take into consideration in the ongoing development of the Herefordshire Local Flood Risk Management Strategy proposals. These are set out here in the attached document at Appendix 1 of the committee, which was agreed by the committee at its meeting on 19th January 2023.

Witnesses to the Inquiry

9. The scrutiny committee has questioned the following Cabinet Members and planning officers during its inquiry;
 - Councillor Ellie Chowns - Environment and Economy
 - Councillor John Harrington - Infrastructure and Transport
 - Steve Hodges - Directorate Services Team Leader, Economy and Environment
 - Ian Baker – Emergency Planning Manager
 - Jonathon Pryce - Chief Fire Officer, Hereford and Worcester Fire and Rescue Service
 - Ellie Misselbrook - Hereford and Worcester Fire and Rescue Service.
 - Mark Averill – Interim Service Director, Highways and Transport.
 - Joel Hockenhull - Senior Drainage Engineer at Balfour Beatty
 - Ian Baker – Emergency Planning Officer
 - Toby Hanham – Emergency Planning Officer
 - Martin Quine - Assets and Waterways Manager, Environment Agency
 - Dan Trewin – Environment Planning Specialist, Environment Agency.
10. The minutes of the meeting are available [here](#)¹.
11. The findings of the scrutiny inquiry are contained in the document attached at Appendix 1.

Procedure for Recommendations from Scrutiny Committees

12. Where scrutiny committees make reports or recommendations to the Cabinet, as soon as this has been confirmed, these will be referred to the Cabinet requesting an Executive Response. This will instigate the preparation of a report to Cabinet and the necessary consideration of the response, the technical feasibility, financial implications, legal implications and equalities implications etc.
13. Where scrutiny committees make reports or recommendations to full Council (e.g. in the case of policy and budgetary decisions), the same process will be followed, with a report to Cabinet to agree its Executive Response, and thereafter, a report will be prepared for Council for consideration of the scrutiny report and recommendations along with the Cabinet's Response.
14. Where scrutiny committees have powers under their terms of reference to make reports or recommendations to external decision makers (e.g. NHS bodies), where they do this, the relevant external decision maker shall be notified in writing, providing them with a copy of the committee's report and recommendations, and requesting a response.
15. Once the Executive Response has been agreed, the scrutiny committee shall receive a report to receive the response and the committee may review implementation of the executive's decisions after such a period as these may reasonably be implemented (review date).

Community Impact

16. In accordance with the adopted code of corporate governance, the council is committed to promoting a positive working culture that accepts, and encourages constructive challenge, and recognises that a culture and structure for scrutiny are key elements for accountable decision making, policy development and review. Topics selected for scrutiny should have regard to what matters to residents. There has been a drive to improve the scrutiny function at Herefordshire, further to the Rethinking Governance review undertaken in 2021-2022.

¹ <https://councillors.herefordshire.gov.uk/ieListDocuments.aspx?CId=1158&MId=8834&Ver=4>

17. The LFRMS supports the strategic objectives that are described in our County Plan (2020-24) and which sets out how the council will ensure we make the best use of resources and deliver services that make a difference to people in Herefordshire. Specifically, the LFRMS contributes towards the 'Protect and enhance our environment and keep Herefordshire a great place to live' ambition. The council appreciates the distress that flooding has had and continues to have upon communities.

Environmental Impact

18. There are no direct environmental impacts connected with this report or the outcomes it seeks to deliver.
19. The Cabinet is requested to provide an Executive Response within two months, at which stage, in considering its response, a full assessment of resource implications should be undertaken.
20. Herefordshire is already vulnerable to flooding and given that climate change is projected to increase the frequency and intensity of weather events, further impacts from heavy rainfall and river levels are likely. The LFRMS contributes towards the 'Environment' ambition of our County Plan (2020-24) and increasing flood resilience.

Equality Duty

21. There are no specific equalities impacts.
22. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:
23. A public authority must, in the exercise of its functions, have due regard to the need to –
 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
24. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

Resource Implications

25. This report provides notification to Cabinet on the scrutiny report and recommendations, which have been referred to the Executive (Cabinet) for an Executive Response.
26. The Cabinet is requested to provide an Executive Response within two months, at which stage, in considering its response, a full assessment of resource implications should be undertaken.

Legal Implications

27. Section 9F (2) (b) of the Local Government Act 2000 provides that a scrutiny committee can make reports and recommendation to the Executive with respect to the discharge of any functions which are the responsibility of the Executive.
28. Section 9F (2) (e) of the Local Government Act 2000 provides that a scrutiny committee can make reports or recommendations to the Executive on matters which affect the authority's area or the inhabitants of that area.
29. The scrutiny report provides the scrutiny recommendations of the committee to be made to the Executive (Cabinet).
30. The Cabinet is requested to provide an Executive Response within two months, at which stage, in considering its response, a full assessment of legal implications should be undertaken.

Risk management

Risk / opportunity	Mitigation
There is a reputational risk to the council if the scrutiny function does not operate effectively.	The arrangements for the notification of recommendations from the scrutiny committees and agreement of an Executive Response should help mitigate this risk.

31. The Cabinet is requested to provide an Executive Response within two months, at which stage, in considering its response, a full assessment of risk implications should be undertaken.
32. The Executive will then need to assess the risks arising from any executive decisions made in respect of the scrutiny committee's recommendations.

Consultees

The Cabinet Member for Infrastructure and Transport.
The Cabinet Member for Environment and Economy.
The Chairperson of the Environment and Sustainability Scrutiny Committee.

Appendices

33. Appendix 1: Environment and Sustainability Scrutiny Committee Findings on the Herefordshire Local Flood Risk Management Strategy Action Plan

Background papers

The minutes of the Environment and Sustainability Scrutiny 18th November 2022.
<https://councillors.herefordshire.gov.uk/ieListDocuments.aspx?CId=1158&MId=8834&Ver=4>