

Agenda for Scrutiny Committee

Thursday, 4 October 2018, 6.00pm



East Devon District Council
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[Members of the Scrutiny Committee](#)

Venue: Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

Contact: Sue Howl, 01395 517541 (or group number 01395 517546): Issued 25 September 2018

- 1 [Public speaking](#)
- 2 To confirm the minutes of the meeting held on 6 September 2018 (pages 3 - 10)
- 3 Apologies:
- 4 Declarations of interest
Guidance is available online to Councillors and co-opted members on making [declarations of interest](#).
- 5 [Matters of urgency](#) – none identified
- 6 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.
- 7 Decisions made by Cabinet called in by Members for scrutiny in accordance with the Overview Procedure Rules. There are no items identified.

Matters for Debate

- 8 **Electoral services update** (pages 11 – 37)
A report from the Chief Executive to update Scrutiny Committee on progress made following recommendations received by the Association of Electoral Administrators in their report on the provision of electoral services at East Devon District Council in February 2018.
- 9 **Review of Economy & Regeneration Services, and the Growth Point Team service plans**
At its meeting on 5 July, Scrutiny Committee agreed to review existing service plans ahead of the formal budget setting process, and specifically to receive presentations on existing service plans at its forthcoming meetings prior to February 2019. The review will continue with consideration of the current [Economy & Regeneration Services](#), and the [Growth Point](#) service plans inviting the Portfolio Holders for Strategic Development, Economy, and Asset Management, Strategic Lead and Service Leads, to attend.

This item is the second of a series of reviews of existing Service Plans which may result in recommendations from members related to service planning and budget setting in the future.

10 Item for information – Broadband in rural areas

At its meeting on 22nd March 2018, the Scrutiny Committee discussed Broadband issues in rural areas (Minute 37, Broadband update refers) and made three recommendations to Cabinet accordingly.

At its meeting on 2nd May, Cabinet considered the recommendations and resolved that the recommendations be agreed.

11 Scrutiny forward plan (pages 38 – 39)

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[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL

Minutes of a meeting of the Scrutiny Committee held at Knowle, Sidmouth on 6 September 2018

Attendance list at end of document

The meeting started at 6.00pm and ended at 8.23 pm.

***14 Public speaking**

There were no members of the public present.

***15 Minutes**

The minutes of the Scrutiny Committee held on the 5 July 2018 were confirmed and signed as a true record.

***16 Declarations of interest**

No interests were declared.

***17 Questions in advance of the meeting from Members of Scrutiny Committee**

In response to a request by the Chairman for Questions to be received from members in advance of the meeting, 9 questions had been submitted, and the printed [questions and answers](#) were circulated prior to the meeting. The Chairman read through the questions and answers and asked Councillors submitting questions to put any related supplementary questions to the meeting. The response to the supplementary questions asked are set out below.

- a) Question 1 – The supplementary question queried the definition of the term ‘that it is in the public interest to prosecute the offence’, referred to in point 2 of the response to the first question from Cllr Chapman.

In response, Ed Freeman, the Service Lead for Planning Strategy & Development Management gave a comprehensive explanation about the assessment made by officers to establish the nature of the harm caused.

- b) Question 2 – The supplementary question related to the fourth question from Cllr Chapman, and was whether there was a disincentive to the Council in taking cases to court.

In response, Members were told that an assessment would be made about any cases which could be taken to court based on a variety of criteria, including whether it was expedient to do so and proportionate to take such action, in order to make a balanced judgement. The Chief Executive stated that it was a good thing for the Council to pursue prosecutions in order to show that it would take action and also to assist magistrates understand the issues involved. However, it was important to choose the cases to take to prosecution.

Although there was no formal comparison of Councils which pursued actions, it is understood that EDDC may take one or two forward each year which was similar to other Councils.

- c) Question 3 - The supplementary question queried whether there was a sufficient deterrent at present.

In response, the Chief Executive stated that there were unscrupulous developers who may not be put off by the fines at present. Ed Freeman stated that EDDC will try to publicise instances where this occurs, which can be more of a deterrent to developers. Cllr Mike Howe stated that it was possible to insist that when trees are felled by developers, they are replaced so that it is impossible for them to use the land as anticipated.

The Chief Executive confirmed that a lot of work was involved in taking forward prosecutions, such as evidence gathering, and following up witnesses and landowners before a public interest test was undertaken, because some cases were very difficult to prove in court.

The Chairman asked when the few outstanding recommendations from the TAFF will be completed. In response Ed Freeman informed members that a Planning Enforcement Policy was currently being developed, which would include tree works. It is well advanced and will shortly be sent to the Tree Team for consultation.

Cllr Darryl Nicholas commented that there appeared to be a lack of information about cases coming from the Tree Team and asked about the possibility of developing a register of complaints which could be accompanied by a brief explanation for the public in relation to subsequent action or non-action. Ed Freeman stated that Tree Enforcement cases were entered onto the same system as all the other Planning Enforcement cases, and it would be difficult to separate them out numerically. There were currently 643 enforcement cases and very few would relate to trees. However, any local residents putting in a complaint would have the case logged and numbered, and be able to check progress on their individual case.

Cllr Howe stated that he did not recall signing off any non-action orders as Chair of Development Management Committee (DMC). Ed Freeman responded by informing members that if there were proven breaches, they would be submitted to the Chair of DMC and the fact was that there are very few compared to all other planning enforcement actions. Following further discussion, Cllr Howe's request for more involvement in future cases was endorsed.

Ed Freeman explained that all officers needed to understand the system and the reasons for actions in some cases but not others. Documenting the process would assist in providing a rationale for outcomes, and understanding that there are other actions which can be pursued apart from prosecutions, such as cautions and replacement planting. The Planning Enforcement Policy will soon be completed and presented to DMC or Strategic Planning Committee for approval.

In response to Cllr Howe's suggestion that an officer from the Tree Team could sit with the planning team as part of the systems thinking process, the Chief Executive responded that different lines of reporting for officers in the Tree Team and Planning were built in to provide constructive challenge within the system.

The Chairman asked if there were any further supplementary questions. He confirmed that Cllr De Saram was happy with the answers he had received for his questions in advance.

***18 Update from the Service Lead for Planning Strategy & Development Management following the Scrutiny Committee meeting of 7 June**

The Chairman welcomed Cllr Mike Howe as the chair of the TAFF, and Ed Freeman for this item. He stated that in hindsight it would have been better if officers from both the Tree Team and Planning Team had been present at the meeting on 7 June but thanked those for attending this meeting.

Scrutiny Committee had requested an update from Planning relating to Minute 49; Tree Team Update, from the meeting of 7 June, about how outstanding recommendations agreed by the Tree Task and Finish Forum (TAFF) in 2015, will be implemented. In the light of discussion arising from the questions in advance, the Chairman asked if there were further comments relating to this issue and reiterated that a Planning Enforcement Policy was currently being developed, which would include tree works and which it was understood was due to be completed in the near future. There were no further comments.

***19 Resolution by Cabinet of 11 July to refer recommendations back to Scrutiny Committee**

At its meeting on 7 June the Scrutiny Committee made two recommendations to Cabinet on 11 July relating to Minute 49; Tree Team Update, and also a further two recommendations to Cabinet relating to Minute 50; Effectiveness of local authority overview and scrutiny committees.

The recommendations were sent back to Scrutiny.

In relation to Cabinet Minute 49, there were no further comments from members relating to the first recommendation. In relation to the second recommendation for Minute 49, Ed Freeman reassured members that the Tree Team were involved in all of the relevant planning processes.

