



**Agenda for Extraordinary Council  
Wednesday, 6th March, 2024, 6.00 pm**

To: All elected Members of the Council; Honorary Aldermen

**Venue:** Council Chamber, Blackdown House, Honiton

**Contact:** Andrew Melhuish, Democratic Services Manager;

(or group number 01395 517546)

Issued Monday, 26 February 2024; republished 01 March 2024

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This meeting is being recorded for subsequent publication on the Council's website and will be streamed live to the [East Devon District Council YouTube channel](#)

Dear Sir/Madam

**Meeting of the Council of the District of East Devon on  
Wednesday, 6th March, 2024 at 6.00 pm**

You are called upon to attend the above meeting to be held in the Council Chamber, Blackdown House, Honiton. It is proposed that the matters set out on the agenda below will be considered at the meeting and resolution or resolutions passed as the Council considers expedient.

Yours faithfully

A handwritten signature in black ink that reads "M. Wellman".

Interim Chief Executives: Melanie Wellman, Simon Davey and Tracy Hendren

1 **Apologies**

2 **Declarations of interest**

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

3 **Public speaking**

Information on [public speaking](#) is available online

4 **Scrutiny Improvement Review and Scrutiny Protocol** (Pages 3 - 37)

5 **Exmouth Emergency Wall Project** (Pages 38 - 49)

Please note that a motion will be moved without notice to suspend Procedural Standing Orders (4.1 of part 4: Rules of Procedure in the constitution) paragraph 3.2 to enable the meeting to suspend the rule that extraordinary meetings shall be limited to a single item of business.

Under the Openness of Local Government Bodies Regulations 2014, any members of the public are now allowed to take photographs, film and audio record the proceedings and report on all public meetings (including on social media). No prior notification is needed but it would be helpful if you could let the democratic services team know you plan to film or record so that any necessary arrangements can be made to provide reasonable facilities for you to report on meetings. This permission does not extend to private meetings or parts of meetings which are not open to the public. You should take all recording and photography equipment with you if a public meeting moves into a session which is not open to the public.

If you are recording the meeting, you are asked to act in a reasonable manner and not disrupt the conduct of meetings for example by using intrusive lighting, flash photography or asking people to repeat statements for the benefit of the recording. You may not make an oral commentary during the meeting. The Chairman has the power to control public recording and/or reporting so it does not disrupt the meeting.

Members of the public exercising their right to speak during Public Question Time will be recorded.

[Decision making and equalities](#)

**For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546**



Report to: Council

Date of Meeting 6 March 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

## **Scrutiny Improvement Plan and Scrutiny Protocol – Recommendation from Joint Meeting of Scrutiny Committee, Overview Committee and Housing Review Board on 15 February 2024**

### **Report summary:**

This report sets out the Scrutiny Committee, Overview Committee and Housing Review Board recommendations to Council arising from their consideration of the Scrutiny Improvement Review from the Centre for Governance and Scrutiny. The report also sets out the Scrutiny Protocol considered at the same meeting.

Note: The references in this report to Paper A and Paper B relate to the relevant reports considered by the Scrutiny Committee, Overview Committee and Housing Review Board containing specific recommendations for Full Council to consider and are appended to this report for reference.

### **Is the proposed decision in accordance with:**

Budget Yes  No

Policy Framework Yes  No

### **Recommendation:**

1. To note the letter and recommendations from the Centre for Governance and Scrutiny arising from the scrutiny improvement review attached at Paper A.
2. To request that the Democratic Services Manager prepares an Action Plan identifying the resources required to deliver the eight recommendations from the Centre for Governance and Scrutiny.
3. To present the Action Plan to a joint meeting of the Scrutiny Committee, Overview Committee and Housing Review Board by 30 April 2024.
4. To approve the draft Scrutiny Protocol attached at Paper B Appendix A.

### **Reason for recommendation:**

To improve the ways of working at East Devon District Council in respect of the Council's overview and scrutiny function to ensure that the function can be carried out effectively.

To ensure that the role of the Scrutiny Committees and the relationship with the Cabinet is clear, effective and is consistent with best practice.

Officer: Andrew Melhuish, Democratic Services Manager ([andrew.melhuish@eastdevon.gov.uk](mailto:andrew.melhuish@eastdevon.gov.uk) )

Report to: **Overview Committee**

Joint meeting Scrutiny Committee, Overview Committee and Housing Review Board

Date of Meeting 15 February 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



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## **East Devon District Council Scrutiny Improvement Review – Centre for Governance and Scrutiny**

### **Report summary:**

The Centre for Governance and Scrutiny (CfGS) were commissioned by East Devon Council to conduct a scrutiny improvement review following a Motion at Full Council in July 2023.

The work took place in October and November 2023 ahead of the LGA Corporate Peer Challenge (CPC) Peer Review which is scheduled to commence in early 2024. The findings from the review can be used to ensure that the Overview and Scrutiny function has the arrangements in place to support and maintain ongoing improvement at the council, further to the CPC's outcomes.

To deliver the recommendations contained in the CfGS review an action plan and timetable to identify the necessary resources will be developed and report back to members in April 2024.

### **Is the proposed decision in accordance with:**

Budget                      Yes  No

Policy Framework      Yes  No

### **Recommendation:**

To note the letter and recommendations from the Centre for Governance and Scrutiny arising from the scrutiny improvement review.

To request that the Democratic Services Manager prepares an Action Plan identifying the resources required to deliver the eight recommendations from the Centre for Governance and Scrutiny.

To present the Action Plan to a joint meeting of the Scrutiny Committee, Overview Committee and Housing Review Board by 30 April 2024.

### **Reason for recommendation:**

To improve the ways of working at East Devon District Council in respect of the Council's overview and scrutiny function to ensure that the function can be carried out effectively.

