

Title of report: Progress Report

Meeting: Environment and Sustainability Scrutiny Committee

Meeting date: 21st September 2022

Report by: The Statutory Scrutiny Officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose:

This report provides a brief summary update on issues previously considered by the Environment and Sustainability Scrutiny Committee, including responses to information requests made by the committee, updates on resolutions made by the committee, including reports and recommendations to the executive and the Executive response and Executive decision(s) made in respect of scrutiny reports and recommendations.

Recommendation(s)

That the progress report on scrutiny information requests, scrutiny reports and recommendations and other matters raised by the committee be noted.

Alternative options

1. The alternative is for the committee not to receive a Progress Report to update on matters since the last meeting, which would provide less clarity and transparency on the progress of issues since the last meeting.

Key considerations

2. Scrutiny committees have statutory powers to make recommendations to the Executive, as appropriate, and the Cabinet has a statutory duty to respond to scrutiny recommendations. They may also make reports and recommendations to external decision making bodies.
3. In tracking scrutiny recommendations, it is important that it is clear that the recommendations are addressed to the Cabinet, as the Executive decision making body of the council (or,

where appropriate, external agency), and to track the decision of the Cabinet and thereafter the implementation status of the Executive Response and Cabinet decisions.

4. Scrutiny committees also have the power to request information from council departments and certain other external organisations, from who they should expect a response. Scrutiny committees should be clear why they are requesting information and when they need the response by. Scrutiny committees may therefore wish to keep track of information requested at the previous meeting and for this to be received at the next ordinary meeting of the committee.

Scrutiny Committees at Herefordshire

5. The council has five scrutiny committees, established by full Council on 20 May 2022;
 - i). Scrutiny Management Board
 - ii). Environment & Sustainability Scrutiny Committee
 - iii). Connected Communities Scrutiny Committee
 - iv). Children & Young People Scrutiny Committee
 - v). Health, Care & Wellbeing Scrutiny Committee.
6. The general role of the scrutiny committees is set out in Article 6 – Scrutiny of the Herefordshire Council Constitution, in accordance with the Local Government Act 2000. Part 3, Section 4 of the Constitution sets out the specific remits for each of the scrutiny committees. This includes a strategic management and coordination functions for the Scrutiny Management Board, as well as the thematic remits of the four other scrutiny committees. The Scrutiny Management Board is also responsible for the scrutiny of corporate cross cutting functions of the council.
7. Although scrutiny committees do not have any executive decision making powers, they do have statutory powers to make recommendations to Cabinet, as appropriate, and Cabinet has a statutory duty to respond to scrutiny recommendations. They may also make reports and recommendations to external decision making bodies.

Progress From the Previous Meeting

Restoration of the River Wye

8. At the last meeting the committee considered Restoration of the River Wye - Options for Public Inquiry and Policy Review, when the committee gave initial consideration to the options available for public inquiry and policy review in relation to restoration of the River Wye. The Committee noted the proposal by Cabinet to establish a Commission with the aim of bringing key stakeholders together to address a number of long standing issues.
9. At the end of its consideration, the committee made the following recommendations to Cabinet:
 - i) That the proposed Cabinet Phosphates Commission on the Restoration of the River Wye include in its membership councillors from across the Council who have a particular knowledge of the subject matter; and
 - ii) That the Cabinet ensure that every effort is made to promote active participation from neighbouring local authorities in the work of the proposed Commission.
10. At its meeting on 28 July 2022 the Cabinet agreed an Executive Response to the recommendations of the Environment and Sustainability Scrutiny Committee. This is provided

in another report to the committee from the Corporate Director, Economy and Environment to update the committee on this topic.

Environment and Sustainability Scrutiny Committee Annual Work Plan 2022-2023

11. At the last meeting, the committee agreed its work plan for the year. The committees work plan was brought together with the work plans of the other scrutiny committees to make the Annual Scrutiny Work Programme 2022-2023, which was agreed by the Scrutiny Management Board on 5th September 2022.

