

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

29 NOVEMBER 2016

REPORT OF THE CORPORATE DIRECTOR COMMUNITIES

ENVIRONMENT (WALES) ACT 2016 - NEW DUTIES AND RESPONSIBILITIES

1. Purpose of Report

- 1.1. This Cabinet report sets out the Environment (Wales) Act 2016 and its duties and responsibilities. The report highlights the implications for Bridgend County Borough Council, in particular the resource implications of new duties arising from the Act.

2. Connection to Corporate Improvement Objectives/Other Corporate Priorities

- 2.1. This report supports the following corporate priorities:

- Supporting a successful local economy
- Smarter use of resources

3. Background

- 3.1. The Environment (Wales) Act puts in place the legislation needed to plan and manage Wales' natural resources in a more proactive, sustainable and joined-up way. The Act received Royal Assent on 21 March 2016. This positions Wales as a low carbon, green economy, ready to adapt to the impacts of climate change.
- 3.2. The Act is intended to deliver significant economic, social and environmental benefits for Wales. It recognises that nature, land, water and air are the nation's ultimate resource, but demands on these natural resources are increasing and one of the greatest challenges is to find a way to secure healthy, resilient and productive ecosystems for the future whilst still meeting the challenges of creating jobs, housing and infrastructure.
- 3.3. Wales is one of the leading countries in the world in relation to its holistic and legislative ambition and approach towards sustainable natural resource management and biodiversity. The introduction of the Well-being of Future Generations (Wales) Act 2015, the Planning (Wales) Act 2015 and the Environment (Wales) Act 2016 have created a more interconnected policy context.
- 3.4. The Welsh Government has identified key challenges and areas for action:
 - Risks to the environment - resilience of ecosystems, such as from pollution, climate change, and habitat fragmentation.
 - Risks to the economy and society - Natural resources provide for well-being, such as climate regulation, clean air, water, food and protection from flooding

- 3.4. The Environment (Wales) Act 2016 was put in place to make the most of the opportunities that Wales' natural resources present while safeguarding and building the resilience of natural systems to continue to provide these benefits over the long term.
- 3.5 Members will recall that since 2010, budget cuts have resulted in a significant reduction to the size of the Ecology and Countryside Management Service, reducing it from a team of 6 to 2 posts. As part of the savings required for 2016/17 in the Medium Term Financial Strategy, a further cut was made reducing the budget by half again. However, it was recognised that this position would need to be reviewed and potentially increased resources could be required in future, due to the anticipated additional requirements imposed by new legislation, as well as WG's changing requirements for awarding the Single Revenue Grant which covers issues such as waste recycling, flood prevention and ecology.

4. Current Situation / Proposal

- 4.1. The Environment (Wales) Act 2016 contains 7 parts:
- Part 1: Sustainable management of natural resources - provides a modern legislation for managing Wales' natural resources that helps to tackle the challenges we face and is focused on the opportunities our resources provide.
 - Part 2: Climate change - provides the Welsh Ministers with powers to put in place statutory emission reduction targets and carbon budgeting to support their delivery.
 - Part 3: Charges for carrier bags - provides the Welsh Ministers with the necessary powers to address issues in implementing the successful carrier bag charge.
 - Part 4: Collection and disposal of waste - improves waste management processes by helping to achieve higher levels of business waste recycling, better food waste treatment and increased energy recovery.
 - Parts 5 & 6: Fisheries for shellfish and marine licensing - clarifies the law in relation to shellfisheries management and marine licensing.
 - Part 7: Flood & Coastal Erosion Committee and land drainage - clarifies the law for other environmental regulatory regimes including flood risk management and land drainage.
- 4.2 Parts 1, 2, 5 and some sections of Part 7 of the Environment (Wales) Act 2016 came into force on 2nd May 2016, two months after Royal Assent. The other parts and sections of the Act will require commencement orders for them to come into force.

Implications for Bridgend County Borough Council

- 4.3 Part 1 of the Act - Sustainable management of natural resources - provides a framework to ensure that managing natural resources sustainably will be a core consideration in decision-making. This includes:
- The State of Natural Resources Report - Natural Resources Wales (NRW) must produce a report that gives an assessment of natural resources and efforts to manage them in a sustainable way.

- A National Natural Resources Policy - the Welsh Government must produce a national policy that sets out the priorities, risks and opportunities for managing natural resources sustainably. The policy will take into account the findings of the State of Natural Resources report.
- Area statements - NRW will produce a local evidence base, which helps to implement the priorities, risks and opportunities identified in the National Policy and how NRW intends to address these.