In relation to Minute 50, the Chairman referred to the Communities & Local Government's Select Committee report on the effectiveness of local authority overview and scrutiny committees, the Government's response to the report and the view of Scrutiny Members having considered both. He stated that Cabinet appeared not to be in agreement with the findings and recommendations. The Chief Executive clarified that the matter was not one of disagreement by Cabinet but a communication issue. Cabinet had been clear in its response. As a result of EDDC operating through a Cabinet political model rather than a Committee model, certain functions are reserved for Cabinet as executive matters and reports should be submitted to Cabinet. However, the input into reports to Cabinet include legal and financial considerations and an analysis of issues in full before they are submitted to Cabinet. Some matters will go to Scrutiny before going on to Cabinet, but the process for Scrutiny to send reports and recommendations directly to Council is not yet practised sufficiently for members other than those on Scrutiny Committee to understand fully what has been taken into account, before Scrutiny Committee makes recommendations. Cabinet would currently be at a disadvantage if Scrutiny Committee made a recommendation to Council because it would not be clear about the information which had been taken into account. The outcome could be that Council send it back which would build in delays. The Chairman asked if Cabinet were happy for Scrutiny to send recommendations to Council on some occasions and to Cabinet on others. The Chief Executive confirmed that legally, Cabinet cannot stop reports and recommendations from Scrutiny to Council, but they would need to include inputs from legal and financial officers, members of the senior management team and any relevant experts if appropriate.

The Chairman then asked members to consider whether a further response is required, and if so what it should be.

Cllr Gardner sought clarification about why the second recommendation under Minute 50 had been rejected since there was no explanation in the text from Cabinet. The Chief Executive stated that Cabinet would probably have regarded the two recommendations as connected rather than as separate items, and referred them back together.

Cllr Darryl Nicholas confirmed that he understood the purpose of Cabinet comments in terms of preventing spurious reports being presented without strong recommendations, and that to report to Council meant that what is sent by Scrutiny is robust and shows the thought process involved.

Cllr Godbeer stated that he did not consider that Cabinet were attempting to gag Scrutiny as a Committee, but that it needed to follow set procedures.

As Legal Advisor, Anita Williams outlined that reports going to Cabinet were dealt with very differently to reports going to Scrutiny. Using the Tree Team report as an example, she stated that if it had been going to cabinet, the draft would have been circulated to get comments from both Planning and Tree Teams, before obtaining financial and legal comments prior to being submitted to Cabinet.

The Chief Executive confirmed that Scrutiny had a right to challenge, but this carried a responsibility to go through a rigorous process beforehand. This operated at two levels. One which reflected that Scrutiny Committee had a concern which it wanted to take to Cabinet for consideration or action, and which Cabinet could then respond to. Another which results in a report to Council through the same quality assurance process as if going to Cabinet.

The Chairman asked the Chief Executive to explain where EDDC and its scrutiny function stood, if it were not to follow Government guidance that scrutiny recommendations should go to full Council rather than to Cabinet.

Further discussion took place about the obligation to challenge placed on local authorities by government and reference was made to situations such as at Rotherham, when it was not considered that this had been done effectively by local authorities in their scrutiny role. Clarification was sought by Cllr Moulding about executive items needing to go to Cabinet, and those items which could go directly to Council. The Chief Executive clarified that issues relating to a new policy or monies not budgeted for were examples of items which could go to Council, as outlined in the Constitution.

The Legal Advisor stated that the Constitution was clear already that Scrutiny Committee could report to Council or Cabinet, and advised that there was no need to recommend changes.

The Chairman asked for a proposition to close the debate.

Cllr Darryl Nicholas proposed and Cllr Chapman seconded as follows:

‘That where Scrutiny considered that a recommendation(s) should be made to Council rather than Cabinet then as a matter of good practice it should ensure that any such recommendation(s) were made following consideration of a full report from officers that addressed all the relevant corporate, legal, financial and any other material matters’.

This was agreed by members.

In addition Cllr Gardner proposed the second recommendation under Minute 50 be adopted as a Scrutiny procedure rule and recommend to Cabinet that the Constitution be amended accordingly. Cllr Darryl Nicholas seconded the proposal and members agreed. The Chief Executive pointed out that technically this was the legal position currently.

RECOMMENDED to Cabinet

“That the constitution be amended to the effect that there will be a local scrutiny procedure rule that members of Cabinet should only participate by invitation of the committee, making the distinction between participation and attendance”.

RESOLVED;

‘that where Scrutiny considered that a recommendation(s) should be made to Council rather than Cabinet then as a matter of good practice it should ensure that any such recommendation(s) were made following consideration of a full report from officers that addressed all the relevant corporate, legal, financial and any other material matters’.

***20 Review of Environmental Health & Car Parks Service Plan 2018/19**

The Chairman welcomed Councillor Marcus Hartnell as Deputy Portfolio Holder for the Environment; Councillor Jill Elson as Portfolio Holder for Sustainable Homes & Communities; John Golding as Strategic Lead for Health, Housing and the Environment and Andrew Ennis as Service Lead for Environment & Car Parks.

At its meeting on 5 July, Scrutiny Committee agreed to review existing service plans ahead of the formal budget setting process, and specifically to receive presentations on existing service plans at its forthcoming meetings prior to February 2019. It was also agreed to commence this review with the current [Environmental Health & Car Parks Plan](#), inviting the Portfolio Holder for the Environment, Strategic Lead and Service Lead to attend.

This item is the first of a series of reviews of existing Service Plans which may result in recommendations from members related to service planning in the future.

John Golding gave a broad overview of the service and that its overall purpose was to protect and improve people's health, undertaking a series of activities under the umbrella of Environmental Health, which also incorporated public health; health and safety; food safety and a range of other work such as car parks. The Service Plan is linked directly to the Council Plan, Transformation Strategy and Finance Strategy.

Discussion included the following points;

- Members sought clarification about the use of surplus funds of £2+m generated from car parks, and commented that it was not used solely for the purposes of managing car parking.
- Simon Davey, Strategic Lead for Finance, confirmed that this income was a significant part of the Council's income, and the level of it was important for the running of other services. Car parking charges were an income generator at EDDC and for many councils.
- Service Planning starts within each service but is part of the budget setting process. The Service Plan will be submitted to Senior Management Team (SMT) to ensure there is no competition or duplication. Service Plans need to sit together as a whole. In October, the Medium Term Financial Plan (MTFP) will be drawn up to reflect the actions required to put a balanced budget together for the Council as a whole.
- Members raised the issue of how significant it was to set objectives and how they can be more SMART (Specific, Measurable, Achievable, Realistic and Timebound).
- Officers stated that it was necessary to be clearer about what we wanted to achieve, and that good ideas needed to be backed up by robust business cases.
- Members asked why there were no Performance Indicators (PIs) for some Key Service Objectives (KSOs). The Chief Executive explained that previous governments had made an industry of PIs and targets, under initiatives such as Best Value, but very few had a real impact on service delivery. As a result the coalition government had got rid of the majority of PIs and cut budgets, in favour of introducing measures most meaningful to the service being delivered. Performance is very different now to when PIs were mandatory, and EDDC has been rigorous in implementing a systems thinking process. Transactional areas are more difficult to measure than others, such as Revenues & Benefits.
- Money from car parks is not ring-fenced and goes towards trying to balance the budget overall.
- Vandalism and theft in car parks has resulted in installing upgraded machines in some areas in order to future proof. The future budget will include an allowance to facilitate upgraded machines in more car parks.
- Comparisons will be done of charges in other coastal areas.

