

Meeting: Cabinet

Date: 14 April 2026

Wards affected: All

Report Title: Biodiversity Duty Report

When does the decision need to be implemented?

Local authorities (excluding parish councils) and local planning authorities must publish a written biodiversity report by 26th March 2026 in order to comply with the Environment Act 2021

Cabinet Member Contact Details: [Councillor Chris Lewis, Cabinet Member for Place Development and Economic Growth](#), chris.lewis@torbay.gov.uk

Director Contact Details: Alan Denby, Director of Place, alan.denby@torbay.gov.uk

1. Purpose of Report

- 1.1. As part of the Biodiversity Duty as laid out in The Environment Act 2021, local authorities must consider actions that can be taken to further the general biodiversity objective i.e. the conservation and enhancement of biodiversity in England. The biodiversity duty is the general duty to conserve and enhance biodiversity as set out in Section 40A of the Natural Environment and Rural Communities Act 2006 (NERC). The Environment Act 2021 built on this, strengthening it to include a requirement for Local Authorities and Local Planning Authorities to publish a written “Biodiversity Duty Report” on how they are complying with this legal duty. This report must be published within 12 weeks of the reporting period end date of 1 January 2026 (i.e. 26th March 2026).
- 1.2. To comply with the strengthened NERC duty, local authorities must review their functions, identify opportunities to conserve and enhance biodiversity, agree policies and objectives and take such action as it considers appropriate, in the light of those policies and objectives.
- 1.3. The Biodiversity Duty Report is required to describe the actions the Local Authority has taken to comply with the strengthened NERC duty and provide a summary of actions taken by the Local Planning Authority on Biodiversity Net Gain policy.
- 1.4. This cabinet report presents the proposed approach to deliver the above and seeks approval to publish the Council’s January 2024 – January 2026 Biodiversity Duty Report (Appendix 3).

2. Reason for Proposal and its benefits

- 2.1. Since 1 January 2023, all public authorities have been under an enhanced statutory duty to conserve and enhance biodiversity. From January 2024 public authorities should have considered how to comply with the enhanced biodiversity duty and set out a plan confirming the actions they will take to do so. The first part of delivering the 'biodiversity duty' is to identify opportunities to contribute towards the conservation and enhancement of biodiversity and embed this into council processes.
- 2.2. The end date of the first reporting period should be no later than 1st January 2026 and subsequent reports are required to be published every 5 years thereafter i.e. the second biodiversity duty report must be published prior to March 2031¹.
- 2.3. The proposals in the Biodiversity Duty Report will help us to deliver our vision for enhancing biodiversity across the Torbay. The report will demonstrate how we incorporate biodiversity considerations into everything we do and integrate with the Community and Corporate Plan's mission to 'protect and enhance our (built and) natural environment' and 'address the climate emergency so as to create a sustainable future'. This will primarily be delivered through our policy framework documents² including the Torbay Local Plan. Alongside this delivery will also be through business, service and action plans including the Council's Climate Change Action Plan (CCAP) 2024-2026 and through the Greener Way For Our Bay Framework and Action Plan.
- 2.4. Local Authorities and Planning Authorities are required to produce and publish the Biodiversity Report per the Environment Act 2021 Section 40A. The Biodiversity Report provides information on actions completed to meet the NERC duty and demonstrates ongoing reconsiderations of plans and objectives to inform future biodiversity actions. The responsibility to deliver on the general biodiversity duty is shared across all Council operations including integration of biodiversity considerations into planning policy, procurement, and service delivery.

3. Recommendation(s) / Proposed Decision

- 3.1. That the Biodiversity Duty Report 2026 as set out in Appendix 3 to the submitted report be approved.

¹ To cover the period 02nd Jan 2026 – 01st Jan 2031.

