

## **Item: 11**

**Policy and Resources Committee: 28 November 2023.**

### **Biodiversity Duty.**

**Report by Corporate Director for Neighbourhood Services and Infrastructure.**

## **1. Purpose of Report**

To consider the Biodiversity Duty Report 2020 – 2023, prior to submission to Scottish Government and its publication.

## **2. Recommendations**

The Committee is invited to note:

### **2.1.**

That, in terms of the Wildlife and Natural Environment (Scotland) Act 2011, the Council is required to submit a report every three years to the Scottish Government, setting out actions the Council has taken to further the conservation of biodiversity when carrying out their duties.

### **2.2.**

That the obligation to further the conservation of biodiversity is a requirement of the Nature Conservation (Scotland) Act 2004.

**It is recommended:**

### **2.3.**

That the Biodiversity Duty Report 2020 – 2023, attached as Appendix 1 to this report, be approved and submitted to Scottish Government and published on the OIC website.

## **3. Background**

### **3.1.**

The Nature Conservation (Scotland) Act 2004 places a duty on all public bodies, including Orkney Islands Council, to “further the conservation of biodiversity” while carrying out their responsibilities. This is commonly known as the ‘Biodiversity Duty.’

### **3.2.**

The Wildlife and Natural Environment (Scotland) Act 2011 places a further obligation on public bodies to provide a publicly available report, every three years, on the actions undertaken to comply with the Biodiversity Duty.

## **4. Biodiversity Duty Report 2020 - 2023**

### **4.1.**

Attached as Appendix 1 to this report, is the fourth Biodiversity Duty Report to be compiled by the Council.

### **4.2.**

Scottish Government publish templates for biodiversity duty reports and the report has to follow this template to be accepted. Scottish Government are in the process of reviewing the template and reporting process for the next reporting period.

### **4.3.**

The report covers the period from 1 January 2020 to 31 December 2023. However the report is required to be submitted to Scottish Government before the end of December 2023 to meet the Scottish Government's submission deadline.

## **5. Corporate Governance**

This report relates to the Council complying with a legal reporting requirement under the Wildlife and Natural Environment (Scotland) Act 2011. It therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

## **6. Financial Implications**

All costs associated with the drafting of this matter are staff costs that come out of existing staff budgets for development planning. There are no financial implications arising.

## **7. Legal Aspects**

Preparation and submission of the Biodiversity Duty Report fulfils the Council's obligations under Part 1 of the Nature Conservation (Scotland) Act 2004 and Part 5 of the Wildlife and Natural Environment (Scotland) Act 2011.

## **8. Contact Officers**

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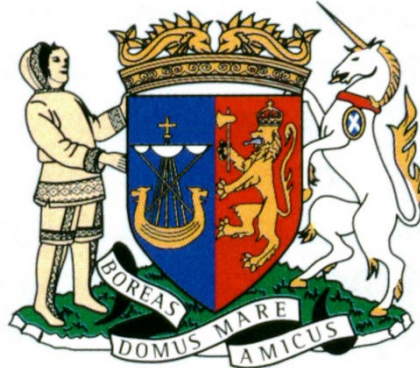
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## **9. Appendix**

Appendix 1: Orkney Islands Council Biodiversity duty report 2018 – 2023.



