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|--------------------------|---|
| <b>Title of meeting:</b> | Cabinet Member for Climate Change & Greening the City |
| <b>Subject:</b>          | Strengthened Biodiversity Duty                        |
| <b>Date of meeting:</b>  | 11 March 2024   |
| <b>Report by:</b>        | Felicity Harris, Green & Healthy City Co-ordinator    |
| <b>Wards affected:</b>   | All wards   |

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**1. Requested by - N / A statutory duty**

**2. Purpose**

This report provides a brief on the Strengthened Biodiversity Duty for public authorities in England.

**3. Information Requested**

**BRIEFING ON STRENGTHENED BIODIVERSITY DUTY AND INTRODUCING PORTSMOUTH CITY COUNCIL'S FIRST CONSIDERATION**

**Summary**

**3.1** This document provides a brief on the strengthened biodiversity duty for public authorities in England.

**3.2** The attached report introduces Portsmouth City Council's First Consideration in response to the strengthened biodiversity duty. It is a scoping document and the attached table in Annex 1 captures current, planned and potential activity around biodiversity. It is not intended to be exhaustive. The report and table will be informed following further consultation with officers; feedback from this briefing and additional relevant information and evidence.

**3.3** As a public authority Portsmouth City Council must carry out this first consideration of what action we can take for biodiversity, and in future we will need to publish a biodiversity duty report at regular intervals showing how we deliver our biodiversity duty. The Portfolio Holder is asked to:

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- a. Note the briefing on the enhanced biodiversity duty in the Environment Act 2021 and its implications for Portsmouth City Council; and*
- b. Note the report as Portsmouth City Council's first consideration of the strengthened biodiversity duty;*

### **4 Background**

**4.1** The Environment Act 2021 introduced a strengthened biodiversity duty which requires that all public authorities who operate in England must consider what they can do to conserve and enhance biodiversity [Complying with the biodiversity duty - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/complying-with-the-biodiversity-duty). Public authorities are government departments, public bodies and agencies, local authorities and local planning authorities, and statutory undertakers. Each public authority must:

1. Consider what they can do to conserve and enhance biodiversity.
2. Agree policies and specific objectives based on their consideration.
3. Act to deliver the policies and achieve these objectives.

**4.2** All public authorities must complete their first consideration of what action to take for biodiversity by 1 January 2024. Agreement on policies and objectives should occur as soon as possible after this. All public authorities must reconsider the actions that can be taken within 5 years of when it completes its previous consideration. Public authorities can decide to do this more often, for example, they could reconsider its actions quarterly, annually, or every 5 years.

**4.3** Some public authorities (local authorities, excluding parish councils, and local planning authorities) are required by the Environment Act 2021 to publish a biodiversity duty report. PCC will be required to publish a biodiversity report. The biodiversity report documents the policies and actions the public authority has carried out to comply with its biodiversity duty. The end date of the first reporting period should be no later than 1 January 2026. After this, the end date of each reporting period must be within 5 years of the end date of the previous reporting period. Each report must include the start and end dates of the reporting period. All reports must be published within 12 weeks of the reporting period end date.

**4.4** By law, a biodiversity duty report must include:

- a summary of the action the public authority has taken to comply with the biodiversity duty
- how the public authority plans to comply with the biodiversity duty in the next reporting period
- any other information the public authority considers appropriate.

Reports from local planning authorities must also include:

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- the actions the local planning authority has carried out to meet biodiversity net gain obligations
- details of biodiversity net gains resulting, or expected to result, from biodiversity gain plans the local planning authority has approved
- how the local planning authority plans to meet biodiversity net gain obligations in the next reporting period. The Government has stated that it will provide further guidance on biodiversity duty reporting.

### **4.5 How is the strengthened biodiversity duty different from its predecessor?**

An amendment to the original Natural Environment and Rural Communities Act 2006 (NERC Act) section 40 duty, provided for in the Environment Act 2021, extends the biodiversity duty on public authorities to include the **enhancement of biodiversity** alongside conservation by way of creating “*the general biodiversity objective*”. This is achieved by a revised section 40 of the NERC Act, including new provisions, which are now in force. The differences are explained here: [Extended biodiversity duty for public authorities – what does it mean? \(freeths.co.uk\)](https://www.freeths.co.uk/extended-biodiversity-duty-for-public-authorities-what-does-it-mean/). In essence local authorities are required to:

- go beyond the mere maintenance of biodiversity in its current state
- consider biodiversity across all functions
- take a strategic approach to determine policies and specific objectives for taking action to further the general biodiversity objective
- be increasingly accountable for biodiversity

### **4.6 How does the strengthened biodiversity duty on local authorities contribute to national targets**

The Government recognises that the action we take for biodiversity will contribute to the achievement of national goals and targets on biodiversity. The [Environmental Improvement Plan \(EIP23\)](#), published in January 2023, sets out government plans for significantly improving the natural environment.