Officer: Andrew Melhuish, Democratic Services Manager ([andrew.melhuish@eastdevon.gov.uk](mailto:andrew.melhuish@eastdevon.gov.uk) )

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Portfolio(s) (check which apply):

Climate Action and Emergency Response

- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

### **Equalities impact** Low Impact

The proposal to develop and prepare an action plan will assess any equality implications arising.

### **Climate change** Low Impact

**Risk:** Low Risk; The recommendations in the CfGS review will ensure that overview and scrutiny has the arrangements in place to support and maintain ongoing improvement at the Council.

### **Links to background information** N/A

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

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### **Report in full**

The Centre for Governance and Scrutiny (CfGS) were commissioned by East Devon Council to conduct a scrutiny improvement review following a Motion at Full Council in July 2023.

The work took place in October and November 2023 ahead of the LGA Corporate Peer Challenge (CPC) Peer Review which is scheduled to commence in early 2024.

The review explored the following areas:

1. Organisational commitment and clarity of purpose
2. Members leading and fostering good relationships
3. Prioritising work and using evidence well
4. Having an impact and value

The findings from the review can be used to ensure that the Overview and Scrutiny function has the arrangements in place to support and maintain ongoing improvement at the council, further to the CPC's outcomes.

In January 2024 the CfGS issued feedback on their review findings and offered suggestions on how the Council could develop its scrutiny process.

The full findings are set out in Appendix 1 and include eight key recommendations as follows:

### **Organisational commitment and clarity of purpose**

#### **Recommendation 1**

That the current structure of three committees is maintained but that work takes place to ensure that they operate in a complementary manner. This recommendation should include a rework of the terms of reference for the three committees.

### **Recommendation 2**

That consideration is given to providing a short term investment to the scrutiny function to ensure that the actions and recommendations arising from this report can be implemented and that 'added value' scrutiny can take place. This recommendation might include backfilling some of the secretariat functions to allow democratic services officers to utilise their skills to providing additional support to the scrutiny function with a view to making this change permanent if the additional investment realises impact and a clear business case can be made.

### **Members leading and fostering good relationships**

#### **Recommendation 3**

That the three scrutiny committees are assigned a senior officer to provide expertise and advice to guide and support each of the respective Chairs and to retain oversight of the function, work programmes and help ensure that they work within their terms of reference and within the scrutiny protocol.

#### **Recommendation 4**

That the Council provides learning and development opportunities for all Elected Members to include (but not limited to) the following areas:

- Questioning skills
- Scoping and Managing In-depth scrutiny
- Making recommendations
- Access and use of information and work programming
- An indepth look at the scrutiny protocol and terms of reference for the committees, focusing on expectations, behaviours, and garnering ongoing support for participation.

### **Prioritising work and using evidence well**

#### **Recommendation 5**

That the approach to work programming for scrutiny is redesigned so that the work programme is anchored by long term strategic issues for East Devon. This should include (but not limited to)

- Capacity to conduct in-depth scrutiny outside of the formal meetings
- Regular collaboration with scrutiny Chairs which might involve
  - routine sharing of work programmes for committees or possibly the consideration of the development of a single work programme for the entire function which is agreed annually. (with scope to flex throughout the year)
  - Chairs to collectively decide on member suggestions on proposal forms for what goes on the work programme – based on clear criteria that members themselves agree – process should look and feel challenging. Forward Plan could also go to this meeting for discussion (Portfolio Holder reports could go here too)

- Planned space on the work programme for detailed scrutiny of forthcoming decisions in a way that is planned in advance – for most complex / contentious issues – allowing for managed and proportionate political debate.
- Use insight from the public (ward work, corporate complaints) to inform work programming – in a proportionate way.
- Proactively share Forward Plan with members outside of committee; signpost members to background reports where necessary.
- Organise separate All- member briefings for members on forthcoming / high profile things which are for information rather than taking up space on the formal agenda.
- Continue with production of regular Portfolio Holder reports but integrate this better into work programming.

### **Recommendation 6**

Consideration of cross-party pre-meetings being held (ideally) before the meeting and led in a way that helps committee members prepare for scrutiny sessions by reviewing the key lines of enquiry and coordinating their questioning approaches.

### **Recommendation 7**

Provide development support and training for Officers across the Council to build, refresh and enhance their knowledge and understanding of the role, purpose, and powers of scrutiny. This should also include the approach to report writing and presenting and answering questions at committee meetings.

### **Having an impact**

### **Recommendation 8**

We recommend that a process is designed and implemented that tracks recommendations made and impact arising and that this is communicated back to all Elected Members.

An action plan, including a timetable for completing actions, will need to be developed to support the recommendations, including identifying any resources required to deliver the recommendations from CfGS.

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### **Financial implications:**

No direct financial implications arise from the report; however, resource implications may follow from the development of the action plan.

### **Legal implications:**

There are no substantive legal issues to be added to this report

Simon Davey, Tracy Hendren and Melanie Wellman  
Interim Chief Executives  
East Devon Council  
Blackdown House  
Border Road  
Heathpark Industrial Estate  
Honiton  
EX14 1EJ

16 January 2024

Dear All,

## **Scrutiny Improvement Review – CfGS consultancy support**

I am writing to thank you for inviting the Centre for Governance and Scrutiny (CfGS) to carry out an evaluation of East Devon District Council's scrutiny function. This letter provides feedback on our review findings and offers suggestions on how the Council could develop its scrutiny process.

As part of this feedback stage, we would like to facilitate a series of workshops with Members and Officers to reflect on this review and to discuss options for improvement.

### **1. Introduction**

The Centre for Governance and Scrutiny were commissioned by the Local Government Association and East Devon Council to conduct a scrutiny improvement review following a Motion at Full Council in July 2023. The work took place in October and November 2023 ahead of the LGA Corporate Peer Challenge (CPC) Peer Review which is scheduled to commence in early 2024. It is hoped that the findings from this review can be used to ensure that Scrutiny has the arrangements in place to support and maintain ongoing improvement at the council, further to the CPC's outcomes.