**ORKNEY**  
**ISLANDS COUNCIL**

**BIODIVERSITY DUTY REPORT**  
**1 JANUARY 2020 TO 31 DECEMBER 2023**

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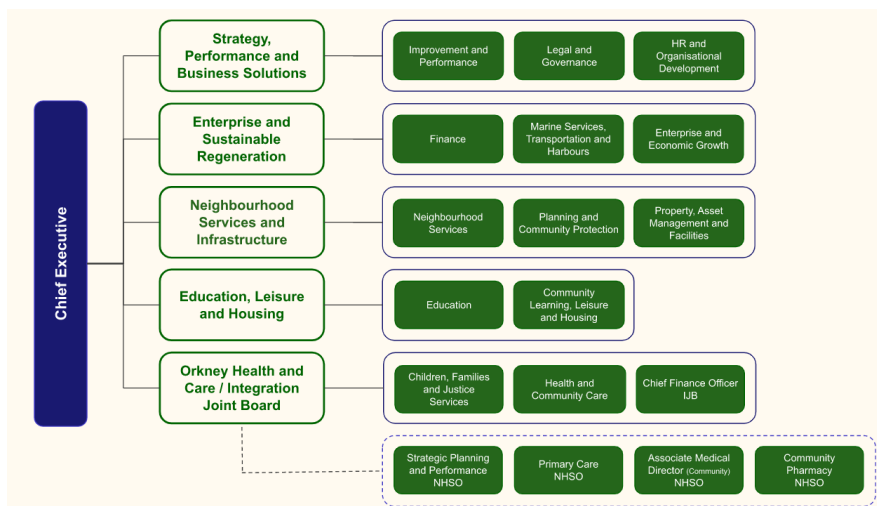
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This report follows the Scottish Government biodiversity duty reporting template for level one organisations, available from <https://www.gov.scot/publications/biodiversity-duty-reporting-templates/>.

## Section 1: Orkney Islands Council

Orkney Islands Council is made up of 21 elected Councillors representing six multi-member wards over the Council area.

The Council operates through a system of committees and sub-committees with officers reporting to these on relevant matters. The service structure is illustrated in the organisation chart diagram below (<https://www.orkney.gov.uk/Council/C/council-services.htm>).



Under the Environmental Assessment (Scotland) Act 2005, the Council must undertake Strategic Environmental Assessment (SEA) of their plans, programmes and strategies. Part of this requires consideration of the effects of them on biodiversity.

Under the Conservation (Natural Habitats, &c.) Regulations 1994, more commonly known as the Habitats Regulations, the Council is also a competent authority responsible for Habitats Regulations Appraisals (HRA) of its plans, programmes and strategies, as well as any planning applications that the Council determine. Undertaking HRA also helps ensure that specific biodiversity interests are considered during plan/programme/strategy making, and the planning application process.

The Council provides a wide range of public services that have relevance to, or potential to have for effects on, biodiversity <https://www.orkney.gov.uk/Service-Directory/S/service-directory.htm>.

The services with the potential to affect biodiversity are summarised in the tables below.

Service	Aspects that could affect biodiversity	Main potential for environmental effects
<b>Business and trade (including tourism)</b>	<ul style="list-style-type: none"> <li>Providing public information, community learning and education around natural environment (e.g. through orkney.com)</li> </ul>	<ul style="list-style-type: none"> <li>Promotion of awareness raising and understanding of the environment amongst residents and visitors.</li> <li>Potential for adverse effects through pollution and effects of human activity on sensitive biodiversity interests.</li> </ul>
<b>Community learning and development</b>	<ul style="list-style-type: none"> <li>Council land and estate management (e.g. during buildings and estate management and outdoor education)</li> <li>Providing public information, community learning and education around natural environment (e.g. through outdoor education)</li> </ul>	<ul style="list-style-type: none"> <li>Promotion of awareness raising and understanding of the environment amongst residents and visitors.</li> <li>Potential for adverse effects through pollution and effects of human activity on sensitive biodiversity interests.</li> </ul>