- Members queried the future Digital Data Platform to be introduced which was referred to by Karen Jenkins, Strategic Lead for Organisational Development & Transformation, and how the new platform would incorporate new PIs if Service Planning was already underway. What benchmarks would be used to measure achievement?
Karen Jenkins clarified that the system would be more automated and with customers able to interact online. The old system of benchmarking with other councils did not always allow comparisons with the same items, and was ineffective and lacking in clarity.
- Members queried why District Councils did not have a formal place on public health boards, such as the Sustainability & Transformation Partnerships, when they are being required to do more on this agenda.
The Chief Executive clarified that the Council had to use its influence, as at Cranbrook's Health & New Town Initiative, where the ability to influence the NHS may be minimal but it is possible to influence other key partners.
- John Golding confirmed that the District had always had a statutory role to work with Devon County Council on health issues, which allowed us to concentrate effort and a limited budget on what could be achieved locally.
- Members asked about charging for campervans on car parks, and what were the mechanisms for getting rid of waste? Andrew Ennis confirmed that a trial was being undertaken in Exmouth, including consideration of charging points and water supplies. It was difficult to identify suitable sites.
- Members asked about Section 6 of the Service Plan relating to risk, and how EDDC addressed risks. Simon Davey, as the responsible officer for risk overall, stated that there was a complex process for dealing with risk and financial implications. Once identified they were reviewed quarterly, were submitted to SMT to check strategic and operational risks, before being presented to Audit & Governance Committee.
- The issue of risk in Service Plans was addressed in a risk register which was reviewed regularly by Simon Davey and other officers, and also by both internal and external audits.
- The Chairman asked what consideration had been given to the impact of Brexit on the service.
Officers were not yet aware of government's plans in relation to regulations in future, but there is an option to replicate EU regulations. Emergency situations may create future challenges if they take place across borders, such as an oil tanker crisis. Brexit was not identified on the risk register.
- There is expected to be a £700K deficit across the Council next year which should be manageable. However, for the 2020/21 budget, Government has indicated that there will be changes to the Business Rate and a re-evaluation of business charges, which may lead to a reduction in council income.

Members asked whether officers and portfolio holders considered that the questions put forward at the meeting were helpful in terms of service planning, because the Committee will be conducting a similar process for each service plan. Karen Jenkins stated that the focus on Service Plans had given officers a renewed interest, and that points made about SMART objectives made a difference to quarterly and annual reporting. The work will feed into the Council Plan.

Cllr Hartnell confirmed that looking at service plans will generate more information for members about how the Council is performing which is helpful and also which PIs can be of most use in driving service delivery.

The Chief Executive stated that the Council was complex and that officers appreciated opportunities to explain how services work with members.

Cllr Godbeer told members that he would be having a meeting with Karen Jenkins about how to approach Service Plans from the perspective of Overview Committee, and wanted to involve services via the Portfolio Holders.

The Chairman concluded the debate by thanking senior officers for their input and attending the meeting.

***21 Scrutiny forward plan**

Members agreed that at the forthcoming meeting in October they would consider the Service Plans for Economy & Regeneration Services, and the Growth Point team.

Since Cllr De Saram had sent questions in advance which appeared to have been answered to his satisfaction, the Chairman suggested clearing the penultimate point from the Forward Plan.

An invite and dates of future meetings of the Scrutiny Committee had been sent to the Police & Crime Commissioner and a response is currently awaited.

The Street Trading report was due to come to the October meeting, but members agreed that the agenda for 4 October should be restricted to the Service Plans agreed and the Election report. The report on Street Trading would be re-arranged.

Cllr Rylance suggested putting an item on council housing on the Forward Plan, but after a brief discussion involving Cllr Jill Elson as Portfolio Holder for Sustainable Homes & Communities, it was agreed that these issues were addressed at Housing Review Board which Scrutiny members were welcome to attend.

The Chairman closed the meeting at 8.23pm.

Attendance list (present for all or part of the meeting):

Scrutiny Members present:

Maddy Chapman
Cathy Gardner
Roger Giles
Graham Godbeer
Cherry Nicholas
Darryl Nicholas
Val Ranger
Eleanor Rylance
Eileen Wragg

Other Members

Colin Brown
John Dyson
Jill Elson
Marcus Hartnell
Mike Howe
Andrew Moulding

Officers present:

Mark Williams – Chief Executive
Simon Davey – Strategic Lead - Finance
Karen Jenkins – Strategic Lead – Organisational Development & Transformation
Anita Williams - Principal Solicitor & Deputy Monitoring Officer
John Golding - Strategic Lead – Housing, Health & Environment
Andrew Ennis - Service Lead, Environmental Health & Car Parks
Sue Howl - Democratic Services Manager

Apologies from Scrutiny Members:

Brian Bailey
Bruce De Saram
Simon Grundy
Stuart Hughes
Bill Nash
Marianne Rixson

Apologies from Non – Scrutiny Members:

Geoff Pook
Ian Thomas
Tom Wright

Chairman Date.....

Report to: **Scrutiny Committee**

Date of Meeting: 4 October 2018

Public Document: Yes

Exemption: None

Review date for release None



Agenda item: 8

Subject: **Electoral Services update**

Purpose of report: To update Scrutiny Committee on progress made following recommendations received by the Association of Electoral Administrators in their report on the provision of electoral services at East Devon District Council in February 2018.

Recommendation: **To consider the progress made on all recommendations**

Reason for recommendation: To enable Scrutiny Committee to consider the progress made on the recommendations received.

Officer: Mark Williams, Electoral Registration Officer and Returning Officer, mwilliams@eastdevon.gov.uk

Financial implications: Not required

Legal implications: Not required

Equalities impact: Low Impact

Risk: Low Risk

Links to background information:

- Association of Electoral Administrators report on the provision of electoral services at East Devon District Council (Appendix B)
- Elections update report – Scrutiny Committee 19 April 2018 (Appendix A)
- Minutes of Scrutiny Committee – 19 April 2018

Link to Council Plan: Continuously improving to be an outstanding council.

Report in full

At the meeting on 19 April 2018 the Scrutiny Committee requested an update on progress made on the recommendations of the Association of Electoral Administrators in their report of February 2018.

Progress against Association of Electoral Administrators report recommendations:

The report recommendations are in bold with updates underneath.

(1) To increase the establishment to four full-time members of staff.

The team currently has 3 full time members and recently recruited a part time administration assistant. This part time post has the option of becoming full time should work volumes require it.

(2) To consider expanding responsibilities in relation to electoral services functions to other areas of the council e.g. using the skills and expertise of the Council's Customer Services Team to answer resident enquiries.

This has been successfully achieved in the following areas:

Customer Services Team

Since the beginning of August, Customer Services have successfully taken over answering and dealing with the majority of Electoral Services calls. Within the period of Friday 3rd August to Tuesday 21st August they accepted 566 electoral registration calls and only transferred 76 to the Electoral Services team. The majority of calls were regarding the annual canvass and by utilising Customer Services, the Electoral Services team were able to process returned forms much quicker, therefore reducing the volume of reminder forms and related costs. Following the completion of the annual canvass on 31 November, the Electoral Services Manager will provide a script and training to Customer Services regarding elections in preparation for May 2019.

Postal Vote Issue and Opening

The ESM has provided training to the Information and Complaints Support Officer in the correct procedure for the issue and opening of postal votes. Under the supervision of the Electoral Services Manager, the ICSO has been involved with all aspects of postal votes for 3 Neighbourhood Planning Referenda, 2 parish council by-elections and 1 district council by-election. The intention of this training is to free up the ESM during districtwide elections with the ICSO having full charge of postal vote procedures.

Deputy Returning Officer

As reported at the 19 April 2018 meeting, the Monitoring Officer attended the Annual Solace/Association Of Electoral Administrators elections masterclass and following this he has attended and administered 6 Counts.

(3) To review processes related to the employment of casual staff to ensure all legal responsibilities are being met.