By 2030, the government has committed to:

- halt the decline in species abundance
- protect 30% of UK land

By 2042, the government has committed to:

- increase species abundance by at least 10% from 2030, surpassing 2022 levels
- restore or create at least 500,000 ha of a range of wildlife rich habitats
- reduce the risk of species extinction
- restore 75% of our one million hectares of terrestrial and freshwater protected sites to favourable condition, securing their wildlife value for the long term

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### **5 How the strengthened Biodiversity Duty affects Portsmouth City Council**

**5.1** Portsmouth City Council is a public authority under the terms of the Environment Act 2021, so we must comply with points 1-3 in 4.1 above. We are also one of the public authorities that must publish a biodiversity duty report. The two key actions we need to take are:

**5.1.1** Portsmouth City Council must complete the first consideration of what action to take for biodiversity by 1 January 2024. The attached scoping report illustrates the first consideration.

**5.1.2** Shortly after the 1<sup>st</sup> January, Portsmouth City Council need to have confirmed objectives, policies and actions. A completion date of 31<sup>st</sup> March 2024 is recommended. This would enable further consultation with officers across key directorates and support the development of strategic objectives.

**5.2** Portsmouth City Council must publish our first biodiversity duty report, at the latest, within 12 weeks after the 1 January 2026, the latest end date of our first reporting period.

**5.3** As explained in 4.5, the strengthened biodiversity duty demands more of local authorities. Strategic objectives will need to be developed, coordinated, and delivered.

**5.4** As an authority with assets outside of our local authority area we will need to consider what we can do in those locations – for example our Havant housing stock.

## **6 Policy Context**

**6.1 Links to Council Plans / Strategies and Policies** – The biodiversity duty on Portsmouth City Council links to Imagine 2040; the Corporate Objective 'ensuring a healthy and resilient natural environment' and the emerging Local Plan. Other linking strategies include the Parks and Open Spaces Strategy; the Greening Strategy which recognises the importance of resilient biodiversity for climate resilience and health and well-being and the Climate Strategy.

**6.2 Links to Other Strategic Plans (external)** – The biodiversity duty on Portsmouth City Council links with the Local Nature Recovery Strategy currently under development and being led by Hampshire County Council. Portsmouth City Council are a supporting authority.



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### **7 Preparing this scoping report**

**7.1** Portsmouth City Council has taken a pragmatic approach in preparing the scoping report to inform the first consideration including:

- Using the guidance / framework provided by the UK government
- Taking a steer from other authorities
- Partial consultation with officers across the authority including a focus on biodiversity as part of a Greening Development Group Staff workshop; a small working group review and meeting; a review of council papers, reports and strategies linking to biodiversity.

This has given a context to biodiversity within the authority area. A table of existing and planned and potential future activity is provided in Annex 1 of the scoping report. Annex 1 is intended as a starting point for discussion to inform the development of objectives, policies and actions to be implemented in the first reporting period.

#### **Officers consulted**

- Principal Planning Policy Officer
- Public Health Principal (Healthy Places)
- Countryside Project Officers, Parks and Open Spaces
- Hilsea Lines Ranger, Parks and Open Spaces
- Parks and Open Spaces Development Manager
- Head of Estates Services, Housing
- Technical Officer, Regeneration
- Team Leader, Landscape Architects
- Principal Strategy Adviser Climate Change

**7.2** In compiling the scoping report it is apparent that there is a lot of activity and initiatives in the biodiversity / nature space across the Portsmouth City Council. Activity is set to continue over the next few years. New activity areas are emerging and there is potential for additional activity. There is an opportunity to consider how efforts can be aligned to give the greatest benefit for biodiversity. There is recognition that resources are not finite and therefore there will be a need to prioritise effort / investment in a transparent way that ensures expectations are managed.

**7.3** Draft objectives for the first period are attached in the scoping report. Further consultation will enable the objectives to be framed with milestones and actions timetabled during the reporting period up until January 2026.

## **8 Options**

### **8.1 The portfolio holder is asked to:**



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**9 Financial Considerations**

9.1 There are no immediate financial considerations as a result of this paper. The financial implications of any future proposals or commitments to action as part of fulfilling our biodiversity duty should be considered fully.

**10 Next steps and timeframe**

- Confirm the first consideration with associated objectives and actions

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Signed by (Director)

**Appendices: Annex 1: PORTSMOUTH CITY COUNCIL - FIRST CONSIDERATION OF THE ENHANCED BIODIVERSITY DUTY**



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diversity%20Duty%2C

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

| <b>Title of document</b>                             | <b>Location</b>  |
|--|--|
| Greening Evidence Review, Strategy and Delivery Plan | <a href="#">PORTSMOUTH GREENING STRATEGY and DELIVERY PLAN</a>               |
| Parks and Open Spaces Strategy                       | <a href="#">Parks Strategy draft 2022.pdf (portsmouth.gov.uk)</a>            |
| Local Plan   | Under development and not yet in the public domain - available from March 24 |



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|  | <a href="#">Local development scheme - Portsmouth City Council</a>                             |
| Biodiversity Background Paper 2019   | <a href="#">development-and-planning-biodiversity-background-paper.pdf (portsmouth.gov.uk)</a> |
| Biodiversity Background Paper 2021   | <a href="#">Biodiversity-Background-Paper-Updated-2021_compressed.pdf (portsmouth.gov.uk)</a>  |
| Green Infrastructure Background Paper 2019   | <a href="#">Green-Infrastructure-background-paper-Sep21_compressed.pdf (portsmouth.gov.uk)</a> |
| Traffic, Environment & Community safety scrutiny panel a review into Biodiversity Enhancement in Urban Portsmouth - March 2022 | <a href="#">Report to: (portsmouth.gov.uk)</a>   |