<b>Service</b>	<b>Aspects that could affect biodiversity</b>	<b>Main potential for environmental effects</b>
<b>Cursiter quarry</b>	<ul style="list-style-type: none"> <li>– Council land and estate management (e.g. during buildings and estate management)</li> </ul>	<ul style="list-style-type: none"> <li>– Habitat loss will occur during expansion of the working area.</li> <li>– Operation of the quarry is subject to planning and environmental regulation to minimise pollution and adverse environmental effects.</li> </ul>
<b>Education and learning</b>	<ul style="list-style-type: none"> <li>– Council land and estate management (e.g. during buildings and estate management)</li> <li>– Providing public information, community learning and education around natural environment (e.g. through delivery of school curriculum and external providers)</li> </ul>	<ul style="list-style-type: none"> <li>– Promotion of awareness raising and understanding of the environment amongst learners.</li> </ul>
<b>Environmental health and trading standards</b>	<ul style="list-style-type: none"> <li>– Regulation of land use and development (through regulation, monitoring, enforcement)</li> </ul>	<ul style="list-style-type: none"> <li>– Service seeks to minimise and manage environmental effects within their remit.</li> </ul>
<b>Free period products</b>	<ul style="list-style-type: none"> <li>– Largely administrative function, no direct potential effects</li> </ul>	n/a
<b>Grants and funds</b>	<ul style="list-style-type: none"> <li>– Largely administrative function, no direct potential effects</li> </ul>	n/a
<b>Housing</b>	<ul style="list-style-type: none"> <li>– Council land and estate management (e.g. during buildings and estate management)</li> </ul>	<ul style="list-style-type: none"> <li>– Operational effects are managed through the functions of other services (e.g. planning and building standards, waste management).</li> <li>– Grounds management has potential for negative or positive effects on biodiversity.</li> </ul>
<b>Law and licensing</b>	<ul style="list-style-type: none"> <li>– Regulation of land use and development (through regulation, monitoring, enforcement)</li> </ul>	<ul style="list-style-type: none"> <li>– Service seeks to minimise and manage environmental effects within their remit.</li> </ul>
<b>Leisure and culture (including museums)</b>	<ul style="list-style-type: none"> <li>– Council land and estate management (e.g. during buildings and estate management)</li> <li>– Providing public information, community learning and education around natural environment (e.g. via interpretation at museums)</li> </ul>	<ul style="list-style-type: none"> <li>– Promotion of awareness raising and understanding of the environment (past and present) amongst residents and visitors.</li> </ul>
<b>Marine services (as harbour authority)</b>	<ul style="list-style-type: none"> <li>– Council land and estate management (e.g. during buildings and estate management)</li> <li>– Regulation of land use and development (through regulation, monitoring, enforcement)</li> <li>– Providing public information, community learning and education around natural environment (e.g. through invasive non-native species monitoring and awareness raising)</li> </ul>	<ul style="list-style-type: none"> <li>– Promotion of awareness raising and understanding of the environment amongst harbour users.</li> <li>– Monitoring of invasive non-native species (INNS) enabling early action to be taken to remove INNS.</li> </ul>