The review found that there was a drive to improve ways of working at East Devon and many of those spoken to, as part of the review, were optimistic about the future. That said, there are a number of practices and behaviours which are impinging on the ability for the Council's Overview and Scrutiny function to carry out its role effectively.



The review explored the following areas:

1. Organisational commitment and clarity of purpose
2. Members leading and fostering good relationships
3. Prioritising work and using evidence well
4. Having an impact and value

There are currently three committees that sit within the Overview and Scrutiny function in East Devon as follows:

### Overview

- The Overview Committee's remit covers assisting the Council and Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues.
- The committee is chaired by a member of the Democratic Alliance Group.
- There are 13 members on the committee.
- Between June 2022 and 12 October 2023, the committee met 3 times.

### Scrutiny

- The Scrutiny Committee's remit is to review how the Council is delivering services and working for the public and to check that policies have been implemented effectively.
- The committee is chaired by a member of the Conservative Party.
- There are 14 members on the committee.
- Between June 2022 to 5 October 2023, the committee met 15 times.

### Housing Review Board

- The Housing Review Board considers matters relating to the council's landlord and housing management functions.
- The committee is chaired by a member of the Democratic Alliance Group.
- There are five Councillors, five tenants and leaseholder representatives, and two independent community representatives on this Board. The non-councillor members are co-opted members and have the right to vote.
- Between June 2022 and October 2023, the committee met 5 times.

The work of the committees is overseen by the Democratic Services Team who support these committees alongside a range of other regulatory committees and responsibilities. Each committee is also supported by a solicitor from the Council's Legal Services Team.

## 2. Methodology

CfGS's scrutiny improvement reviews (SIRs) follow a standard methodology, which involves some flexibility to incorporate whatever bespoke elements authorities need in order to take account of local circumstances. The standard methodology can be found at [www.cfgs.org.uk/sir](http://www.cfgs.org.uk/sir) .

Full details of the evidence gathering;

- The survey was sent to 82 individuals (60 Elected Members and 22 officers)
- 39 people (28 Elected Members and 11 officers) completed the survey which was a 48 % response rate;
- carried out 23 interviews,
- reviewed agendas, minutes and reports of overview, scrutiny and housing review board meetings;
- observed recorded meetings;
- observed an Overview meeting in person, and;
- explored work programming and topic prioritisation.

The review was conducted by:

- [REDACTED] – Senior Governance Consultant, CfGS
- [REDACTED] – Researcher, CfGS

Quality Assurance and oversight was provided by:

- [REDACTED] Head of Consultancy, CfGS

### 3. Findings

#### 3.1 Organisational commitment and clarity of purpose

##### 3.1.1 Scrutiny's overall role and purpose

The survey identified issues at East Devon in relation to the communication and collaboration between the three overview and scrutiny committees. There was a call for clearer communication, better collaboration and wider understanding of the functions and remits of each and also in relation to the role that people play within the structure (which is picked up in greater depth in section 3.2).

Research from previous reviews conducted by CfGS has found that committee structures can be a sticking point in relation to the quality of scrutiny's work and impact. There is often a belief that if structures are altered then the effectiveness of scrutiny will increase.

The review found that both members and officers find the current structure difficult to navigate. Some members suggested that that topics are sent to the Overview Committee to gain an easier experience, rather than understanding the role it plays in pre-decision scrutiny. Suggestions were made in relation to new structures at East Devon, in both the survey and interviews, which varied in nature. Some respondents suggest merging the two 'Overview' and 'Scrutiny' committees to create a more unified structure with thematic committees. Other suggestions included more clarity on the roles and responsibilities of the different committees. It is crucial to note that structural changes on their own rarely lead to lasting improvement and analysis into CfGS annual national surveys shows no clear link between the structural arrangements and scrutiny's overall effectiveness.

There is a call for the Housing Review Board to be refocused and reinvigorated. This was noted from a number of the interviews carried out with concerns in relation to the number of information items, and misunderstanding in relation to its role by a number of the committee members (both elected members and co-opted members). Whilst officers note the importance of this group, from a regulatory perspective, this view was not mirrored by the elected members. Desktop research of documents relating to this Board found that agendas are often heavy, with multiple items 'to note' rather than providing the committee with an active role.

There is a clear need for this group to be doing more active and impactful scrutiny, with its principle function being defined alongside a push to encourage members of the board to arrive at the meetings ready to engage in this important work. It is pleasing to note that work has already started to take place in relation to improving ways of working, and that the new leadership team have a clear vision on how this committee could strengthen its approach.

The review found a distinct difference between the operation of the Scrutiny committee, Overview committee and Housing Review Boards. Each operates in a slightly different way. It was also noted that, at present, there is no mechanism for chairs to meet together to discuss ways of working and future agendas. In order to gain clarity and organisational commitment to scrutiny, it is important that there is a consistent understanding and set of behaviours across the entire function, and this is currently lacking in East Devon.

### **3.1.2 The extent to which scrutiny is supported by the organisation generally.**

The survey also raised a theme in relation to organisational leadership and the importance of a cultural change to support successful scrutiny. This theme was also reiterated through the interviews conducted; however, people were largely positive about the direction of travel in this area and cited the new senior management leadership team as being highly effective and competent in their roles, and that the team provides real hope and ambition for the future. All of those spoken to want to improve the way that governance systems operate in East Devon which provides strong building blocks for the recommendations emerging from this report.

### **3.1.3 Resourcing**

Currently the Democratic Services Team coordinate the work of the three overview and scrutiny committees alongside a range of other responsibilities. This limits the team's capacity to be able to provide enhanced support to the scrutiny chairs and wider committee members. Whilst it is not unusual to not have a dedicated scrutiny officer, it should be noted that scrutiny requires a level of support that is different to that of Democratic Services. Whilst the Secretariat Function forms one element of this support, there are wider areas to be taken under consideration for scrutiny to be able to play an enhanced role and work towards parity of esteem with the Cabinet, this includes policy support and research.