The ESM has discussed the matter of legal responsibilities when appointing casual staff with Human Resources. Following this discussion, Human Resources have assisted with changing the current staffing process, including:

- 1) Confirming the option of a pension scheme
- 2) Updating the payroll document we send out
- 3) Training the Electoral Services Manager in Disclosure and Barring Service checking and right to work procedures
- 4) Ensuring a welcome page on the website with Data Protection information etc

(4) To ensure comprehensive process notes exist for all key functions

The ESM has updated previous process notes for all the key functions during an election including Postal Vote Issue, Postal Vote Opening, Presiding Officer notes and Verification/Count procedures and they are currently with the Association of Electoral Administrators for comment.

The notes will be reviewed following each election to see if improvements can be made.

(5) To consider the arrangements for election counts once space at the new office becomes clear.

Whilst the space at Blackdown House is currently unavailable for consideration, action has been taken to provisionally book the Exmouth Pavilion for a possible count in May 2019. The Returning Officer has also inspected Westpoint with a possibility of hiring a meeting room for the count in May 2019.

Discussion is also taking place with the Association of Electoral Administrators regarding the training of a number of Deputy Returning Officers. This would enable a number of counts across the district, to provide results more efficiently and make venues more accessible for candidates etc.

(6) To ensure sufficient storage, secure facilities and working space is available to the Electoral Services Team at the new office in Honiton.

Work is currently ongoing with the secure storage facilities at Honiton. The Electoral Services Manager is due to attend a site meeting with the Senior Building Surveyor to inspect possible secure storage on the Heathpark Estate.

It has been agreed that due to the confidential nature of work to the register and privacy required when dealing with election matters, the Electoral Services Team will be in an enclosed secure area at Blackdown House.

Summary

Scrutiny Members will see that progress has been made in all areas, however there are some areas of work that due to the nature of Electoral Services will constantly be ongoing processes and require regular updating.

Report to: **Scrutiny Committee**

Date of Meeting: 19 April 2018

Public Document: Yes

Exemption: None

Review date for release None

Agenda item: 8

Subject: Elections update report

Purpose of report: To update members on matters arising since my last report to the Scrutiny Committee in July 2015, and to highlight relevant issues in terms of preparation for the May 2019 District and Town/Parish elections.

Recommendation: That the Committee note the actions being taken by the Returning Officer.

Reason for recommendation: To observe the actions being taken by the Returning Officer.

Officer: Mark Williams, Returning Officer

Financial implications: To be assessed

Legal implications: There are no legal implications arising which require comment.

Equalities impact: Low Impact

Risk: Low Risk

Links to background information: Contained in the body of the report

Link to Council Plan: Continuously improving to be an outstanding council.

1. The Past

1.1. May elections 2015

- 1.1.1. Following the combined General, District, Town and Parish Council Elections I prepared a report for the July 2015 Scrutiny Committee. The report was a full one and drew attention to a range of matters that had arisen. It can be found online as [Appendix 1](#).



1.1.2. The Committee duly resolved as follows:

RESOLVED

- that the Scrutiny Committee endorses the report by the Chief Executive on the local elections 7 May 2015;
- that the Scrutiny Committee recognises the hard work of all staff involved in the running of the national and local elections on 7 May 2015;
- that a brief financial statement on how the elections are funded be provided to the committee.

1.2. Complaints

- 1.2.1. Post July 2015, a number of complaints in respect of the various elections that have been held have been received in respect of myself and my elections staff. In the main these have been submitted by the East Devon Alliance (EDA).
- 1.2.2. As a point of reference, I consider it important to outline that, prior to the May 2015 elections, the conduct of candidates and agents was experienced as collaborative (in the sense that participants at election time irrespective of their political party or affiliation understood that the complexity of managing elections required a collective endeavour to ensure elections were run effectively); since 2015 the conduct of elections as experienced by myself and my officers, is, unfortunately, more confrontational. This, combined with the lack of resource and increasing workload, has created a difficult working environment for the team. I refer to this in more detail later in this report.
- 1.2.3. In September 2015 the EDA submitted a report to myself, the Electoral Commission and the Scrutiny Chairman which contained their assessment of the May 2015 elections. It included a considerable number of criticisms/complaints aimed at myself, the Electoral Commission and also the Mid Devon Returning Officer. No further action was taken by any party in respect of this report as the matters raised were either legally irrelevant or otherwise covered by the performance standards assessment that the Commission undertake. Reference has also been made to an assessment from the Electoral Commission which contained a number of observations: [Appendix 2](#) . This was shared with my team of Count Supervisors and was useful in highlighting the issues that arose as a consequence of counting multiple elections without adequate recuperation periods, an inadequate count venue, and the traditional candidate expectation of an accurate, legal and speedy result (which was duly delivered).

1.3. Workload of Elections Team

- 1.3.1. Since the May 2015 Elections we have now conducted in excess of 30 elections/referenda. This is a noticeable increase in activity compared to previous years and has meant that the team are working under almost unrelenting pressure. Members will also be aware of the impact of Individual Elector Registration which has also increased the workloads of elections teams. A partial list of elections/referenda follows.
- 1.3.2. List of elections:
- Election on Thu 08 Oct 2015 Sidmouth Town West Ward
 - Election on Thu 11 Feb 2016 Seaton Town Council
 - Election on Thu 31 Mar 2016 Newton Poppleford and Harpford Parish Council
 - Election on Thu 31 Mar 2016 Sidmouth Town Council
 - Election on Thu 14 Apr 2016 Exmouth Town Council

Election on Thu 14 Apr 2016 Exmouth Town Council
Election on Wed 20 Apr 2016 Exmouth Town Poll
Election on Thu 5 May 2016 Police and Crime Commissioner Election
Election on Thu 23 June 2016 EU Referendum
Election on Thu 21 Jul 2016 Cranbrook Town Council
Election on Thu 21 Jul 2016 District and Town Council Election – Exmouth Littleham
Election on Thu 21 Jul 2016 District Council Election – Honiton St Michael's
Election on Thu 21 Jul 2016 Exmouth Town Council
Election on Thu 6 Oct 2016 Exmouth Brixington
Election on Wed 19 Oct 2016 Honiton Town Council St Michael's Ward
Election on Thu 24 Nov 2016 Stockland Neighbourhood Planning Referendum
Election on Thu 26 Jan 2017 Bishops Clyst Neighbourhood Planning Referendum
Election on Thu 9 May 2017 Honiton Town Council St Pauls Ward
Election on Wed 29 Mar 2017 Sidmouth Town Council
Election on Thu 4 May 2017 Devon County Council (9 DCC + 2 District + 1 Town Council ward)
Election on Thu 25 May 2017 East Budleigh with Bicton Neighbourhood Planning Referendum
Election on Thu 8 Jun 2017 UK Parliamentary Election – Central Devon
Election on Thu 8 Jun 2017 UK Parliamentary Election – East Devon
Election on Thu 8 Jun 2017 UK Parliamentary Election – Tiverton and Honiton

1.3.3. One to note was the EU Referendum 2016 where according to the Electoral Commission we conducted the most efficient count in the whole country.

1.4. General Election 2017

- 1.4.1. The calling of the General Election took most by surprise, in that it was an unscheduled election. It is important that members understand the impact that it had on the elections team.
- 1.4.2. The teams approved establishment is 3 officers, with capacity for 4. The additional capacity was increased from the previous 3 as a result of the experiences of the combined 2015 elections. At the time of the County Council Council elections we had 3 staff in post and had been out to external advert for the 4th post, but had been unable to find a suitable candidate. Nonetheless, we felt reasonably confident that we could cope for the duration of the County Council elections. However, also prior to the County Council elections, a second member of the team resigned to go and work for the County Council. This double whammy effectively became a triple whammy when the Prime Minister announced the General Election.