<b>Service</b>	<b>Aspects that could affect biodiversity</b>	<b>Main potential for environmental effects</b>
<b>Orkney Health and Social Care Partnership</b>	<ul style="list-style-type: none"> <li>– Council land and estate management (e.g. during buildings and estate management)</li> <li>– Providing public information, community learning and education around natural environment (e.g. through parkrun practice)</li> </ul>	<ul style="list-style-type: none"> <li>– Promotion of awareness raising of the health benefits of the natural environment amongst residents.</li> </ul>
<b>Planning and building standards</b>	<ul style="list-style-type: none"> <li>– Regulation of land use and development (through regulation, monitoring, enforcement)</li> <li>– Providing public information, community learning and education around natural environment (e.g. through awareness raising via natural heritage supplementary guidance)</li> </ul>	<ul style="list-style-type: none"> <li>– The Local Development Plan (LDP), draft Regional Marine Plan and associated guidance is subject to SEA (and HRA where relevant).</li> <li>– Development Management planning proposals are subject to environmental appraisal against LDP policies and in line with relevant legislative requirements.</li> <li>– Building Standards seeks to ensure building works meet the requirements of Building Regulations in relation to sustainability.</li> </ul>
<b>Public toilets</b>	<ul style="list-style-type: none"> <li>– Council land and estate management (e.g. during buildings and estate management)</li> </ul>	<ul style="list-style-type: none"> <li>– Appropriate management of waste that would otherwise cause environmental harm.</li> </ul>
<b>Roads, lighting and parking</b>	<ul style="list-style-type: none"> <li>– Council land and estate management (e.g. during buildings and estate management)</li> <li>– Regulation of land use and development (through regulation, monitoring, enforcement)</li> <li>– Providing public information, community learning and education around natural environment (e.g. through conservation verges)</li> </ul>	<ul style="list-style-type: none"> <li>– Identification of conservation verges to allow plants to flower, providing food for insects.</li> <li>– Facilitating wildlife reflectors to reduce otter mortality.</li> <li>– Potential for adverse effects through pollution, loss of habitat and effects of human activity on sensitive biodiversity interests.</li> </ul>
<b>Scottish Welfare Fund</b>	<ul style="list-style-type: none"> <li>– Largely administrative function, no direct potential effects</li> </ul>	n/a
<b>Transport</b>	<ul style="list-style-type: none"> <li>– Providing public information, community learning and education around natural environment (e.g. through public transport, climate change emissions)</li> </ul>	<ul style="list-style-type: none"> <li>– Encouraging use of public transport over the private car, reducing emissions that contribute to climate change and pollution.</li> </ul>
<b>Waste and recycling</b>	<ul style="list-style-type: none"> <li>– Council land and estate management (e.g. during buildings and estate management)</li> <li>– Regulation of land use and development (through regulation, monitoring, enforcement)</li> <li>– Providing public information, community learning and education around natural environment (e.g. through recycling, waste disposal awareness raising, supporting beach cleans)</li> </ul>	<ul style="list-style-type: none"> <li>– Appropriate management of waste that would otherwise cause environmental harm.</li> <li>– Facilitating beach cleans to promote awareness raising and understanding of the environment amongst residents.</li> </ul>
<b>Welfare reform</b>	<ul style="list-style-type: none"> <li>– Largely administrative function, no direct potential effects</li> </ul>	n/a



## Section 2: Actions to protect biodiversity and connect people with nature

The following are examples of the actions the Council has carried out, or been involved in, during the reporting period that directly benefit biodiversity::

- Lead partner on a number of actions to benefit biodiversity in the Local Biodiversity Action Plan (LBAP) <https://www.orkney.gov.uk/Service-Directory/L/Local-Biodiversity-Plan.htm>.
- Landscaping of Papdale park in Kirkwall, to address water management issues and benefit biodiversity and people through reprofiling, path creation, de-culverting of a watercourse and planting <https://www.orkney.gov.uk/News?postid=7419>
- Increased the number of conservation road verges, which are cut less frequently or not at all, allowing wildflowers to flower and set seed, providing a food source for wildlife <https://www.orkney.gov.uk/Council/P/verge-maintenance.htm>.
- Undertook woodland management works of trees at Happy Valley, a Council owned Local Nature Reserve to improve public access, tree health and wider biodiversity <https://www.orkney.gov.uk/Service-Directory/N/happy-valley-nature-reserve.htm>.
- Funded wildlife reflectors for installation by Orkney Field Club members to try and reduce otter mortality at key points where otter cross roads.
- Continued to facilitate beach cleans organised by Greener Orkney (<https://greenerorkney.org.uk/beach-cleans/>), through removal and disposal of waste collected.
- Managed distribution of Nature Restoration Fund money allocated to the Council, for actions to benefit biodiversity and people.
- Stromness school grounds tree planting using Woodland Trust free trees for schools and communities <https://www.woodlandtrust.org.uk/plant-trees/schools-and-communities/>.

