

Title of Report: Recommendations of the Environment and Sustainability Scrutiny Committee: Nutrient Management Board

Meeting: Cabinet

Meeting date: 29th February 2024

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 recommendations from the Environment and Sustainability Scrutiny Committee, made at its meeting on 22 January 2024, and to request a response from the executive.

Recommendations

- a) **That the recommendations regarding the Nutrient Management Board (NMB), made by the Environment and Sustainability Scrutiny Committee at its meeting on the 22 January 2024 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, or the appropriate Cabinet Member, 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.

Nutrient Management Board

6. The Nutrient Management Board (NMB) was established in 2014 following a Review of Consents (RoC) of Waste Water Treatment Works (WWTW) under the Habitats Regulations carried out by the Environment Agency in 2010. It revealed the River Lugg section of the River Wye Special Area of Conservation (SAC) was exceeding its phosphate target (0.05mg/l phosphate) and that despite measures undertaken to address point source pollution via the consents on WWTW, the levels continued to exceed conservation targets. A need was identified for a Nutrient Management Plan to set out how the reduction in concentrations could be delivered from all sources of pollution. The report highlighted that future growth must not compromise the achievement of conservation targets.
7. It instigated the development of a Nutrient Management Plan setting out an Evidence Base; incorporating source apportionment modelling, with Options Appraisal and Action Plan agreed by the board, which would set out a trajectory to bring the watercourse back into favourable condition with respect to phosphate levels.
8. During its meeting on 22 January 2024 the Environment and Sustainability Committee received information and updates regarding the NMB from the Cabinet Member for the Environment (current chair of the NMB), expert witnesses from the Wye and Usk Foundation and the Campaign for the Protection of Rural Wales, and council officers. The committee discussed and scrutinised a number of areas relating to the NMB including; the role of the board, its aims and objectives, terms of reference, governance arrangements and agreed targets and key performance indicators.

Scrutiny Recommendations

9. At the end of its consideration of this issue, the committee made eight recommendations to the Cabinet, as set out at Appendix 1 to this report.

Procedure for Recommendations from Scrutiny Committees

10. 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. The executive response must be within 2 months of receipt of the report.
11. Once the executive response has been agreed, the scrutiny committee shall receive a report 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

12. 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

13. There are no direct environmental impacts connected with this report or the outcomes it seeks to deliver.

Equality Duty

14. There are no specific equalities impacts.
15. 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.

Resource Implications

16. There are no resource implications arising from this report, however, fulfilling the recommendations and considerations outlined in the report may require investment from the council and wider partners.

17. Resource implications should be considered as part of the requested report to Cabinet on the Executive Response to the scrutiny recommendations.

Legal Implications

18. 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.
19. 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.
20. The scrutiny report provides the scrutiny recommendations of the committee to be made to the executive (Cabinet).
21. 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.
22. 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).
23. 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.

24. 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.
25. 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 Chair of the Environment and Sustainability Scrutiny Committee

Appendices

Appendix 1: Recommendations of the Environment and Sustainability Scrutiny Committee: Nutrient Management Board

Background papers

[Nutrient Management Board, report to the Health, Environment and Sustainability Scrutiny Committee, 22 January 2024](#)

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published

Governance	John Coleman	Date 08/02/2024
Finance	Karen Morris	Date 12/02/2024
Legal	Sean O'Connor	Date 08/02/2024
Communications	Click or tap here to enter text.	Date Click or tap to enter a date.
Equality Duty	Reviewer Group	Date 06/02/2024
Procurement	Reviewer Group	Date 09/02/2024
Risk	Kevin Lloyd	Date 08/02/2024

Approved by Mark Averill Date 13/02/2024

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

NMB - Nutrient Management Board
RoC - Review of Consents
WWTW - Waste Water Treatment Works
SAC Special Area of Conservation