² Adult Social Care Strategy; Community Engagement and Empowerment Strategy; Corporate Asset Management Plan; Corporate Capital Strategy; Corporate Parenting Strategy; Community and Corporate Plan; Domestic Abuse and Sexual Violence Strategy; Economic Growth Strategy; Housing Strategy; Gambling Act Policy/Statement of Principles; Joint Health and Wellbeing Strategy; Licensing Policy; Local Transport Plan; Development Plan; Strategic Agreement between Torbay Council, One Devon Integrated Care Board and Torbay and South Devon NHS Foundation Trust; Treasury Management Strategy; and Resource Management and Waste Strategy.

4. Appendices

Appendix 1 Table 1: Example/Summary Torbay Council Policies and Objectives and how their identified actions align with the Biodiversity Duty Requirements, and those actions that have been delivered between January 2024 and January 2026.

Appendix 2: Table 2 Example/Summary Torbay Council future actions identified within the Biodiversity Duty Report to be delivered between January 2026 and January 2031

Appendix 3: Biodiversity Duty Report 2026

5. Background Documents

- [Community and Corporate Plan - Torbay Council](#)
- [Torbay Council Climate Change Action Plan - Torbay Council](#)
- [Greener Way for Our Bay - Torbay Council](#)
- [Council Business Plan 2024/27 - Torbay Council - Priority P4: Protect and enhance our lived, built and natural environments, including our green spaces & Priority P3: Maximise heritage and cultural opportunities for the enjoyment and benefit of residents and visitors](#)
- [Devon, Plymouth and Torbay Local Nature Recovery Strategy](#)
- [SWISCo Business Plan 2024-2029 .pdf](#)
- [Torbay Port Masterplan- Addendum 2019-2024.pdf](#)
- [Green Infrastructure Delivery Plan](#)
- [Torbay Food Risk Management Strategy 2015.pdf](#)
- [Torbay Local Plan 2012-2030 - Torbay Council](#)

6. Introduction

- 6.1. The Natural Environment and Rural Communities (NERC) Act 2006 placed a duty on public authorities to 'have regard' to conserving biodiversity in the exercise of their functions. Section 102 of the Environment Act 2021 strengthened the NERC duty to cover the enhancement, as well as the conservation, of biodiversity. The strengthened duty requires Torbay Council to periodically consider what actions it can take to conserve and enhance biodiversity and then take that action. This came into force in January 2023. The Environment Act 2021 also included a requirement for Local Authorities and Local Planning Authorities to publish a written report detailing how they have complied with this legal duty (within the set reporting period January 2024-January 2026).
- 6.2. The Biodiversity Duty Report must be written in accordance with the Section 40A amendment of the Environment Act 2021, and the "Reporting your biodiversity duty actions" guidance provided by DEFRA.
- 6.3. In accordance with Section 40A (Appendix B) of the Natural Environment and Rural Communities Act 2006 (as amended by Environment Act 2021), the biodiversity report must include:
- a summary of the actions which the authority has taken over the period covered by the report
 - a summary of the authority's plans for complying with those duties over the period of five years following the period covered by the report.
 - any quantitative data required to be included in the report by regulations under subsection (8)(b) (The Secretary of State has not provided specific instructions nor requirements for the biodiversity duty report).
 - any other information that the authority considers it appropriate to include in the report
- 6.4. For local planning authorities, biodiversity duty reports must also contain:
- a summary of the action taken by the authority in carrying out its functions under Schedule 7A to the Town and Country Planning Act 1990 (biodiversity gain as condition of planning permission) over the period covered by the report
 - information about any biodiversity gains resulting or expected to result from biodiversity gain plans approved by the authority during that period, and
 - a summary of the authority's plans for carrying out those functions over the five-year period following the period covered by the report.
- 6.5. The current Report should build on the 'first consideration' of what action the Council has corporately made for biodiversity from 1st January 2024. This was largely embedded within the Council's Climate Change Action Plan 2024-2026, the Torbay Local Plan (2012-2030) and other Council framework documents.
- 6.6. The Biodiversity Duty Report therefore draws from internal strategies, policies and procedures with service level contributions - key elements of how their identified actions align with the Biodiversity Duty Requirements are set out in Table 1, Appendix 1.

