



**CABINET – 26 MAY 2023**

**LEICESTERSHIRE LOCAL FLOOD RISK MANAGEMENT STRATEGY**  
**– PUBLIC CONSULTATION**

**REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT**

**PART A**

**Purpose of the Report**

1. The purpose of this report is to provide a summary of the draft updated Leicestershire Local Flood Risk Management Strategy (LLFRMS) and seek the Cabinet's approval for a ten-week public consultation exercise on the draft updated LLFRMS and associated documents.
2. The updated LLFRMS has been produced by the Council in its role as the Lead Local Flood Authority (LLFA). It details the principles, objectives, and measures by which local flood risk is to be managed in Leicestershire and specifies the roles and responsibilities of the Council, partner organisations and the public. The draft LLFRMS and associated documents are attached as Appendices to this report.

**Recommendations**

3. It is recommended that:
  - a) The Cabinet approves the draft updated Leicestershire Local Flood Risk Management Strategy (LLFRMS) and associated documents for the public consultation;
  - b) It be noted that it is intended that a further report will be considered by the Cabinet on 24 November 2023, detailing the outcome of the consultation, and seeking approval of the final LLFRMS and associated documents for publication.

**Reasons for Recommendation**

4. To support the process of a full review and update of the LLFRMS, a public consultation should be undertaken for a minimum period of eight weeks.
5. The existing LLFRMS was published in 2015 and requires a full review and update. The draft document addresses the changes required to align with the

current national strategy and associated guidance. It also incorporates the recommendations of a recent member Flooding Scrutiny Review Panel.

### **Timetable for Decisions (including Scrutiny)**

6. Subject to approval by the Cabinet, the ten-week consultation period is scheduled to begin on 5 June 2023, and to close on 13 August 2023. Further details on the public consultation can be found in paragraphs 35 to 39 of this report.
7. The Highways and Transport Overview and Scrutiny Committee is scheduled to receive a report as part of the consultation on 8 June 2023. The Chair and Spokespersons of the Environment and Climate Change Scrutiny Committee will be invited to the meeting.
8. Following the public consultation, further reports are to be considered by the Highways and Transport Overview and Scrutiny Committee (9 November 2023) and the Cabinet (24 November 2023). The reports will detail the outcomes of the public consultation, and the Cabinet report will seek approval for the publication of the final updated LLFRMS and associated documents.

### **Policy Framework and Previous Decisions**

9. The current LLFRMS was approved by the Cabinet on 11 September 2015.
10. Following significant flooding events in the County in October and November 2019, the Environment and Transport Overview and Scrutiny Committee on 16 January 2020 set up the Flooding Scrutiny Review Panel. The Panel's review considered the role of the Council as LLFA, and the roles of other flood risk management authorities.
11. The Review Panel reported its findings to the Environment and Transport Overview and Scrutiny Committee on 14 January 2021. On 5 February 2021, the Cabinet noted the Final Report of the Flooding Scrutiny Review Panel and approved its recommendations. The first recommendation was for a refresh of the LLFRMS.
12. The LLFRMS will have regard to the outcomes in the County Council's Strategic Plan, notably those relating to the need to protect and enhance the environment and to ensure that communities are resilient in the face of emergencies.

### **Resource Implications**

13. There are no additional resource implications for the Council arising from the recommendations in this report, as the remit of the LLFA is currently funded within the Environment and Transport Department budget, and the proposed LLFRMS details the basis for applying these resources.

14. The Strategy Action Plan details circumstances where the delivery of measures is subject to securing external funding.
15. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

**Circulation under the Local Issues Alert Procedure**

16. None.

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## PART B

### Background

17. In accordance with the Flood and Water Management Act (2010), the County Council as the Lead Local Flood Authority (LLFA) is responsible for developing, maintaining, and monitoring a strategy for local flood risk management in Leicestershire. Local flood risk is defined by the Act as flood risk from surface water, ordinary watercourses and groundwater sources.
18. The Leicestershire Local Flood Risk Management Strategy (LLFRMS) does not cover the approach to managing strategic flood risk as this is coordinated by the Environment Agency. This includes flood risk from main river and reservoirs.