In order to effectively implement the recommendations within this report there will be a need to consider whether the current officer resource dedicated to this area is adequate. It is important to note that the team who currently support the Overview and Scrutiny function are well respected by elected members who are appreciative of the guidance received; however, note that the team are stretched, and that additional resource would be welcomed. In parallel to this, the team clearly have experience and enthusiasm to improve the quality of scrutiny at East Devon. Whilst it is understood that there may be limited scope to provide an additional resource to the function, opportunities should be explored in relation to whether the resources are currently being used in the best possible way.

## 3.2 Members leading and fostering good relationships

### 3.2.1 Member leadership

Findings from the survey and interviews highlighted a general lack of confidence in the effectiveness of the Scrutiny Function. Several responses to the survey hinted at political tensions within the scrutiny process, referencing perceived biases and challenges in maintaining a non-partisan approach to scrutiny's work. This was also reiterated in a number of the interviews conducted. This lack of confidence impacts on good relationships within the function.

It is important that chairs are independently minded and that they are people that can lead the way for their respective committees. There is some historic practice at East Devon, that is impacting on the ability to foster a more positive culture around leadership of the function. Moving forward, it will be crucial for chairs to have support from senior leaders to provide advice and guidance in relation to moving towards a more consensual culture across the three Overview and Scrutiny Committees.

### 3.2.2 Member engagement

A theme emerged through the review in relation to member engagement. This was noted through lack of attendance and contributions at formal meetings and also some lack of attendance at training and development sessions. There was recognition that the training sessions at the Council were of excellent quality; however, there were a cohort of members who did not attend such sessions. It was felt that while some councillors are effective within their own Wards, they have limited interaction with wider council business. It was noted that the timing of meetings could impact on member attendance; however, consensus reached that there was never an ideal fit for all councillors since other commitments were varied.

In the survey, some respondents expressed dissatisfaction with the frequency and reliability of meetings, in particular the Overview Committee. Details in relation to the scheduling of meetings is provided below:

#### Overview

- For the period June 22 to October 23 (inclusive) there were 9 scheduled Overview meetings.
  - 3 meetings out of the 9 took place.
  - Of the 6 that were cancelled:
    - 1 was postponed (to 13/10/22) due to national mourning following the Queen's passing (15/09/22)
    - 1 was inquorate (13/10/22)
    - 4 were cancelled as there were no items for the agenda (10/11/22, 19/01/23, 23/03/23, 14/09/23)



## Scrutiny

- For the period June 22 to October 23 (inclusive) there were 13 scheduled Scrutiny meetings.
  - 15 meetings were held (there were 2 additional meetings with South West Water in November 2022)
  - 1 meeting out of the 13 scheduled was cancelled (April 2023 due to Purdah, which was replaced by a meeting in March)
  - No other meetings cancelled during that period.

## Housing Review Board

- For the period June 22 to October 23 (inclusive) there were 6 scheduled Housing Review Board meetings.
  - 5 meetings were held
  - 1 meeting (November 2022) meeting was cancelled due to lack of business.

The evidence above suggests some issues with the scheduling and quoracy of meetings and member ownership of the agendas. This can inevitably lead to members feeling somewhat disengaged.

### 3.2.3 Relationships between Cabinet and scrutiny

Relationships between the Cabinet and Scrutiny showed some room for improvement, both from the survey analysis and in the interviews undertaken. There is a lack of trust between political groups and wariness about the way that both the Overview and Scrutiny Committee undertakes its role. (This issue did not extend to the Housing Review Board). Desktop research and analysis of the minutes and recordings of meetings also highlighted some tension in this area and an unusual practice in relation to the former Chair of the Scrutiny Committee drafting and presenting reports to the committee. These reports appear to be lacking in technical detail from Council officers. Such reports pose a risk in relation to accuracy of information, and therefore, the ability of scrutiny to carry out its role as effectively as it could. This also impacts on the relationship between Scrutiny and the Cabinet.

Scrutiny should be a critical friend to the Cabinet; however, there will undoubtedly be a need for scrutiny to conduct pieces of work or investigate areas that can feel counterproductive to the Cabinet. In East Devon, this often plays out as a sense that scrutiny is a problem and as such, the Cabinet sit in 'defense mode'. Whilst there is an appetite to improve scrutiny work by both the Cabinet, scrutiny members and Chairs, there is a mixed level of understanding as to what this improvement would look like in practical terms. At present the two versions of improvement are not wholly aligned. Currently, relationships between groups are cautious and distrustful which detracts from candor in meetings.

CfGS observed October's Overview Committee meeting and noted an item to consult committee members on a new protocol for the work of the function. This is a welcome addition but should be introduced alongside a programme of training that ensures full of understanding

of how it should work in practical terms and the importance of maintaining boundaries and establishing strong and trusted working relationships.

### **3.2.4 Relationships between members and officers**

The survey highlighted a faith in the senior leadership team across all parties and there was a widespread view that senior officers now have a grip on scrutiny and the need for its support. Members have seen a shift in approach following the appointment of the new senior leadership officers and are welcoming of the openness and approachable nature of the team. There is clearly a history of some difficult relationships but all of those spoken to during the review said that this now worked well with elected members citing that they held trusted relationships with their senior management team.

In relation to wider support for the function, elected members are largely comfortable with the way that reports are drafted and presented back to them and have admiration for the technical level of expertise and professionalism of Council officers. This sentiment extends to the Democratic Services function, who are talked about as being highly professional and helpful. However, there was recognition that the quality of some reports fails to meet an expected standard and that members would appreciate a more standardised approach in this area.