1.4.3. The following table records our staffing establishment:

Type of Election	F/T Staff Resource
2015 Combined General, District, & Parish	3
2016 Police & Crime Commissioner	4
2016 EU Referendum	4
2017 Devon County Council	3
2017 General	2

1.4.4. One of the unique features for us is that at a General Election we ‘give’ voters to West Devon (for the Central Devon constituency) and to Mid Devon (for the Tiverton & Honiton Constituency).

1.4.5. We also receive voters from Exeter for the East Devon constituency. The relevance of this is that before the County Council elections had concluded there was a considerable amount of liaison and additional administration that needed to be undertaken to prepare for the General Election. My 2 remaining members of staff demonstrated acute signs of stress during this period. Although we recruited 2 temporary members of staff to try and ease the workload, they were fully engaged in dealing with requests to go on the register, become a postal voter and appointing a proxy voter (the unscheduled nature of the election meant that quite a surprising number of voters were away from the constituency or said they wouldn’t be able to vote in person on the day). [Appendix 3](#) is a press release from the Electoral Commission which highlights all the extra work involved in the current registration process.

1.4.6. Members will be aware that a mistake was made with the first issue of postal ballot papers. A press release was issued ([Appendix 4](#)) to reassure postal voters and an effective remedy was put in place.

1.4.7. As matters transpired no postal voters were disenfranchised as a result of the error, and the final postal vote turnout figure was a high 87.1%. The General Election turnout figure for the East Devon constituency was 73.4% which was higher than the 2015 turnout figure.

1.4.8. One other interesting feature was that I hosted a delegation of Commonwealth Parliamentarians who acted as observers during the election. Their final report can be viewed as [Appendix 5](#) and provides a useful, objective assessment of the conduct of the General Election in the East Devon constituency. Their observations on the process were also reflected by the comments of the High Sheriff who declared the result, [Appendix 6](#).

1.4.9. The Electoral Commission has recently issued its report into the conduct of the 2017 General Election. It can be viewed as [Appendix 7](#) and I would highlight the following in particular;

‘...this positive overall picture should not mask wider risks to the administration of well-run elections, which are becoming increasingly apparent. ROs and electoral administrators face reduced resources and a growing number of skilled professionals are leaving local authority elections teams. They are also increasingly reliant on a relatively small pool of specialist software and print management suppliers’.

2. The Present

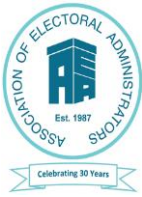
- 2.1. We have conducted a further 9 elections/referenda since the 2017 General Election and the high workload continues. There are currently 3 staff in the core elections team. I have also taken the opportunity of using training opportunities to encourage a wider range of staff to gain experience in relevant election issues. The Monitoring Officer has attended the Annual SOLACE/AEA elections masterclass and staff in the Legal & Governance Team have participated in the postal vote process for the recent Exmouth by-elections. This should help build greater resilience for the future. In addition, the Electoral Services Manager is working with the Customer Services Manager to ensure her staff are trained in accessing the electoral register in order to deal with registration queries and requests for postal and proxy votes. If this proves successful it should ensure that the core elections team are not distracted at crucial periods of the election process.
- 2.2. In February the team also participated in an AEA 'health check'. This is a new initiative by the AEA and they offered to work with us at no charge to help them develop the health check. The resulting health check document is attached to this report as **Appendix 8**. There are a total of 6 recommendations which are being implemented/further assessed. I would highlight in particular the following from their conclusion:
'East Devon District Council has an Electoral Services Team they should be proud of. They are delivering a good service to members and to the citizens of East Devon despite significant resource issues. They understand the importance of customer service and have made continued personal sacrifices to ensure all electoral requirements are properly met'

3. The Future

- 3.1. The May 2019 elections will be a challenge for a number of reasons: we will be operating with new wards, an additional councillor to be elected, and from new premises which won't have been tried and tested in terms of running a count etc. I would also highlight the Electoral Commission's comments in paragraph 1.4.9. We are finding it increasingly difficult to recruit suitable staff who are prepared to work on polling day.
- 3.2. Longer serving members will also be aware that traditionally we have had a number of decentralised counts around the district feeding into a main count centre. However, as a consequence of the issues I referred to in B1 a number of experienced polling station and count staff have indicated that they are no longer prepared to assist at election time. As it stands I haven't been able to reassure them that the levels of confrontation we have experienced recently will diminish. The prospect therefore of disproportionate behaviour by some candidates/agents not just at polling stations but also at decentralised counts, coupled with the legal requirements regarding postal vote validation are likely to mean that decentralised counts will not be possible.
- 3.3. At the present time I am preparing for the 2019 elections on the assumption that certainly more Polling Station Inspectors and maybe additional security will be required on polling day itself. This will be needed to respond to concerns from Presiding Officers about candidate/agent/supporter behaviour. As regards the Count itself the recommendations in Appendix 6 are being assessed. It may be that there will be no Thursday night count as the time post close of poll will be used to ensure safe delivery and storage of the ballot boxes at Blackdown House. Friday, Saturday and Sunday may be set aside for the counts (working normal hours); the count teams will be larger (but fewer in number) and the rules about attendance and behaviour at the count will be strictly enforced. The budgetary implication of this will be clarified nearer the time but it is the duty of the Council to make

available to the Returning Officer the resources he considers are required.

- 3.4. A final consideration relates to campaigning at polling stations. A new feature that manifested itself at the General Election was the appearance of campaigners outside polling stations, as opposed to the traditional tellers. A number of complaints were received about it happening and the impact it was having on voters. There were certainly reports of voter intimidation and heated arguments outside some polling stations.
- 3.5. The guidance from the Electoral Commission regarding tellers and campaigners is as follows:
If they are 'tellers' the guidance in sub para (f) states what tellers must not do in terms of displaying campaign material:
http://www.electoralcommission.org.uk/_data/assets/pdf_file/0006/141891/Tellers-dos-and-donts-generic.pdf
If they are campaigners, different guidance says they can put their message to voters outside polling places, para 3.1:
http://www.electoralcommission.org.uk/_data/assets/pdf_file/0011/179741/Code-of-conduct-for-campaigners-2015.pdf
'You should be careful, however, to ensure that your approach is proportionate and should recognise that groups of supporters may be perceived as intimidating by voters'
- 3.6. In the light of recent experience I will be preparing a guidance note for use at future elections.



ASSOCIATION OF ELECTORAL ADMINISTRATORS

**REPORT ON THE PROVISION OF
ELECTORAL SERVICES AT

EAST DEVON DISTRICT COUNCIL**

JOHN TURNER & LAURA LOCK

February 2018

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Health check report into the provision of electoral services at East Devon District Council

Introduction

The Association of Electoral Administrators (AEA) has introduced health checks as a service to members and their employing local authorities across the country in line with the Association’s aims and objectives.

The health check was undertaken by John Turner, AEA Chief Executive, who has more than two decades experience in reviewing electoral services functions in local authorities and Laura Lock, AEA Training Manager, who has been working in electoral services for 15 years.

The themes and criteria for the Health Check are outlined below –

Theme One – Legislation and Guidance	
1.1 Electoral Registration Legislation 1.2 Election Legislation 1.3 Performance Standards 1.4 Employment Legislation 1.5 Information Governance 1.6 Procurement and Contract Management	
Theme Two – Delivery	Theme Three – Resources
2.1 Customer Focus 2.2 Good Practice 2.3 Areas of Challenge 2.4 Lessons Learnt 2.5 Infrastructure 2.6 Budget Management	3.1 People 3.2 Internal Network 3.3 Communications 3.4 Skills and Knowledge 3.5 Continuous Improvement 3.6 Resilience

Background

The information below relates to East Devon District Council at the time the health check was undertaken and is pertinent to the report.