- 6.7. The some key future actions within the Biodiversity Duty Report, that the Council will seek to deliver, are set out in Table 2 Appendix 2.
- 6.8. Regarding the Biodiversity Net Gain (BNG) specific reporting requirements for Local Planning Authorities, at the time of writing this report Torbay Council has determined a total of 17 BNG-applicable planning applications. Of these, 5 Biodiversity Gain Plans have been approved, with the necessary conditions or Section 106 obligations secured to ensure the required 30-year monitoring period.

7. Options under consideration

- 7.1. Option 1: There are no statutory alternatives to producing this Biodiversity Duty Report. It is also an opportunity to highlight the service level actions that have already taken place to contribute towards increasing biodiversity. Failure to produce a Report would breach legal obligations.

8. Financial Opportunities and Implications

- 8.1. Operational Delivery Risk: While the Biodiversity Duty Report itself does not carry direct financial implications, the implementation of its objectives may require resources, coordination across services, and external funding. There is a risk that insufficient capacity or funding could delay or limit delivery of biodiversity actions.
- 8.2. Staff time will be required to deliver the various objectives within the Biodiversity Duty Report and various corporate strategies.
- 8.3. The implementation of this Report could carry potential costs such as project funding for individual actions as part of the delivery of objectives set out in the 'future actions' section. Funding approvals for these activities would need to be sought by relevant directorates in due course and a business case put forward. There will also be the opportunity for partnership collaborations, external funding applications and central government funding as part of the Local Nature Recovery Strategy implementation and delivery.

9. Legal Implications

- 9.1. By law, local authorities and planning authorities are required to produce and publish a biodiversity report every five years as a minimum (beginning with the day after the last day of the period covered by its most recent biodiversity report) in order to comply with the biodiversity duty set out in the Environment Act 2021 (S. 40A)
- 9.2. Section 40(A1) of the Natural Environment and Rural Communities Act 2006 (as amended by the Environment Act 2021) sets out the general biodiversity objective (also known as the enhanced biodiversity duty) which is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England. Section 40(1) provides that a public authority which has any functions exercisable in relation to England, such as the council, must from time to time consider what action the authority can properly take,

consistently with the proper exercise of its functions, to further the general biodiversity objective.

- 9.3. The first consideration for the purposes of section 40(1) must be completed by the council no later than 1 January 2024. Each subsequent consideration under section 40(1) must be no more than five years after the completion of previous consideration by the council. After undertaking its consideration of what action it can properly take, in accordance with section 40(1A), the council must (unless it concludes there is no new action it can properly take) determine or review such policies and specific objectives as it considers appropriate for taking action to further the general biodiversity objective, and take such action as it considers appropriate, in the light of those policies and objectives, to further that objective.
- 9.4. The Council is required under section 40A of the Natural Environment and Rural Communities Act 2006 (as amended by the Environment Act 2021) to report on the actions it has taken to comply with its duties under sections 40(1) and 40(1A). This report must contain, among other things, a summary of the action the authority has taken over the period covered by the report for the purposes of complying with its duties under section 40(1) and 40(1A) and a summary of the council's plans for complying with these duties over the next five years.
- 9.5. By law, the report must include:
- a summary of the action Torbay Council has taken to comply with the biodiversity duty;
 - how Torbay plans to comply with the biodiversity duty in the next reporting period;
 - any other information you consider appropriate.
- 9.6. Reports from local planning authorities must also include the following biodiversity net gain (BNG) information:
- the actions that have been carried out to meet BNG obligations;
 - details of BNG resulting, or expected to result, from biodiversity gain plans you've approved;
 - how you plan to meet BNG obligations in the next reporting period.
- 9.7. DEFRA advises that councils upload their biodiversity duty report to their website or public document repository to ensure that it is accessible to the public. DEFRA will reference these reports in future reviews of the Environmental Improvement Plan but does not require direct submission.