There are sound building blocks at East Devon, with a clear enthusiasm for improvement work. It will be important to convene members and officers to think about how these actions could be implemented and about the necessary changes in both behaviours and processes. Officers and members will need to work alongside each other for the intended outcomes from the recommendations within this report to be realised and sustained.

### **3.2.5 Member skills**

Effective scrutiny is an iterative process which requires a range of different elements to be working well, and having a clear and consistent understanding of what scrutiny is and how to approach it (whether officer or member) will help it to realise its full potential. Without this understanding, scrutiny can struggle to have its voice heard. Within the survey, just over half of both members and officers advised that there was some room for improvement in terms of training and development. It is also clear that some members feel disengaged suggesting more focus should be placed on learning and development and upskilling members to understand how their involvement can have an impact.

Ongoing learning and development will be crucial at East Devon alongside some wider scrutiny awareness raising work amongst a wider cohort of elected members and Council officers. Specific learning sessions might include, questioning skills, work programming or scoping and managing task and finish work. There will also be a need to revisit the Council's scrutiny protocol and supporting documents and provide reminders on key features to help

embed a positive culture for the Overview and Scrutiny function and work towards a positive future where the narrative around ways of working is a constructive one, based on positive culture, behaviours and interactions between the Cabinet and Scrutiny.

### 3.3 Prioritising work and using evidence well

#### 3.3.1 Use of information to inform work programming

Currently there is a lack of understanding on the process for how to nominate items for the work programmes. Officers have introduced a Prioritisation Form in an attempt to prioritise topic selection; however, this does not work in practice. Elected members state that they find the process time consuming, cumbersome and off-putting with some expressing a view that it is designed to put them off. There is a prevailing view that topics are largely chosen by officers or chairs rather than members feeling that they own their own specific work programmes. As a result of the lack of traction for the Prioritisation Form, there is no indication that topics are selected based on evidence or the strategic focus of the Council.

The work of each committee does not appear to be consistent or well-coordinated, with some committee agendas heavy on topics, and others light (for instance cancellation of Overview meetings due to lack of topics as highlighted in section 3.2.2). There is also evidence of a number of topics returning to scrutiny (for instance car parking) but with little evidence of impact or progress. Portfolio Holder reports are produced periodically and provide a good way to give scrutiny a better framework for work programming. This insight could provide a steer for the committee in relation to emerging areas of risk and current strategic priorities.

There is little evidence that scrutiny is visible to the public and does not engage with the public in relation to using public insight to inform work programming.

There is some interest amongst elected members to conduct in-depth scrutiny work. They state a lack of officer capacity as a reason why these do not happen. It is felt that if in-depth work was scheduled and effectively scoped, that these could add real value and impact to the work of the function and also assist with relationships between committee members, helping them to feel and act like a team within the scrutiny space.

#### 3.3.2 Quality of formal meetings and agenda packs

Whilst largely comfortable with the quality of agenda packs and office reports, some dissatisfaction was expressed in relation to the length of meetings. We heard that meetings would benefit from being better coordinated, so that questions and answers sessions are more focused on the objective of the report and can lead to quality discussion, evidence provision and impact.



There is recognition that meetings can be places for information to be shared or members briefed rather than places where constructive scrutiny takes place (this is particularly relevant to the Housing Review Board). A clarity on member officer expectations from these meetings can alleviate any tensions and provide clarity of purpose.

### 3.4 Having an impact

Currently there is limited evidence of impact arising from scrutiny's work. In the survey, when asked how effective the scrutiny function is overall, 7% stated that they felt it worked well. This could stem from a general lack of confidence in the effectiveness of the function and the perception by some that the committees are too political. If the function as a whole can develop towards a more consensual and constructive environment, then there would be greater opportunities for robust recommendations to be made that lead to service improvements. Additionally, a lack of focus and refined work programme can also impinge on the ability of scrutiny to have an impact. An example of this is the role of the Housing Review Board, which has not been operating as a scrutiny committee in terms of providing members with an active role to hold Cabinet members to account.

In the interviews, the majority of people failed to articulate where scrutiny made a difference or how it improved decision making. In the survey, there was a range of perceptions about the impact of scrutiny on decision making and policy development. Some see it as too detailed and operational, while others question its overall effectiveness in achieving positive outcomes.

Also, within the survey, across the questions on 'impact', there is a consistent theme of a need for improvement, indicating potential areas for enhancement in the scrutiny process. Officers tend to be more critical in their assessments, expressing higher levels of uncertainty and negative sentiments. Members, on the other hand, often exhibit a more positive outlook. There is a notable level of uncertainty among both officers and members, particularly in areas such as the quality of external witnesses and the evaluation of scrutiny impact. This suggests a lack of clarity or consensus on these aspects. The evaluation of scrutiny impact and the committee's ability to improve outcomes for residents emerge as specific areas of concern, with a notable proportion expressing the need for improvement.

## 4. Recommendations

### 4.1 Organisational commitment and clarity of purpose

#### Recommendation 1

We recommend that the current structure of three committees is maintained but that work takes place to ensure that they operate in a complementary manner. This recommendation should include a rework of the terms of reference for the three committees.

#### Recommendation 2

That consideration is given to providing a short term investment to the scrutiny function to ensure that the actions and recommendations arising from this report can be implemented and that 'added value' scrutiny can take place. This recommendation might include backfilling some of the secretariat functions to allow democratic services officers to utilise their skills to providing additional support to the scrutiny function with a view to making this change permanent if the additional investment realises impact and a clear business case can be made.

### 4.2 Members leading and fostering good relationships

#### Recommendation 3

We recommend that the three scrutiny committees are assigned a senior officer to provide expertise and advice to guide and support each of the respective Chairs and to retain oversight of the function, work programmes and help ensure that they work within their terms of reference and within the scrutiny protocol.