Scrutiny Recommendations and Executive Response

12. In accordance with Part 4 Section 5 of the Herefordshire Council Constitution, Herefordshire Council scrutiny committees may make recommendations to the Full Council or the Cabinet with respect to any functions which are the responsibility of the executive or of any functions which are not the responsibility of the executive, or on matters which affect the borough or its inhabitants. The Health, Care and Wellbeing Scrutiny Committee may also make recommendations to the relevant NHS bodies or relevant health service providers or full Council.
13. Scrutiny committees may not make executive decisions and scrutiny recommendations therefore require consideration and decision by the appropriate decision maker; usually the Cabinet, but also full Council for policy and budgetary decisions and the NHS where it is the decision maker.
14. The Scrutiny Recommendation Tracker table attached at Appendix 1 provides a summary of scrutiny recommendations made during the municipal year, so that the scrutiny committee can track the progress of the recommendations made.
15. The Scrutiny Recommendation Tracker table includes each scrutiny recommendation made and the date it was made, (which will be as is recorded in the committee minutes), identification of the decision maker (e.g. Cabinet), the Executive Response (the actual Cabinet decision), which may be different from the scrutiny recommendation and which will be minuted in the Cabinet minutes, the date the Executive Response/decision was made and an implementation review date.
16. The Scrutiny Recommendation Tracker enables the scrutiny committee to track whether their recommendations have been agreed, what actually was agreed (if different) and ask about any outcomes arising from the scrutiny recommendations, for example, service improvements, value for money savings and outcomes for residents.
17. If the relevant respective executive decisions and actions have been implemented, they will not be referred over to the scrutiny recommendation tracker report for the next municipal year, but that any that have not been implemented may be referred to the scrutiny recommendation tracker for the next committee cycle.

Procedure for Recommendations from Scrutiny Committees

18. 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 and the issue will be published on the Council's Forward Plan. 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.

19. 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.
20. Where scrutiny committees have powers under their terms of reference to make reports or recommendations 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.
21. 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

22. 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.

Environmental Impact

23. Whilst this is an update on the work of the scrutiny committees and will in itself have minimal environmental impacts, consideration has been made in the consideration of Executive decisions and the Executive Responses provided by the Cabinet.

Equality Duty

24. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:
25. 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.
26. 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. Whilst this is an update on the work of the scrutiny committees and will in itself have minimal equalities impacts, consideration has been made in the consideration of Executive decisions and the Executive Responses provided by the Cabinet.

Resource Implications

27. The costs of the work of the Committee will have to be met from existing resources. It should be noted the costs of running scrutiny can be subject to an assessment to support appropriate processes.
28. The councillors' allowance scheme contains provision for co-opted and other non-elected members to claim travel, subsistence and dependant carer's allowances on the same basis as members of the council. If the committee agrees that co-optees should be included in an inquiry they will be entitled to claim allowances.
29. It is suggested that a scrutiny committee should only have one in-depth scrutiny task group inquiry running at a time.
30. Whilst this is an update on the work of the scrutiny committees and will in itself have minimal resource implications, consideration has been made in the consideration of Executive decisions and the Executive Responses provided by the Cabinet.

Legal Implications

31. The Council is required to deliver a scrutiny function. The development of a work programme which is focused and reflects those priorities facing Herefordshire will assist the committee and the council to deliver a scrutiny function.
32. The Scrutiny Rules in Part 4 Section 5 of the council's constitution provide for the setting of a work programme, the reporting of recommendations to Cabinet and the establishment of task and finish groups within the committee's agreed work programme.
33. There are no specific legal implications arising from this report which provides a progress update on recommendations made to Cabinet and subsequent Cabinet decision. Any legal implications arising from Cabinet Decisions will be detailed in the relevant Cabinet report.

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 development of the work programme should help mitigate this risk.

Consultees

The Chair of the Environment and Sustainability Scrutiny Committee.

Appendices

Appendix 1: Scrutiny Recommendation Tracker.

Background papers

None identified.