10. Engagement and Consultation

- 10.1. Each existing Council strategy has been subject to its own consultation process.
- 10.2. In the context of the Local Nature Recovery Strategy numerous key partners were engaged with including (but not exclusive to): Natural England, Devon Wildlife Trust, community groups and societies such as CPRE (Campaign for the Protection of Rural England) and South West Water.

11. Procurement Implications

- 11.1. The implementation of the actions set out within the Biodiversity Report could involve procurement implications. Adherence to the Procurement Act would be required of the relevant directorates in due course.

12. Protecting our naturally inspiring Bay and tackling Climate Change

- 12.1. Conserving and enhancing biodiversity is one of the keys to tackling climate change. Publishing a Biodiversity Duty Report not only ensures we are compliant with legislation but will also help us see the impact of our actions and set a benchmark for further progress towards climate and nature targets.
- 12.2. There are many positive environmental and climate change implications of this report, many of which are detailed within the document. These objectives will contribute greatly towards giving Torbay Council positive steps towards the mitigation, and adaptation to climate change. This report will come under the overarching umbrella of Sustainability and Climate Change and form a pillar towards our natural environment aspirations and duties.

13. Associated Risks

- 13.1. There is a risk of failing to comply with the biodiversity duty if the biodiversity report is not published within 12 weeks of the reporting period end date of 1st January 2026.
- 13.2. Statutory Compliance Risk: The Council is legally required under the Environment Act 2021 to report on actions taken to conserve and enhance biodiversity. Failure to produce and publish this report would constitute a breach of statutory obligations, exposing the Council to reputational and legal risk.
- 13.3. Operational Delivery Risk: While the report itself does not carry direct financial implications, the implementation of its objectives may require resources, coordination across services, and external funding. There is a risk that insufficient capacity or funding could delay or limit delivery of biodiversity actions.
- 13.4. Reputational Risk: As DEFRA intends to reference local authority biodiversity reports in future reviews of the Environmental Improvement Plan, failure to produce a comprehensive and forward-looking report could impact the Council's reputation among peers, partners, and the public.
- 13.5. Environmental Risk: Not acting on the objectives outlined in the report could result in missed opportunities to mitigate biodiversity loss, climate change impacts, and ecological degradation in Torbay which may have long-term consequences for the local environment and community wellbeing.
- 13.6. Partnership Risk: The report outlines collaboration with external partners. Failure to maintain these partnerships or align with sub-regional strategies (e.g., Local Nature Recovery Strategy) could hinder delivery and funding opportunities.

14. Equality Impact Assessment

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
Age	<p>18 per cent of Torbay residents are under 18 years old.</p> <p>55 per cent of Torbay residents are aged between 18 to 64 years old.</p> <p>27 per cent of Torbay residents are aged 65 and older.</p>	<p>Positive:</p> <p>Older adults: Reviews and longitudinal studies indicate that green space and street trees can promote physical activity, social contact and better self-rated health for middle-aged and older adults, and can reduce heat-related morbidity and mortality in hotter periods</p> <p>Increasing canopy cover and nature-based cooling in neighbourhoods where older people live responds to evidence that they are particularly vulnerable to climate-related risks such as heatwaves</p> <p>Young people: see Child Friendly section below</p>	<p>Accessibility audits and engagement with disabled residents and representative groups are needed to ensure that paths, entrances, seating, signage and facilities are inclusive, and that sensory planting and quiet areas are designed with neurodivergent users in mind</p>	<p>- Monitoring: Equality impacts will be undertaken for specific projects within the action plans of the relevant strategies, by the relevant departments.</p>
Carers	<p>At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.</p>	<p>Positive</p> <p>Meta-analyses and scoping reviews indicating that nature exposure produces short term improvements in mood, stress and quality of life for adults with mental illness, and broader mental health benefits across diagnostic groups</p>		

