

Title of report: Implementing the Environment Act 2021

Meeting: Environment and Sustainability Scrutiny Committee

Meeting date: Monday 27 November 2023

Report by: Sustainability & Climate Change Manager

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

This report presents information for the committee to consider regarding the targets, duties and powers conferred to the council and its partners by the Environment Act 2021. It describes how Herefordshire Council is implementing the duties of the act and how it is working in partnership with other bodies relating to the act.

Recommendation(s)

That:

- a) **The committee notes the Council's progress and leadership to date, and**
- b) **The committee determines any other actions or recommendations it may seek to make.**

Alternative options

1. None identified, this report provides an update to the Environment and Sustainability Scrutiny Committee (ESSC).

Key considerations

2. The Environment Act 2021 (The Act) received Royal Assent on 9 November 2021 and operates as the UK's new framework of environmental protection. Given that the UK has left the EU, new laws that relate to nature protection, water quality, clean air, as well as additional environmental protections that originally came from the EU, needed to be established. The

Environment Act allows the UK to enshrine some environmental protection into law, it offers new powers to set new binding targets.

3. The priority areas are:
 - a. air quality;
 - b. water;
 - c. biodiversity; and
 - d. resource efficiency and waste reduction.
4. The Act introduces a new framework for setting long-term, legally binding targets for environmental improvement. These targets will sit with the Secretary of State.
5. The Act legally obliges policy-makers to have due regard to the environmental principles policy statement when making policy decisions.
6. The Act establishes the Office of Environmental Protection (OEP) as an independent, domestic watchdog. The Council has a duty to co-operate with the OEP in connection with the exercise of its functions. The OEP will have enforcement functions over public authorities who fail to comply with environmental law and powers to deal with significant environmental complaints. It can issue notices to public authorities and there are powers in the Act for the OEP to apply for judicial review of public authorities where serious failure to comply with environmental law takes place.
7. A detailed summary of the targets, duties and powers conferred to the Council by the Environment Act 2021 together with a progress update is included as Appendix 1.

Community impact

8. The Act supports improvements that will benefit all who reside and visit the county by improving air quality and water quality, protecting local nature and reducing waste. Improvements in these areas will positively contribute towards the delivery of the Council's County Plan (2020-24), specifically the following success measures:
 - a. Increase flood resilience and reduce levels of phosphate pollution in the county's river.
 - b. Improve the air quality within Herefordshire.
 - c. Improve residents' access to green space in Herefordshire.

Environmental Impact

9. The Act supports the County Plan's ambitions to:
 - a. Seek strong stewardship of the county's natural resources
 - b. Protect and enhance the county's biodiversity, value nature and uphold environmental standards
 - c. Build understanding and support for sustainable living
 - d. Develop environmentally sound infrastructure that attracts investment

- e. Minimise waste and increase reuse, repair and recycling
10. Specifically this will deliver positive impacts on the success factors detailed in paragraph 8 of this report.
 11. The Act supports the commitments outlined in the Council's Environmental policy¹, specifically:
 - a. Make efficient use of natural resources;
 - b. Minimise waste;
 - c. Prevent and reduce pollution and protect our environment; and
 - d. Conserve the natural and historic environment of Herefordshire.

Equality duty

12. Environmental inequalities tend to disproportionately adversely impact areas of deprivation and those with lower household income². The Act supports the commitments outlined in the Council's Environmental policy which are outlined in paragraph 11.
13. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

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.
14. 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. Our providers will be made aware of their contractual requirements in regards to equality legislation.

Resource implications

15. There are no resource implications associated with providing this progress update to the Environment and Sustainability Scrutiny Committee.
16. The development of any future projects as a result of the Act will require separate governance which in turn will inform future resources needs.

¹ <https://www.herefordshire.gov.uk/directory-record/4848/environmental-policy>

² <https://www.gov.uk/government/publications/state-of-the-environment/the-state-of-the-environment-the-urban-environment>

Legal implications

17. The role of the Council's Scrutiny Committee is set out in Part 2 Article 6 of the Council's Constitution and includes helping to develop policy, carrying out reviews of Council and other local services and holding decision makers account for their actions and decisions.
18. The functions of the Scrutiny Committee include powers to make reports and/or recommendations to the executive with respect to the discharge of any functions which are the responsibility of the executive and to make reports or recommendations to council or the cabinet on matters which affect the authority's area or the inhabitants of that area.
19. As outlined above the Environment Act imposes various requirements and obligations upon the Council as the local planning authority and establishes the OEP; an independent body charged with monitoring and reporting on the compliance of government, its agencies and other public bodies. The Environment Act also gives the OEP the power to issue information notices, decision notices and instigate environmental or judicial reviews against local authorities.

Risk management

20. There are no risks associated with providing a progress update to the Environment and Sustainability Scrutiny Committee.
21. If any new projects are instigated as a result of the Act separate governance will be required including their own risk assessments.

Consultees

22. None.

Appendices

23. Appendix 1 - Summary of Environment Act 2021 Implications and Progress to Date

Background papers

24. None identified.

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	Simon Cann	Date 16/11/2023
Finance	Karen Morris	Date 16/11/2023
Legal	Marc Sorrentino	Date 16/11/2023
Communications	Luenne Featherstone	Date 16/11/2023
Equality Duty	Harriet Yellin	Date 16/11/2023
Procurement	Lee Robertson	Date 16/11/2023
Risk	Lee Washbrook	Date 16/11/2023

Please include a glossary of terms, abbreviations and acronyms used in this report.

- Air Quality Management Areas (AQMAs)
- Air Quality Monitoring Station (AQMS)
- Biodiversity Net Gain (BNG)
- Department for Transport (DfT)
- Deposit return schemes (DRS)
- Drinking Water Inspectorate (DWI)
- The Environment Act 2021 (the Act)
- Environment and Sustainability Scrutiny Committee (ESSC)
- Extended Producer Responsibility (EPR)
- Herefordshire Biological Records Centre (HBRC)
- Key Performance Indicators (KPIs)
- Local Cycling and Walking Infrastructure Plan (LCWIP)
- Local Nature Recovery Strategy (LNRS)
- Local Transport Plan (LTP)
- National Planning Policy Framework (NPPF)
- Office of Environmental Protection (OEP)
- Organisation for Economic Co-operation and Development (OECD)
- Quantified Carbon Reduction (QCR)
- Strategic Environmental Assessment (SEA)