### Why is the Strategy being updated?

19. The first, current, LLFRMS was published in August 2015. A full review and update has been undertaken for the following reasons:
  - a) **Review timescales** - the current LLFRMS states that it is to be updated every six years. As originally intended, this timing aligns well with updates to regional River Basin Management Plans and Flood Risk Management Plans which were published by the Environment Agency in October and December 2022 respectively.
  - b) **National strategy consistency** - the LLFRMS must be consistent with the National Flood and Coastal Erosion Risk Management Strategy for England. A full update to the National Strategy was published in July 2020. Updates were required to ensure consistency.
  - c) **By recommendation of the Environment and Transport Overview and Scrutiny Committee** - following significant flooding in 2019, the Environment and Transport Overview and Scrutiny Committee set up a Flooding Scrutiny Review Panel which published its findings in January 2021. A refresh of the LLFRMS was recommended, with other recommendations to be considered as part of the update.
  - d) **Improved understanding** - the Council and partners have an improved knowledge of local flood risk in Leicestershire, and how it is best managed.
  - e) **Community engagement** - review of the current LLFRMS suggested it could be more useful as a community engagement tool, both in terms of content and format, whilst also achieving other requirements.
  - f) **Changes in approach** - since the existing LLFRMS was published, some ways of working have altered, and others are proposed to be updated through the Strategy update.

### Key changes

20. The draft Strategy (Appendix A) and Action Plan (Appendix B) have been updated to align more closely with the Council's Strategic Plan 2022-2026.

21. The co-ordinating role of LLFA is better explained, as recommended by the Flooding Scrutiny Review Panel. Roles and responsibilities and partnerships are clarified (including the “Leicestershire, Leicester and Rutland Flood Risk Management Board” being amended to the “Leicestershire Flood Risk Management Board”). This Board has been amended to this affect to align more closely with LLFAs within the Midlands and Nationally. Leicester City Council and Rutland Council have their own Flood Risk Management Boards also.
22. The principles have been refreshed and are relevant across the whole Strategy:
1. Working in partnership
  2. Working with communities
  3. Delivering multiple benefits
  4. Adapting to climate change
  5. Taking a risk-based approach.
23. The objectives have been refreshed to encompass the main activities by which local flood risk will be managed in partnership. This assists the response to the question: “how is local flood risk managed in Leicestershire?”
1. To manage local flood risk through the effective management of **flood risk assets, watercourses, and catchments.**
  2. To manage local flood risk through **encouraging sustainable development.**
  3. To manage local flood risk through effective **preparedness, response to, and recovery** from flood events.
  4. To **better understand local flood risk** and impacts, informing approaches to managing this risk.
  5. To manage local flood risk through developing and or managing **local projects** for at-risk communities.
24. Local policies have been updated, describing the way in which the Council will carry out some LLFA duties and responsibilities. Removing such detail from the main Strategy document helps it to reflect the partnership approach in Leicestershire better, as opposed to the inclusion of lengthy descriptions of the LLFA’s responsibilities. It will also increase their accessibility on the website, and therefore transparency. The policies are listed below.
- a) **Asset Register and Record Policy (Appendix C):** details Council’s approach to section 21 of Flood and Water Management Act 2010 ‘duty to maintain a register’.
  - b) **Formal Flood Investigations Policy (Appendix D):** details Council’s approach to section 19 of Flood and Water Management Act 2010: Local authorities: investigations. This includes revisions to the threshold criteria for formal flood investigations, specifically from one property flooded to five residential or two commercial properties. All internal flooding will still be investigated, but no formal reports published for events falling under the threshold. The new thresholds are consistent with national standards

and many other local authorities. The full rationale for this change is provided in Appendix E to this report.

- c) **Ordinary Watercourse Regulation and Culverting Policy (Appendix F):** the policy is an update of the culverting policy within the existing LLFRMS, which is extended to all structures. The policy is likely to improve the chances of success of any enforcement action taken, should it be decided to exercise the Council's permissive powers.

- 25. The assessment of local flood risk (Appendix G) has been updated. The latest available data is used, including new national datasets and local watercourse models. The ranked list of priority communities has been removed from external publication and will be maintained internally as a tool to assist prioritisation of resources.

### Schedule 3 of the Flood and Water Management Act (2010)

- 26. On 10 January 2023, the Government announced its intention to implement Schedule 3 of the Flood and Water Management Act in 2024. This is expected to lead to the Council becoming a Sustainable Drainage Systems Approval Body (SAB).
- 27. If implemented, it will result in a significant change to the way in which the 'encouraging sustainable development' objective is implemented. This potential change is accounted for in the updated LLFRMS, and a measure is included: 'The LLFA and other Risk Management Authorities will prepare for implementation of Schedule 3 of the Flood and Water Management Act 2010, and revise the Strategy Action Plan if implemented'.
- 28. Limited detail is currently available. From the Department for Environment, Food and Rural Affairs document 'the review for implementation of Schedule 3 to The Flood and Water Management Act 2010' (January 2023), it is known that:
  - a) The review recommended the SAB role sits with unitary or county councils.
  - b) "As part of the application process, the developer will pay an application and inspection fee, which will provide a means of funding the SAB's operational costs. This is expected to result in a net-zero cost for the local authority".
  - c) Where a SAB has a duty to adopt sustainable drainage systems, a commuted sums approach informed by national guidance appears to be the preferred route for funding operation and maintenance costs.
  - d) It is recommended that "the net additional cost of all new burdens placed on local authorities is assessed and funded".