## Section 3: Mainstreaming biodiversity

The following are examples of how biodiversity has been incorporated into wider plans, policies and strategies:

- All Council plans, programmes and strategies are subject to Strategic Environmental Assessment (SEA) and, where relevant, Habitats Regulations Appraisal (HRA), which ensures consideration of effects on biodiversity are taken into account.
- The Local Development Plan (LDP) 2017 contains environmental policies that all planning applications determined by the Council have to be considered against. In February 2023 the LDP was superseded with National Planning Framework 4 (NPF4), which contains similar environmental policies. A key difference between the LDP and NPF4 was a requirement under policy 3.c for all local scale development to include measures to conserve, restore and enhance biodiversity. To help agents/consultants/developers better understand NPF4 policy 3.c requirements, we have produced Orkney specific guidance on considering and including biodiversity for local scale developments was. Six workshops were delivered to introduce the guidance and help agents/consultants/developers better understand how to incorporate biodiversity into their developments in a way that is suited to the Orkney environment and weather.

## **Section 4: Nature-based solutions, climate change and biodiversity**

The Council has integrated biodiversity into nature based solutions to the climate emergency and other socio-economic outcomes by starting the process of creation of a new LDP that implements the biodiversity and climate change requirements of National Planning Framework 4 (NPF4).

The following practical steps have been taken to incorporate biodiversity outcomes into partnership initiatives, wider strategies or initiatives of relevance to climate change:

- Member of the LBAP steering group and lead partner on a number of actions of relevance to climate change <https://www.orkney.gov.uk/Service-Directory/L/Local-Biodiversity-Plan.htm>.
- Partner organisation funding the North Isles Landscape Partnership Scheme, which has delivered a number of biodiversity related projects during the reporting period (see <https://www.nilps.co.uk/about/nilps>).

The Council has identified the following as the main climate change related challenges for biodiversity over the next three years:

- Continued management of the population of resident (breeding) greylag geese to reduce adverse effects on farmland and competition with other wild bird species. The breeding population has exponentially increased over the past two decades as a result of changing weather patterns, as well as farming practices in Orkney and shooting elsewhere in Scotland.
- Effects of climate change on habitats and species, both negative and positive, through changes in weather patterns e.g. drought and wet periods, frequency and intensity of storms.
- Spread of pests and diseases – as shown by ash die back and avian flu.

## **Section 5: Public engagement and workforce development**

### **Public engagement**

- Partner organisation funding the North Isles Landscape Partnership Scheme, which has delivered a number of biodiversity related projects that raise awareness and engage the public (see <https://www.nilps.co.uk/about/nilps>).
- Provided outdoor education via a programme of activities that also help connect young people with nature [https://www.facebook.com/learningthroughadventure/?locale=en\\_GB](https://www.facebook.com/learningthroughadventure/?locale=en_GB).
- North Ronaldsay primary school cetaceans film [https://www.youtube.com/watch?v=1\\_ZOh4dtDUQ](https://www.youtube.com/watch?v=1_ZOh4dtDUQ)
- During 2021 – 2022, the Community Learn and Development (CLD) team facilitated Community Learning outdoor classes that were oversubscribed, recruited 11 COP26 Ambassadors, secured £3000 for 4 youth groups to work on environmental projects and developed an Environmental theme for the winter Youth Club programme. CLD Employability also ran outdoor volunteering projects with Arcadia Park and Loch of Ayre Walk <https://www.orkney.gov.uk/Files/Community-Learning-and-Development/Community%20Learning%20Development%20and%20Employability%20Team%20Annual%20Report%202021-22.pdf>.

### **Workforce skills and training**

- Two Development and Marine Planning staff attended Peatland Action training to gain a better understanding of the issues and practicalities of peatland restoration.
- Development and Marine Planning, burial grounds maintenance and roads staff joined an online webinar about managing amenity grasslands for biodiversity.

- Standard environmental planning conditions and pre-application advice was reviewed and revised, including discussion and correspondence with Development Management colleagues to ensure the revised advice and conditions were understood.
- Review of 2017 LDP environmental policies against NPF4 policies, to compare and identify areas of difference, to inform discussion of the implications with relevant colleagues.
- There were no opportunities available to Council staff to take part in practical actions, unless otherwise already included in their role.