Disability	In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by a physical or mental health condition or illness.	Positive Meta-analyses and scoping reviews indicating that nature exposure produces short term improvements in mood, stress and quality of life for adults with mental illness, and broader mental health benefits across diagnostic groups		
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community answered that their gender identity was not the same as their sex registered at birth. This proportion is similar to the Southwest and is lower than England.	There is very limited peer reviewed evidence specifically on trans and non-binary people's use of green space. Existing research on public space suggests that trans and non-binary people may face harassment or exclusion in public settings, but this is not yet well studied for parks and nature spaces		
Marriage and civil partnership	Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.	No differential impact No impacts have been identified specific to this equality group.		
Pregnancy and maternity	Over the period 2010 to 2021, the rate of live births (as a proportion of	Positive: Multiple systematic reviews and meta-analyses show that there is some evidence that residential greenness is associated with healthier		

	<p>females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the South West (58.4). There has been a notable fall in the numbers of live births since the middle of the last decade across all geographical areas.</p>	<p>pregnancy outcomes, including higher average birthweight and lower risk of preterm birth and small for gestational age births</p>		
Race	<p>In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher proportion than the South West and England. Black, Asian and minority ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England.</p>	<p>Positive : UK analyses showing that people in more deprived areas and many ethnic minority communities have less access to high quality green space and are more exposed to extreme heat and environmental risks, which increases health inequalities.</p>		
Religion and belief	<p>64.8% of Torbay residents who stated that</p>	<p>No differential impacts for this protected characteristic have been identified at strategy level</p>		

	they have a religion in the 2021 census.			
Sex	51.3% of Torbay's population are female and 48.7% are male	No differential impacts		
Sexual orientation	In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation.	No differential impacts		
Armed Forces Community	In 2021, 3.8% of residents in England reported that they had previously served in the UK armed forces. In Torbay, 5.9 per cent of the population have previously served in the UK armed forces.	No differential impacts (see Public Health Section)		
Additional considerations				
Socio-economic impacts (Including		Positive: Evidence that neighbourhood green space can have particularly strong protective mental health effects for disadvantaged groups.		

impacts on child poverty and deprivation)				
Public Health impacts (Including impacts on the general health of the population of Torbay)		Positive: Systematic reviews and meta-analyses showing that exposure to nature and urban green space is consistently associated with improvements in mental health outcomes across age groups, including reduced depression and anxiety and improved quality of life		
Human Rights impacts		No differential impacts.		
Child Friendly	Torbay Council is a Child Friendly Council, and all staff and Councillors are Corporate Parents and have a responsibility towards cared for and care experienced children and young people.	Positive: Systematic reviews showing that access to green space supports children's mental wellbeing, behaviour and cognitive development, and that outdoor learning in green environments benefits attention and academic performance. Systematic reviews show that access to green space is associated with improved mental wellbeing, reduced stress, better behaviour and enhanced cognitive development and academic performance in children. School-based studies link greener school environments to gains in working memory and attention		

15. Cumulative Council Impact

15.1. The implementation of the approach set out in this report could carry potential costs such as project funding for individual actions as part of the delivery of objectives set out in the future actions table. Funding approvals for these activities would need to be sought by relevant directorates in due course and a business case put forward. There will also be the opportunity for partnership collaborations, external funding applications and central government funding as part of the Local Nature Recovery Strategy implementation and delivery (refer to section 8 of the report above).

16. Cumulative Community Impacts

16.1. (Studies of environmental and health inequalities show that disadvantage often overlaps, for example where low income, ethnic minority status, gender and disability coincide, and that these groups can experience the highest exposure to environmental risks (through climate change impacts) and the lowest access to green space/ natural spaces .

16.2. Where appropriate, the Biodiversity Duty Action Plans should prioritise improvements that also increase equitable access to nearby, good quality green space and canopy cover in areas of greatest need. By embedding equity into site prioritisation, design and engagement, the programmes should ensure that those facing multiple disadvantages can share in the benefits.