#### Recommendation 4

We recommend that the Council provides learning and development opportunities for all Elected Members to include (but not limited to) the following areas:

- Questioning skills
- Scoping and Managing In-depth scrutiny
- Making recommendations
- Access and use of information and work programming
- An indepth look at the scrutiny protocol and terms of reference for the committees, focusing on expectations, behaviours, and garnering ongoing support for participation.

### 4.3 Prioritising work and using evidence well

#### Recommendation 5

That the approach to work programming for scrutiny is redesigned so that the work programme is anchored by long term strategic issues for East Devon. This should include (but not limited to)

- Capacity to conduct in-depth scrutiny outside of the formal meetings
- Regular collaboration with scrutiny Chairs which might involve
  - routine sharing of work programmes for committees or possibly the consideration of the development of a single work programme for the entire function which is agreed annually. (with scope to flex throughout the year)
  - Chairs to collectively decide on member suggestions on proposal forms for what goes on the work programme – based on clear criteria that members themselves agree – process should look and feel challenging. Forward Plan could also go to this meeting for discussion (Portfolio Holder reports could go here too)
- Planned space on the work programme for detailed scrutiny of forthcoming decisions in a way that is planned in advance – for most complex / contentious issues – allowing for managed and proportionate political debate.
- Use insight from the public (ward work, corporate complaints) to inform work programming – in a proportionate way.
- Proactively share Forward Plan with members outside of committee; signpost members to background reports where necessary.
- Organise separate All- member briefings for members on forthcoming / high profile things which are for information rather than taking up space on the formal agenda.
- Continue with production of regular Portfolio Holder reports but integrate this better into work programming.

#### Recommendation 6

Consideration of cross-party pre-meetings being held (ideally) before the meeting and led in a way that helps committee members prepare for scrutiny sessions by reviewing the key lines of enquiry and coordinating their questioning approaches.

#### Recommendation 7

Provide development support and training for Officers across the Council to build, refresh and enhance their knowledge and understanding of the role, purpose, and powers of scrutiny. This should also include the approach to report writing and presenting and answering questions at committee meetings.

## 4.4 Having an impact

### Recommendation 8

We recommend that a process is designed and implemented that tracks recommendations made and impact arising and that this is communicated back to all Elected Members.

### Thank you and acknowledgements

Thank you to all the officers and members who shared their views as part of this review. It is hoped that the recommendations made will contribute towards the overall effectiveness of your Scrutiny Function to help improve services for people living, working and visiting East Devon.

Report to: **Overview Committee**

Joint meeting Scrutiny Committee, Overview Committee and Housing Review Board

Date of Meeting 15 February 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



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## Scrutiny Protocol for Scrutiny Committee, Overview Committee and Housing Review Board

### Report summary:

To consider a draft Protocol for the Overview and Scrutiny Committees

### Is the proposed decision in accordance with:

Budget                      Yes  No

Policy Framework      Yes  No

### Recommendation:

That Scrutiny consider and recommend Council to approve the draft Scrutiny Protocol attached at Appendix A

### Reason for recommendation:

To ensure that the role of the Scrutiny Committees and the relationship with the Cabinet is clear, effective and is consistent with best practice

Officer: Andrew Melhuish Democratic Services Manager ([andrew.melhuish@eastdevon.gov.uk](mailto:andrew.melhuish@eastdevon.gov.uk) )

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk

## Links to background information

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
  - A greener East Devon
  - A resilient economy
- 

## Report in full

- 1.1 The Centre for Governance & Scrutiny (CfGS) has identified the following four principles which underpin effective scrutiny:
    - Providing a constructive ‘critical friend’ challenge to the Cabinet as well as outside agencies.
    - Reflect the voice and concerns of the public and its communities.
    - Be led by independent people who take responsibility for their role.
    - Drive improvement in public services.
  - 1.2 There are three further components of good scrutiny and good governance which support and reinforce these principles. These are:-
    - Accountability – where responsibility for services and decisions is clear and those holding responsibility can and are answerable for success and failure;
    - Transparency – publication of information relating to services and decisions to allow people to hold decision-makers to account;
    - Involvement – whereby a range of stakeholders can play an active role in holding to account and influencing policy.
  - 1.3 The relationship between Cabinet and Scrutiny is governed in part by law and in part by the Council’s Constitution. To assist Members of the Council’s Scrutiny Committees, all Members of the Cabinet and Senior Officers who attend before a Scrutiny Committee, a Protocol has been produced at Appendix A to this report. This Protocol provides guidance on the various ways in which Members and Senior Officers are required to interact with the Scrutiny Committees to enable the Authority to carry out an effective Scrutiny function. It also sets out the expectations of Members, Senior Officers and the Committee when carrying out those Scrutiny functions.
  - 1.4 Members are invited to consider the draft Protocol and recommend Council to approve the protocol which should be reviewed on an annual basis to ensure it is operating effectively.
- 

## Financial implications:

There are no financial implications directly arising from this report.

## Legal implications:

The requirement for local authorities in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011. The Government issued Statutory Guidance in relation to Overview and Scrutiny Committees in May 2019. In addition, the Centre for Governance & Scrutiny has issued guidance,

both of which have been taken into consideration in the developing of the attached Scrutiny Protocol.