- There are approximately 116,000 electors on the Electoral Register
- There are around 11,500 permanent postal voters
- The Council has 59 members representing 32 wards who are elected every four years, rising to 60 members from 2019 as the result of a boundary review, although the number of wards will be reduced to 30
- The Council has 68 Parish or Town Councils
- The area has four parliamentary constituencies, with responsibility for one. The Council 'gives' electors to Mid and West Devon and 'receives' electors from Exeter.
- The Council was a Cabinet Office pilot for the 2017 annual canvass
- The Council uses the Express electoral management software

For the purposes of local government elections, the Chief Executive, Mark Williams has been appointed as the Proper Officer for electoral matters and therefore the Council's Returning Officer (RO). He has also been appointed as the Electoral Registration Officer (ERO) under the appropriate provisions of the Representation of the People Act 1983 and accordingly acts as the Acting Returning Officer (ARO) for any UK Parliamentary elections held within the East Devon District Council area.

Theme One – Legislation and Guidance

1.1 Electoral Registration Legislation

The Chief Executive has a legal background and keeps up to date on changes and legislative requirements impacting on his role and responsibilities. The Electoral Services Manager reports directly to the ERO and this structure greatly assists with the sharing of information, as well as the ERO being very actively involved with the management of the service and having a clear understanding of his personal responsibilities.

In addition, all members of the Electoral Services Team are members of the AEA and therefore receive regular updates from the Association.

The Council subscribes to legal updates from Schofield's Election Law.

1.2 Election Legislation

In addition to the areas outlined in section 1.1, the RO attends all Electoral Commission events and is in regular dialogue with the Electoral Commission.

The Council's Monitoring Officer is an appointed Deputy and has recently attended the Solace Elections Conference.

1.3 Performance Standards

The Electoral Services Manager provides the ERO/RO with information concerning the Electoral Commission's Performance Standards regime.

She submits all returns as required, once the information has been approved by the ERO/RO.

1.4 Employment Legislation

Currently, the Electoral Services Team are responsible for ensuring requirements relating to the RO's legal commitments are met, with HR and Payroll managing the employment and payment of canvassers.

Casual staff are recruited by the ERO/RO in accordance with East Devon District Council's HR principles and complete an application form.

Payroll assist the RO with the payment of election staff and returns to HMRC, but all checks of documentary evidence to ensure compliance with the right to work provisions in the Asylum and Immigration Act 1996 are carried out by Electoral Services staff.

There is a requirement for Returning Officers to have a pension scheme available to election staff and comply with the requirements of auto-

enrolment. We were unable to confirm that there is a pension scheme available and are concerned that, whilst some information has been provided to election staff, it may not be fully compliant with legal requirements. We believe the ERO/RO should review whether he has a pension scheme in place and whether all other requirements are being met as a matter of urgency.

We would also advise giving consideration as to whether there is capacity within the HR and Payroll team to manage the appointment of staff at major polls. This could include ascertaining availability, confirming appointments, making arrangements for the attendance of training and processing all payments. We recommend that as many elements as possible be shared with those who have expertise as part of their Council role. Having access to Express would enable assistance with staffing by HR and Payroll staff using part of the system that is straightforward and easy to learn.

There have recently been various conversations within the electoral community concerning whether election staff are entitled to holiday pay. Whilst there is still no firm decision on whether the RO is required to pay election staff for any holiday entitlement, we would advise the RO to seek his own legal advice on the matter.

Going forward, we would strongly recommend that all matters relating to the employment of casual staff for specific election duties, for example polling station and count staff, are the responsibility of the HR and Payroll team.

1.5 Information Governance

The ERO/RO ensures all information he holds is kept in line with the Council's data protection policy.

The ERO is a registered data controller with the office of the Information Commissioner and he also follows all guidance issued by the Electoral Commission.

There is a Fair Processing Statement on the website, but it is recommended that the Electoral Registration Officer has his own statement making it clear that the data he holds is distinct from data held by the Council. As the function is separate from that of the Council, a clear separate statement should be available.

Staff receive information regarding relevant data protection principles and canvassers receive training prior to them undertaking any duties. It is recommended that canvassers also receive written guidance and sign to confirm that they have read and understand the guidance and will act in accordance with it.

Consideration should also be given regarding the new requirements of the General Data Protection Regulation and how the ERO/RO will ensure the service is not in breach of this rules.

1.6 Procurement and Contract Management

The ERO's print provider is Electoral Reform Services. The RO's print provider is Latcham Direct.

Both these companies are specialist electoral printers and we believe this approach mitigates some of the risk of errors occurring, as has been the case in the past.

Whilst there appears to be a good working relationship between Council Officers and the suppliers, work is currently being undertaken regarding a framework agreement or a tendering process.

Whilst the AEA agrees that a procurement exercise should be undertaken and all necessary legislation complied with, it would advise caution with drafting any tender documents to ensure that quality is of at least as much importance as price. There are numerous examples of significant issues at elections as a result of procurement processes where the evaluation consideration was one primarily of cost.

The contract for the Electoral Management Software (EMS) (Express) is renewed annually.

No concerns were raised about the EMS and all staff believe the software is delivering the service required.

Theme Two – Delivery

2.1 Customer Focus

It is clear that the both the Council and Electoral Services Team put customer service at the forefront of delivery. Ensuring that customers receive the correct information in a timely fashion is very important to the Team.

There are customer commitments governing the service in line with those for the Council.

Currently, the Electoral Services Team take all phone calls relating to elections or electoral registration. This puts the Team under significant pressure particularly at peak times in their workload.

Consideration is currently being given to using the Customer Service Team to answer election phone calls. We would strongly recommend that the Customer Service Team answer all calls to the service throughout the year and have the ability to provide a comprehensive service to electors contacting the Council. This could include ensuring anyone contacting the Council as a result of moving house is offered the option of registering to vote over the telephone, allowing the Customer Service Team to send absent vote applications and invitations to register and being able to make amendments to the register to correct errors within agreed parameters.

It would also be worth exploring whether Customer Service staff can work additional hours on polling day in order to take the majority of enquires during the hours of poll.

Once the service is established, consideration should be given as to the ability of the Customer Service Team to respond to emails to the electoral services inbox and whether they could assist with the processing of postal vote applications. It would also be worth considering having dedicated email addresses to assist with this, for example postalvoting@eastdevon.gov.uk, proxyvoting@eastdevon.gov.uk and register@eastdevon.gov.uk.

2.2 Good Practice

There is clear evidence of good practice in many areas, for example:

- The ERO/RO takes an active involvement with the management of the service to ensure he is fully apprised of its workings and any challenges faced
- The Council ran a Cabinet Office pilot in 2017
- There is a commitment to invest in staff and ensure they have the resources and training they need

- A project team exists for election planning, chaired by the RO to ensure he is fully apprised of all key aspects of the process
- There is also a comprehensive project plan and risk register
- There is a public engagement strategy which shows a clear commitment to engage with residents.

2.3 Areas of Challenge

There are currently several areas giving cause for concern:

- The level of staff in the Electoral Services Team
- The support that is given to the Team by other Council services
- The working practices of the Team
- The relocation of the Council Offices
- The number of additional polls being conducted throughout the year
- The funding of training and development and the ability to improve working practices
- The impact of queries from political parties in advance of a poll
- The inability to recruit sufficient staff to work in polling stations

These areas of challenge will be further discussed throughout this report.