## **Section 6: Research and monitoring**

The Council has carried out the following research activities to help develop understanding and awareness of biodiversity:

- The Harbour Authority’s Ballast Water Management Policy for Scapa Flow includes a monitoring and recording programme for non-native species and a ballast water monitoring programme. During the reporting period annual monitoring surveys for non-native species were conducted and ballast water samples were collected and tested from all vessels wishing to discharge ballast water in Scapa Flow. Both programmes aim for early identification of the presence of marine non-native species so that appropriate action can be taken.
- The long-term monitoring of sandy shores was continued during the reporting period. Soft sediment benthic macroinvertebrate and particle size samples were collected annually from selected sites to enable the detection of changes in the benthic communities.
- In 2021, 11 rocky shore sites were visited, and samples of periwinkles and kelp were collected for radiological particle monitoring. This monitoring is part of long-term monitoring of radioactive particles in Orkney.
- Weekly seawater samples were collected from Scapa Pier and sent to Marine Scotland (Science) laboratory in Aberdeen. The programme was set up to assist in the understanding of toxic phytoplankton distribution and bloom occurrence and to provide samples for nutrient analysis as part of Marine Scotland (Science) Phytoplankton Long Term Monitoring Programme in Scotland.

The Council has carried out the following follow-up actions or monitoring to assess the impacts of the actions the Council has taken. A new SEA baseline dataset has been created that will be updated annually. The updating of data should help identify emerging trends.

- The LBAP partnership provides a forum for members to discuss emerging issues in their sector. The review of LBAP actions also aids the identification of emerging trends and issues.

### **Does the monitoring show any significant trends or highlight any areas of concern?**

- None that are new/are capable of addressing at a local scale. For example greylag geese numbers continue to increase, stoats are still present, avian flu continues to adversely affect some wild bird species and ash die back arrived in Orkney as expected.

### **Has any data collected to the National Biodiversity Network or your Local Records Centre?**

- There has been a pause during the reporting period due to the member of Council staff who previously ran the records centre retiring, and also the Covid pandemic effects on resources. No budget is available within the Council to run or host the records centre. However the Council is supportive of the emerging volunteer Orkney Wildlife Recording Group who intend to take this forward independent of the Council.

## **Section 7: Biodiversity highlights and challenges**

Below are two examples that highlight the Council's achievements for biodiversity over the reporting period and what the Council is most proud of:

The significant amount of detailed work that has gone into the preparation of the draft Regional Marine Plan, including extensive partnership and public engagement work, as well as analysis of environmental data and information to inform policies to safeguard biodiversity. The draft Regional Marine Plan is currently with Scottish Government for their consideration.

- Rapid production of Orkney specific guidance to support the requirements of NPF4 policy 3.c, biodiversity for local scale developments, including delivery of six workshops to help agents/consultants/developers better understand the policy requirements and how to incorporate biodiversity into their developments in a way that is suited to the Orkney environment and weather. The workshops and guidance were well received by users, with their feedback being used to refine the guidance and make it even more user friendly.

Looking ahead, we see the following as main challenges over the next three years:

- With the recruitment of a Climate Change Strategy Officer and an Environmental Planner to fill vacant posts, a review has been started to identify opportunities to tackle the effects of climate change and incorporate nature based solutions. However budget and resource constraints will put additional pressure on staff and partners, potentially affecting the ability to deliver on this and other biodiversity related actions.
- The amount of work involved in pulling together additional or new information for the next LDP in line with NPF4 requirements of relevance to biodiversity and climate change is a significant resource and time challenge. There is also a need to ensure that there is sufficient resource and understanding to implement the LDP policies, both within the Council and externally by those involved in development proposals.
- The lack of national guidance on NPF4 policy 3 in relation to major, national and EIA development making it hard to advise applicants for several significant developments that have been submitted in 2023 or are expected to be submitted as planning applications later in 2023 and early 2024.