## SCRUTINY PROTOCOL

### 1. Effective Scrutiny

- The Centre for Governance & Scrutiny has identified the following four principles which underpin effective scrutiny: -
  - Providing constructive “critical friend” challenge to the Cabinet as well as outside agencies.
  - Reflecting the voice and concerns of the public and its communities.
  - Being led by independent people who take responsibility for their role.
  - Delivering improvement in public services.
- There are three further components of good scrutiny and good governance which support and reinforce these principles. These are: -

**Accountability** – where responsibility for services and decisions is clear and decision-makers are answerable for success and failure;

**Transparency** – involving publication of information relating to services and decisions to allow people to hold decision-makers to account;

**Involvement** – whereby a range of stakeholders can play an active role in holding to account and influencing policy.

### 2. Objectives

2.1 The objectives of this Protocol are:

(i) to establish a positive framework and build upon the procedures laid out in the Council's Constitution, which exist to enable the Scrutiny Committees to work effectively;

(ii) to maximise the personal effectiveness of Scrutiny Members, Cabinet Members and officers by enabling them to fully understand their powers, roles and responsibilities in relation to the Scrutiny function;

(iii) to promote and maintain an ethos of mutual respect, trust and courtesy in the inter-relationships between Scrutiny Members, Cabinet Members and officers and a climate of openness that leads to constructive, yet challenging, debate;

(iv) to create a culture of holding the Cabinet to account on behalf of the electorate, by monitoring the effectiveness of the Council's policies and through the regular review of its performance in relation to service delivery, with a view to ensuring service improvements;

(v) to define and clarify the role of the Cabinet as an integral component of the Scrutiny process; and

(vi) to achieve an appropriate level of alignment between the work of Scrutiny and the policies and priorities of the Cabinet and also to the work of the Audit and Governance, Regulatory and Inspection bodies.

### 3. Constitution

3.1 More Information on the Scrutiny process can be found in the Council's Constitution. In summary, within their terms of reference, Scrutiny Committees may:

(i) review or scrutinise decisions made or other actions taken in connection with the discharge of any of the Council's functions (including the draft budget), but with exception of



any matter which is specifically identified in the terms of reference of any other Scrutiny Committee;

(ii) enable members to refer matters relevant to the functions of the Committee to it and should it decide not to exercise those functions further, to give reasons to the member(s) concerned;

(iii) make reports and / or recommendations to the full Council and / or the Cabinet in connection with the discharge of any functions;

(iv) assist the Council and the Cabinet in the development of the policy framework and budget;

(v) consider any matter affecting the area or its inhabitants; and

(vi) exercise the right to "Call-In" for consideration, decisions made but not yet implemented by the Cabinet.

#### **4. Role of the Scrutiny Committees**

4.1 One of the fundamental principles of Scrutiny is the ability to hold the Cabinet to account. The principle of the "Cabinet" style of local government is that, by having a small Cabinet responsible for decision-making, the decision-making process will be quicker and more efficient. However, local people need to be assured that this small group of Members are making decisions effectively and acting in the best interests of the local community they serve.

4.2 Holding the Cabinet to account can involve scrutinising Cabinet decisions at a number of different stages of the decision-making process:

- before decisions are made,
- before they are implemented and
- after they are implemented.

4.3 Holding the Cabinet to account shouldn't be about confrontation. It is more about non-Cabinet Members providing a "critical friend" challenge to the Cabinet and individual Cabinet Portfolio Holders.

4.4 It should be remembered that Scrutiny is not about challenging individuals or personalities but is about challenging decisions and securing improvement where possible. Neither should holding the Cabinet to account be about party-political loyalties.

4.5 There are a number of ways in which the Scrutiny process can operate:

- using the "Call-in Procedure", whereby any individual Member can, within 5 days of publication of a Cabinet decision, challenge or "call in" the decision. This usually leads to the relevant Scrutiny Committee meeting reviewing the decision and the Committee may make specific recommendations to the Cabinet.
- "Requests for Consideration" – any Member can request the inclusion of an item on any Scrutiny Committee. All Members routinely receive an electronic link to all Cabinet agendas.
- examining the Cabinet's Forward Work Programme, which will be published on a monthly basis. The Work Programme will (as far as is possible to do so) give advance notice of issues to be considered by the Cabinet and the date upon which

this will take place. This provides an early opportunity for Scrutiny Members to identify forthcoming issues and to review whether it is considered Scrutiny should play a part in the process. It is also essential that the Cabinet Work Programme is taken into account when Scrutiny committees are drawing up their own Work Programmes;

- calling the Cabinet Portfolio Holder to give account. This may be in relation to an item being considered by the full Scrutiny Committee or the work of a single-issue Task and Finish Group or an annual update on their work;
- specific meetings with Cabinet Portfolio Holders;
- receiving updates on Cabinet responses to Scrutiny Committee recommendations (known as “decision-tracking”).

## **5. Working relationship between Cabinet and Scrutiny**

5.1 The relationship between Cabinet and Scrutiny is governed in part by law and in part by the Council’s Constitution.

5.2 Cabinet and Scrutiny have very different functions and responsibilities. However, the aim of both is to secure the best outcomes for the people who live and work in the District of East Devon.

5.3 The following four principles set out how the working relationship between Cabinet and Scrutiny should operate:

1. Cabinet and Scrutiny recognise that they each have different functions and responsibilities and the contribution that both can make to securing the best outcomes for residents.
2. Cabinet and Scrutiny will work alongside each other in a positive manner. Cabinet recognises that scrutiny has a number of rights, such as “Call-In” and requiring Cabinet Members to attend its meetings and will respect those rights. Scrutiny Committees will exercise those rights responsibly.
3. All participants in the working relationship between Cabinet and Scrutiny will look to work within a spirit of mutual respect and constructive challenge.
4. The relationship will be open and transparent.

## **6. Scrutiny Work Programmes and Agendas**

6.1 Scrutiny is most effective when it is focused on a limited number of in-depth topics and priorities. When considering agenda items, Scrutiny Committees should have regard to the likely value and impact gained from any report or review. This will need to be carefully balanced against the time and resources required to undertake the activity. To be effective, Scrutiny Committees need to focus on strategic issues where it can make an impact. Cross-cutting issues which affect communities across the district rather than single ward issues should be the focus.

6.2 Forward Work Programmes will be prepared to list the subject matters of decisions that the Cabinet intend to take and what business the Scrutiny Committees will be considering and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered. Each of these bodies will be responsible for their own Work Programmes. Annual Forward Work Programmes will be prepared from the beginning of the Municipal Year.