2.4 Lessons Learnt

It was encouraging to discuss areas for improvement with the RO based on his experiences since 2015.

There is a clear understanding of the issues over the last few years and engagement with Councillors on the steps necessary to deliver a robust electoral process.

Steps have been taken to ensure the mistakes of the past are not repeated, but we have some concerns as to whether there is sufficient infrastructure and resilience to put the Team in the best possible place prior to all out elections in 2019.

We would also suggest that consideration is given to the lessons of previous election counts and whether sufficient space will be available in the new Honiton offices. If there is judged to be limited space, then consideration should be given to either splitting counts over two venues or using a Council owned sports hall. The need for space for multi-member counts shouldn't be underestimated and suitable accommodation is an area of key importance.

There should be a strict adherence to access to the count and a system used to ensure only those entitled to be present are able to attend. This will assist with issues relating to the size of the count venue.

We would also stress the importance of considering when is the best time to count any Parish and Town ballot papers next May to ensure staff are not working excessive hours without a break.

2.5 Infrastructure

The Electoral Services establishment list consists of:-

- Electoral Services Manager – full-time
- Electoral Services Officer – full-time
- Electoral Services Assistant – full-time (not currently in post)

This equates to three full-time equivalents for an electorate just shy of 120,000 electors.

2.6 Budget Management

The Council recognises the need to ensure sufficient resource is available to fund both elections and electoral registration.

The Electoral Services Manager is responsible for preparing all budgets and completing national election accounts for sign off by the RO. We believe that consideration should be given to the practice of using the skills and expertise of the Council's accountancy staff to complete national election accounts.

We understand the budget for the 2019 elections will be sufficient to meet all statutory functions. We would draw attention to the need to ensure there is sufficient funding for all necessary registration activities in relation to both the local elections and the duties of the ERO.

Funding for the additional responsibilities relating to IER are only guaranteed until 2020. Consideration should be given now as to how the additional burdens will be funded should the Government grant designed to enable the new ERO duties to be undertaken be removed or not continued at the current level.

Theme Three – Resources

3.1 People

In the past, there has been a clear distinction made in terms of the resources required in advance of a poll or during the canvass period as opposed to the ongoing requirements throughout the year. However, in recent times, this distinction has diminished as a result of new polls being introduced. To illustrate this, excluding scheduled elections or referendums, since October 2015 the Electoral Services Team has run 20 polls including a UK Parliamentary General Election, a national referendum and three Neighbourhood Planning Referendums. The rest of the polls were District or Parish by-elections. The number of unscheduled polls means that resources need to be in place and sufficiently adaptable to meet the ever-growing demands on electoral services teams.

Staffing Structure

We believe there are insufficient staff in the current structure to carry out the legal duties of the ERO and RO.

Whilst it is difficult to fully assess because of the unexpected national polls, a canvass pilot and frequent changes to staffing levels, based on the size of the authority and the ongoing requirements relating to both elections and electoral registration, we believe more resource is necessary.

Whilst there is no agreed ratio for the number of staff who should be employed per elector, the Electoral Commission quoted an independent review of electoral services which suggested an average of 40,000 electors per full-time member of staff in addition to a full-time manager¹. However, it is important to note that this report was written in 2008 before the introduction of IER and the plethora of new responsibilities relating to new elections and referendums and the requirements of Community Governance Reviews. It was also based on a London borough that did not have the added complications of parishes.

Using the established ratio and the additional factors outlined above, we would therefore recommend East Devon has four full-time staff employed to undertake their electoral services function, an increase of one full-time member of staff based on the current establishment list.

1

https://www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0018/56034/Designing-A-New-ES-Final.pdf

We make this recommendation on the understanding that other areas of the Council will start to provide additional support. Without this support, at key times in the electoral calendar, further staff would be necessary.

Staffing at Election Time

The suggestion has already been made as to whether the Customer Service Team and the HR/Payroll function could provide additional assistance, but a review of additional requirements needs to be undertaken at least twelve months in advance of any scheduled poll. This would include investigating further options for providing support from other Council staff. For example, ensuring that no member of the core team is required in connection with the issue or opening of postal votes would allow additional capacity at a key time.

At recent polls there appears to be some evidence that the core team are required to undertake duties that were not originally planned and this impacts their ability to deliver their primary role. Prior to any future major poll, staffing resources should be thoroughly considered so it is not necessary to use the Electoral Services Team for tasks outside their planned role.

The new system for using temporary staff appears to mean the Team cannot re-employ those with experience in the electoral services office, as they have in the past. Consideration should be given as to whether this is in the best interests of the service, whilst also remembering that they are being employed by the ERO/RO rather than the Council.

Another area of challenge that is particularly evident at election time is the number of queries and questions generated by some political parties. The volume of enquiries is having a detrimental impact on the Team's ability to deliver the election. Consideration should be given to an officer outside of the core team being the point of contact for enquiries from political parties so that as many questions as possible can be answered without the involvement of the electoral services staff.

It has become clear that there are less people willing to work in polling stations and recruitment is becoming an issue. Consideration should be given to a recruitment campaign early in 2019 to encourage new staff to work for the RO and to promote Poll Clerks to Presiding Officers. This is an area of work which we would be able to support should assistance be required.

Working Practices

During the election timetable, the Electoral Services Manager relocates to another room in the building, based on historic practices when elections and electoral registration were run as two separate functions. This

approach gives several reasons for concern and we would recommend that, going forward, the Team remain co-located throughout the whole election process.

One of the main benefits of the Electoral Services Manager moving out of the office is the volume of calls received and the impact of these interruptions on processes that need a significant amount of concentration. If our recommendations regarding using the Customer Service Team are taken forward, the working environment would be both more conducive and productive.

Health and Wellbeing of Staff

We feel it important to mention that the personal impact of the last few years is clearly still felt by staff and would recommend that consideration is given as to whether sufficient support relating to stress, resilience and change management is in place for members of the Electoral Services Team.

3.2 Internal Network

Resource Support

As has previously been mentioned, we believe the Customer Service Team should take all phone calls to electoral services and ideally be able to help with emails at peak times.

We also think it is in the best interests of the RO and Electoral Services Team to give the responsibility for postal voting to another area of the Council. There are many examples where Democratic Services assist with this function as April is often a quieter time in their calendar and this approach works well. The Monitoring Officer has also indicated that he is interested in taking more responsibilities for elections and may be willing to manage this process.

On the subject of postal voting, consideration is currently being given to outsourcing the process of issuing postal votes. There are benefits and drawbacks to outsourcing so the AEA does not make a recommendation on whether the process should be outsourced or remain in-house (with stationery provided externally). However, outsourcing brings clear capacity benefits, especially if external checks are made by an officer outside of the core team, for example an auditor. We would recommend that a thorough analysis of both options is undertaken.

Office Location

In December 2018, East Devon District Council's main offices will relocate to Honiton.

There are some concerns about ensuring the Electoral Services Team has sufficient storage for sensitive paperwork, such as Invitations to Register and absent vote applications. These applications have personal data and need to be confidentially stored.

There are also numerous documents relating to elections that need to be retained for statutory time periods and are accessible should inspection be required.

In addition to this, there are items of election equipment that need to be safely stored, for example polling booths and ballot boxes.

As well as storage issues, the Team have two large scanners as well as two small scanners that need to be used on a regular basis and they have some concerns as to whether they will fit on the new sized desks. Whilst this may seem like a minor point, it is imperative that sufficient space is available to allow the Team to process A3 forms in significant volumes throughout the year, but especially during the canvass.

3.3 Communications

The Communication Team has written a Public Engagement Strategy on behalf of the Electoral Services Team and the two teams operate closely on all activity relating to elections and electoral registration. A member of the Communication Team sits on the Election Project Team.

