

Title of report: Scrutiny Report Flood Risk Executive Response Cabinet 5th October

Meeting: Cabinet

Meeting date: Thursday 5 October 2023

Report by: The Environment and Sustainability Scrutiny Committee

Report Author: Simon Cann, Democratic Services Officer

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose

The purpose of this report is to notify the Executive of the recommendation from the Environment and Sustainability Scrutiny Committee on the [Executive response to recommendations from the Environment and Sustainability Scrutiny Committee on the Local Flood Risk Management Strategy Action Plan](#) - as recorded at its meeting on 25 November 2023 and to request an Executive response.

Recommendation(s)

That:

- a) That the recommendation made by the Environment and Sustainability Scrutiny Committee (set out at Appendix 1) at its meeting on the 25/09/2023 be noted, and
- b) That an Executive Response to the scrutiny recommendations 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 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.
5. 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.
6. 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.

Community impact

7. 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.

Environmental Impact

8. As a committee report there are no direct environmental impacts connected with this report or the outcomes it seeks to deliver.

Equality duty

9. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:
10. 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.

11. 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
12. 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.
13. As a committee report this will not have an impact on our equality duty.

Resource implications

14. This report provides notification to Cabinet on the scrutiny report and recommendations, which have been referred to the Executive (Cabinet) for an Executive Response.
15. 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

16. 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. This is reflected in part 4.5.41 to 4.5.51 of the Constitution.
17. 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.
18. The scrutiny report provides the scrutiny recommendations of the committee to be made to the Executive (Cabinet).
19. The Cabinet is requested to consider the recommendations and provide a response within two months. The Cabinet is not bound to action or adopt the recommendations but must provide a response to scrutiny.
20. If Cabinet considers that recommendations are contrary or not in accordance with the budget or policy framework, then Cabinet may report the matter to Council (para 4.5.45).
21. Currently, the recommendations are (in part) at too early a formative stage to give a full assessment of legal implications.

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.

22. 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.
23. 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 Environment.

The Chairperson of the Environment and Sustainability Scrutiny Committee.

Appendices

Appendix 1 – Recommendations on Executive response to Cabinet from Environment and Sustainability Scrutiny Committee 25 September

Background papers

[Executive response to the Environment and Sustainability Scrutiny Committee Local Flood](#)

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	John Coleman	Date 29/09/2023
Finance	Karen Morris	Date 29/09/2023
Legal	Sean O'Connor	Date 29/09/2023
Communications	Click or tap here to enter text.	Date Click or tap to enter a date.
Equality Duty	Click or tap here to enter text.	Date Click or tap to enter a date.
Procurement	Click or tap here to enter text.	Date Click or tap to enter a date.
Risk	Click or tap here to enter text.	Date Click or tap to enter a date.

Approved by	Click or tap here to enter text.	Date Click or tap to enter a date.
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Please include a glossary of terms, abbreviations and acronyms used in this report.