## Consultation

### Consultation to date

29. Following the Flooding Scrutiny Review Panel's recommendation to refresh the existing LLFRMS in February 2021, the LLFRMS was reviewed by the Council as LLFA, and necessary updates considered.
30. The existing LLFRMS specifies that the reasons for a full review and update be presented to the Leicestershire, Leicester and Rutland Flood Risk Management Board (FRMB) (now the Leicestershire Flood Risk Management Board). The FRMB is a partnership made up of relevant risk management authorities and emergency responders.
31. These reasons (see paragraph 19 above) were presented to FRMB in March 2022. The FRMB agreed a full review and update was required. The FRMB has received project updates at all meetings since.
32. In summer 2022, objective focus groups were held. They were attended by members of the FRMB, and relevant Council officers. The Strategy and associated documents were then drafted.
33. In January 2023, a four-week consultation on the first draft was held internally, with FRMB members, and two community flood groups. Responses from ten partners were received, being generally positive. Various minor amendments were made. The principles were coalesced from eight to five to help simplify the document and Strategy as a whole.
34. The Council's legal service has been consulted on the LLFA policies, and its comments incorporated.

#### Public consultation

35. Public consultation is required by the Flood and Water Management Act 2010.
36. The consultation will be conducted through the Council's 'Have Your Say' webpage, for ten weeks. This is expected to be carried out between 5 June 2023 and 13 August 2023.
37. Links to the consultation will be shared with the FRMB, internally, with members, flood risk community partnerships and action groups, and neighbouring LLFAs.
38. Targeted consultation will be held with members of groups who are potentially more vulnerable to flooding, as identified in the Equality and Human Rights Impact Assessments.
39. The Flood Risk Management team has worked with colleagues on plans to promote the consultation to maximise participation.

#### Equality and Human Rights Implications

40. An Equality and Human Rights Impact Assessment has been completed (Appendix H) and there are no discernible equal opportunity implications.

## **Environmental Implications**

41. An independent Strategic Environmental Assessment has been completed (Appendix I). This Assessment concluded that none of the proposed measures are likely to have negative effects on the environment. It also concluded that many of the proposed measures are likely to have positive environmental effects. This supports the updated LLFRMS principle of delivering multiple benefits (social, economic and environmental) through the completion of measures.
42. An independent Habitats Regulations Assessment has also been completed (Appendix J). This assessment concluded that the updated LLFRMS will not have significant environmental effects on designated European sites, such as the Mease Special Area of Conservation.
43. The Council is also aiming to closely align the updated LLFRMS with the Local Nature Recovery Strategy (LNRS) for Leicestershire, as this develops. LNRSs are a new mandatory system of spatial strategies for nature established by the Environment Act 2021. They are designed as tools to encourage more coordinated practical and focused action and investment in nature.

## **Partnership Working and Associated Issues**

44. A principle for the Strategy is organisational partnership working. Maintaining this principle will be essential for the successful delivery of objectives and measures. As mentioned, relevant partners have already been consulted through the objective working groups and first consultation.

## **Background Papers**

Current Local Flood Risk Management Strategy and associated documents - <https://bit.ly/41qEdnX>

Report to the Cabinet, 11 September 2015 – Approval of current Local Flood Risk Management Strategy - <https://bit.ly/41KjbAN>

Report of the Flooding Scrutiny Review Panel to the Environment and Transport Overview and Scrutiny Committee, 14 January 2021 - <https://bit.ly/3MgEK7F>

Report of the Flooding Scrutiny Review Pane to the Cabinet, 5 February 2021 - <https://bit.ly/3ObNa1v>

Section 9 Flood and Water Management Act 2010 - Local flood risk management strategies: England - <https://bit.ly/42TkluY>

River basin management plans: updated 2022 - <https://bit.ly/42Fddm8>

## **Appendices**

Appendix A - Updated Local Flood Risk Management Strategy for Leicestershire



- Appendix B - Strategy Action Plan
- Appendix C - Asset Register and Record Policy
- Appendix D - Formal Flood Investigations Policy
- Appendix E - Formal flood investigations thresholds rationale
- Appendix F - Ordinary Watercourse Regulation and Culverting Policy
- Appendix G - Assessment of Local Flood Risk
- Appendix H - Equality and Human Rights Impact Assessment
- Appendix I - Strategic Environmental Assessment
- Appendix J - Habitats Regulations Assessment

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