There is good publicity on the Council's Twitter and Facebook accounts to publicise the major polls, but more could arguably be done around by-elections and Neighbourhood Planning Referendums.

The electoral pages on the Council's website are maintained by the Electoral Services Team. This arrangement appears to work well as they are able to ensure information is available in a timely fashion. We would however encourage there to be other options available should capacity become an issue for a particular reason.

3.4 Skills and Knowledge

The Team appears keen to develop their skills and knowledge. The Electoral Services Manager has undertaken the AEA Foundation course, as has the Electoral Services Officer. The Electoral Services Manager is currently studying for her Certificate in Electoral Administration.

Both the Manager and Officer recently attended a course on administering Parish Council elections.

However, the courses mentioned above are the only training that has been provided for the staff and there is limited budget to provide further development.

Particular areas where further development might be beneficial are the attendance on Express User Groups (days designed to ensure users are aware of changes to the Electoral Management System and that they are making best use of the system) and specialist training on matters such as Employment and Information Governance and Community Governance Reviews.

3.5 Continuous Improvement

Whilst it is clear that the Council value their staff and there is a Performance Appraisal process in place across all employees, there appear to be limited avenues for staff to ensure their electoral knowledge remains up to date.

As there are no scheduled elections in May 2018, notwithstanding there will doubtless be a number of polls throughout the year, we believe 2018 would be an ideal time for all Team members to actively take part in job shadowing at Councils with elections. This will enable the Team to see different ways of working and then use this experience to reconsider current practices in East Devon.

We also believe it is important that the members of staff continue to attend AEA South West Branch meetings and to use this support network to continually develop their working practices.

3.6 Resilience

As highlighted in section 3.1, there is limited resilience within East Devon's Electoral Service Team and support network. Whilst the ERO/RO is clearly mindful of how resilience might be improved, clear steps need to be taken to share skills and knowledge in order to mitigate risk, as well as sharing the responsibility for certain functions.

We would also consider it prudent to look at the process notes available for key processes and develop a comprehensive set of notes for all significant duties.

If implemented, many of the suggestions in this report will improve the resilience of both the Team and the delivery of the service, but in addition, we believe the ERO/RO should consider how to address succession planning. There is a clear shortage of experienced electoral services staff nationally as evidenced by the number of vacancies recently advertised. There is great merit in the principle of 'growing your own' and this should be carefully considered, possibly considering career-graded posts or apprenticeships.

Conclusions

East Devon District Council has an Electoral Services Team they should be proud of. They are delivering a good service to members and to the citizens of East Devon despite significant resource issues. They understand the importance of customer service and have made continued personal sacrifices to ensure all electoral requirements are properly met.

The ERO/RO is aware that there is a need to increase the resilience of the Team and provide additional capacity at key times in both the election and electoral registration timetables. He has also demonstrated a clear understanding of his role.

We believe a Council-wide approach to delivering elections is beneficial and will help mitigate risk at future polls. We feel consideration of issues relating to staffing levels and staff development will also assist with future delivery. We would also raise concerns for how well the staff transition to their new working environment.

Whilst none of the issues raised within this report are cause for immediate concern, there are numerous areas worthy of thorough consideration and we believe that if additional resource is not made available, there is a significant risk that the legal duties of the ERO/RO will at some point not be carried out.

Key Recommendations

- To increase the establishment to four full-time members of staff
- To consider expanding responsibilities in relation to electoral services functions to other areas of the Council e.g. using the skills and expertise of the Council's Customer Services Team to answer resident enquiries
- To review processes related to the employment of casual staff to ensure all legal responsibilities are being met
- To ensure comprehensive process notes exist for all key functions
- To consider the arrangements for election counts once space at the new office becomes clear
- To ensure sufficient storage, secure facilities and working space is available to the Electoral Services Team at the new office in Honiton

Appendix One – The Legal Position of the Electoral Registration and Returning Officer

Each Council is required to appoint one of its Officers as the Returning Officer for the purposes of local government elections at principal area level and to appoint one of its Officers as the Returning Officer for the purposes of any parish council elections within the authority's area.²

The Council is also required to appoint one of its Officers as the Electoral Registration Officer.³ The Electoral Registration Officer of the Council becomes the Acting Returning Officer for the purposes of the conduct of UK Parliamentary elections.⁴

The Council which has appointed that officer is required to provide the officer with sufficient resources to conduct local government elections and to pay the costs thereof.⁵ In terms of UK Parliamentary elections, the costs are borne by Government through the Consolidated Fund.

The Returning Officer may appoint deputies to assist with the conduct of the election. Such deputies may be appointed with "full powers" (i.e. the power to undertake any duties which are formally the responsibility of the Returning Officer) or with "limited powers" (i.e. the powers specifically identified in the form of appointment).⁶

² Representation of the People Act 1983 (RPA), section 35(1)

³ RPA 1983, section 8

⁴ RPA 1983, section 28

⁵ RPA 1983, section 36(4)

⁶ RPA 1983, section 35(4)

Appendix Two – The Legal Position regarding the relationship of the Electoral Registration Officer/Returning Officer to the Council

As noted above, a Council has to appoint one of its Officers as the Returning Officer for its elections (or parish council elections) and then provide the necessary resources to allow that officer to properly conduct the election. Once appointed, the Returning Officer is in a statutory office and has a separate legal entity to that of the Council which appointed him/her. The same principle applies to that officer's appointment to the role of Acting Returning Officer (ARO) as it is held directly by virtue of the officer's appointment as Electoral Registration Officer.

On this basis, it could be suggested that the Electoral Registration Officer or the Returning Officer are not fettered by the Council's normal procedures in terms of carrying out electoral registration duties and conducting elections or subject to direction or instruction from members of the Council in respect of the discharge of the responsibilities falling to the statutory offices. This reflects the position enshrined in statute that an independent officer is responsible for the proper conduct of these matters "without fear or favour" and this position was tested and confirmed by a case heard in the Queen's Bench Division of the High Court in 1993⁷ and involving Milton Keynes Borough Council and its Electoral Registration Officer.

⁷ Case CO 1781/93

Scrutiny Committee Forward Plan 2018/19

Date of Committee	Report	Lead
22 Nov 2018	Service Plan Review (Specific plans Tbc by Committee) Street Trading (Tbc by Committee)	Strategic & Service Leads, Relevant Portfolio Holder/s Steve Saunders – Licensing Manager
16 Jan 2019	Joint Budget meeting with Overview Committee	
7 Feb 2019	Service Plan Review (Specific plan Tbc)	
7 Mar 2019	Service Plan Review (Specific plan Tbc)	
4 Apr 2019	Service Plan Review (Specific plan Tbc)	

Work for allocation to the Forward Plan as appropriate:

Proposed date	Topic
tbc	Service Plans & associated budgets – rolling programme. Specific order to be confirmed.
tbc	STRATA Service delivery
tbc	Invite to the Police & Crime Commissioner to attend a meeting to discuss issues such as Anti-Social Behaviour, Vandalism and the reducing presence of Police Officers. (Awaiting confirmation of date).
Update report to be provided to committee for information	Update from Estates Team one year after recruitment of Property Records Officer and Business apprentice (from approved 2017/18 budget)

Topics put forward for further information or for scoping that remain outstanding are:

- Fly tipping - Charges and associated issues (Cllr Rylance)
- Broadband issues
- Street trading – put back from October meeting to November due to a full agenda

- The role of the District Councillor in communication with local Town or Parish Councillor in dissemination of information from a district level (as linked to consultation on changes in service provision or charges that impact at a local level);
- Implications for the council following publication of the council guide on modern slavery by the LGA