- 4.4 Whilst much of the responsibility falls upon NRW for this, far greater importance is now placed on gathering and sharing data than has previously been the case. This will place additional burdens on BCBC to co-operate and provide evidence to produce area statements. This will have resource implications in the short to medium term for the Council. There is also the potential for conflict between area statements and Local Development Plans, although the exact nature of this is not known at this time.
- 4.5 A new biodiversity duty is included in the Act which enhances the previous duty placed on BCBC. The previous duty focused largely, although not exclusively, on *preserving* biodiversity. The new duty in addition to that requires BCBC to *enhance* biodiversity and increase the resilience of ecosystems, signaling a change from reactive, to proactive intervention.
- 4.6 To comply with this, BCBC will require a greater organisation-wide understanding and capacity than has previously been the case. This will require training and professional advice to services in the exercise of their functions and the regulatory requirements. Following that organisation-wide approach, the types of actions and associated costs in relation to meeting the new Act will be determined. As part of this new duty, BCBC will be responsible for publishing and reviewing a Biodiversity plan that sets out its approach. Intervention by the Welsh Government, Natural Resources Wales (NRW) or the Welsh Police Force can be expected where there is a risk of non-compliance.
- 4.7 Part 2 of the Act - Climate Change - places a duty on Welsh Ministers to set targets for reducing greenhouse emissions and also to set carbon budgets. This will help to accelerate progress against headline targets and will help build resilience in the environment to extreme weather events. Statutory targets and a more robust governance framework will support better evaluation of progress and provide certainty to help drive investment for a low-carbon Wales.
- 4.8 The Welsh Ministers must ensure that the net Welsh emissions account for the year 2050 is at least 80% lower than the baseline. The Act does not contain specific reference to implications on Local Authorities. It is however anticipated in supporting efforts to reduce greenhouse gases that local authorities may be required to produce a climate adaptation plan and outline specific measures for year on year reductions. This in turn may have resource implications in relation to creating a plan and implementing actions to reduce greenhouse gases.
- 4.9 Part 3 of the Act - Charges for carrier bags - provides the Welsh Ministers with the necessary powers to address issues in implementing the successful carrier bag charge. There are potential funding opportunities for green space and infrastructure management through these funding sources although eligibility, resource levels and process are not clear at this time.

- 4.10 Part 4 of the Act - Collection and disposal of waste - introduces new arrangements in relation to waste segregation and collection. The new powers enable the Welsh Ministers to:
- Require business and other waste producers such as the public sector [including schools] to make sure that clean, recyclable materials are separated before they are collected
 - Require waste collectors to collect recyclable wastes by means of separate collection, subject to an environmental test
 - Ban the burning of recyclable materials in incineration plants
 - Ban the disposal of food waste to sewers by businesses and the public sector

Welsh Government believes that changes made in accordance with the Act will result in:

- Cost saving for businesses through avoided landfill tax
- Increasing business competitiveness by reducing material costs
- Increasing employment by creating jobs in collection and reprocessing
- Increased opportunities to generate renewable energy from business waste
- Greater security of supply of resources to the manufacturing sector

It is expected that the regulations to implement these provisions of the Act will be made during 2017.

- 4.11 Part 4 of the Act could therefore impact on the Council in the following ways:
- The amount of suitable space for waste storage available or the amount of waste being produced. There could be implications on the authority in terms of the practicality of implementation, cost [including infrastructure costs to separate and store waste] and enforcement. Work is underway to address waste issues through the waste contract.
 - Changes in legislation and a drive toward no landfill and at source segregation, recycling targets puts pressure on BCBC. Also there are implications regarding segregation of wastes by waste producers and proposals to prohibit the disposal of food waste to sewers.
 - There are potential implications for the planning system, for example requiring adequate space for waste recycling in developments, and resulting enforcement issues
 - The requirement of vehicles for bin collection may impact on highway design and changes to this may influence development plans
- 4.12 Part 5 & 6 of the Act - Fisheries for shellfish and marine licensing - includes the creation of two new powers for Welsh Ministers, which gives them more control over shellfisheries and provides them with greater confidence to grant longer tenures for sustainable fisheries in the future. The Act amends current marine licensing charging powers so as to enable the marine licensing authority to achieve greater cost recovery in relation to the services it provides.
- 4.13 Part 7 of the Act - Flood and Coastal Erosion Committee and land drainage - clarifies the law for a number of existing environmental regulatory regimes including land drainage and flood risk management.

4.14. The implications as set out in 4.3 - 4.13 are additional to BCBC and at present require the following actions:

- Developing and influencing local policies and strategies in line with requirements of the Act. Reviews of the following as examples will be required: Waste, Property, Planning, and Parks
- Expert guidance and information to all BCBC departments with respect to the implementation of the Act
- Expert knowledge and understanding to develop organisation capacity to avoid challenge as a result of the implications of the Act

5. Effect upon Policy Framework & Procedure Rules

5.1. None

6. Equality Impact Assessment

6.1. Screening has highlighted that no issues arise as a result of this report.

7. Financial Implications

7.1. The implications of the Environment (Wales) Act 2016 are outlined in 4.3 - 4.13. It will not be possible to meet the additional requirements of the Environment (Wales) Act 2016 within the reduced resource levels the Council currently has. A growth bid has been submitted as part of the budget setting process for 2017/18 to secure additional resource which would be aligned to the delivery of the Environment and Sustainable Development Directorate Revenue Grant so that as well as supporting BCBC to deliver in line with the Act it will also support the delivery of that grant in line with Welsh Government requirements.

8. Recommendation

8.1. Cabinet is recommended to:

- (a) Note the new duties and responsibilities imposed by the Environment (Wales) Act 2016 and the policy, delivery and resource implications for the Council arising from this new legislation;
- (b) Note that implementing the legislation will require additional resources, for which additional resources will be sought, as part of the budget setting process for 2017/18.

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November 2016

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Background documents:

The Environment (Wales) Act 2016 -

<http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=12572>