6.3 Regard should be paid by Scrutiny Committees to the need to take into account alignment with the Work Programmes of Audit and other Committees.

6.4 The Cabinet may also request a Scrutiny Committee to assist in undertaking a review to help policy development.

6.5 The Cabinet Forward Programme will include details (as far as is known) of those areas which it is intended will be subject to “Pre-Cabinet Scrutiny” prior to a formal decision being made. This Work Programme should, in turn, form a key element, when the Work Programmes of the Scrutiny Committees are being drawn up.

6.6 Consideration of what items are intended to be subject to “Pre-Cabinet Scrutiny” should be carefully undertaken by the Leader and Cabinet Members. A consistent approach should be adopted when deciding on such items.

6.7 Usually at the first meeting in the Municipal Year, each Scrutiny Committee will consider and determine its priorities for the coming year, which are to be included in the Work Programmes. Again, it is essential that the Cabinet Work Programme is taken into account when Scrutiny committees are drawing up their own Work Programmes.

6.8 The appropriate Cabinet Member(s) may be invited to attend to comment on the Committee’s proposed priorities within the Work Programme. This will inform the selection process and the Cabinet Member(s) may be invited to assist the Committee by providing advice on potential conflict between proposed Scrutiny topics and areas of planned policy development.

6.9 Scrutiny Committees’ Work Programmes will be monitored on a regular basis, with advice provided by officers as to when reports will be presented. This will also allow the Members of the Committees to regularly review and update their work programmes.

6.10 The work programmes of Audit and Regulatory Committees should be closely aligned to the Scrutiny Committees’ work programmes, with relevant reports presented to Members in a timely and consistent manner.

6.11 Scrutiny Committee agendas will, at regular intervals, include any relevant performance management information available. The purpose of this item will be to assist Members with monitoring the performance of services against key targets and to make recommendations.

## **7. Agenda setting meetings**

7.1 Agenda planning for individual meetings of Scrutiny Committees will revolve around a system of “agenda setting” meetings. These are recognised as an invaluable mechanism in the Scrutiny process. In attendance will be the Chair and the Vice-Chair and the relevant senior officers.

## **8. Scrutiny Reports**

8.1 Reports may be submitted to a Scrutiny Committee by one of the following routes:

- (i) Report referred to a Scrutiny Committee by Cabinet for consideration;
- (ii) Report submitted directly to a Scrutiny Committee as part of its Work Programme;
- (iii) As a result of the “Call-In” procedure;
- (iv) As a result of a “Request for Consideration” item submitted by a Member;

(v) in the form of a reference from another Scrutiny Committee or other Committee (e.g. Audit and Governance Committee).

8.2 Reports which are “for information” should be disseminated to Members outside of the formal Cabinet and Scrutiny Committee agenda arrangements via the Democratic Services Team.

## **9. Conduct of Meetings**

9.1 Scrutiny Committees should seek to promote an atmosphere of openness and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust between Scrutiny Committee Members, the Cabinet Member(s), Officers and other participants.

9.2 Scrutiny Committee Members should normally be prepared to ask searching and challenging questions of Cabinet Members and Officers, who, in turn, should be willing to respond to any question put. However, Scrutiny Committee Members should be aware of, and show an understanding, of the fact that Cabinet Members and Officers may not always be in a position to answer every question immediately or in detail.

9.3 Cabinet Members should, in so far as possible, anticipate and be prepared to answer questions on decisions taken, or proposed to be taken, which fall within their remit. Cabinet Members should also value the contribution of Scrutiny Committee Members who raise questions and should respond in an appropriate and professional manner.

9.4 The Chair of the meeting shall at all times ensure that the conduct of the meeting shall be fair and that all participants are treated courteously.

9.5 Officers will be asked questions by Committee Members in a dignified and respectful manner. Responses should be clear and concise with Officers mindful that members of the public, who may be present, may not have a full in-depth knowledge of the topic being discussed.

9.6 The Chair, supported by the Officers, should provide leadership and guidance to the Committee on all Scrutiny matters and should promote the Committee’s role to improve services and monitor the effectiveness of Council policies.

9.7 Meetings of Cabinet and Scrutiny Committees are subject to the relevant provisions in the Council’s Constitution, including that they must normally be held in public, unless factors allowed for by law and the Council’s Constitution are judged to require consideration of a matter with the public and press excluded.

9.8 Meetings should be carried out in a business-like, non-aggressive and non-confrontational manner, with courtesy extended to all participants.

9.9 Members should have regard to the Members’ Code of Conduct and the Protocol on Member/Officer Relations as set out in The Council’s Constitution.

9.10 Scrutiny Committee meetings should be held using a room layout appropriate for the business to be conducted.

9.11 Scrutiny Committees and Scrutiny work should be conducted in a non-party political manner.

## **10. Attendance by Cabinet Members**

10.1 Each Scrutiny Committee Chair will have discretion when deciding upon whether a Cabinet Member is required to attend a Committee meeting. It will be common for Cabinet Members to be invited to attend a Scrutiny Committee meeting for the purpose of being held to account in relation to decisions taken.

10.2 Cabinet Members are also encouraged to attend meetings to listen and gauge the views of Scrutiny Members on any issues falling within their remit.

10.3 An open discussion and exchange of views will be of importance to the Cabinet Member(s) and Scrutiny Members, particularly where consideration is being given to the development of the Council's budget or policy framework.

10.4 Depending on the nature of the agenda item, either the Cabinet Member or Senior Officer will be asked to present the item. Members of the Committee should be aware that although officers can reply to specific questions regarding the operational performance of a service, the reasoning behind why a decision was made should be directed to the Cabinet Member(s).

10.5 If a Cabinet Member is required to attend a Scrutiny Committee for a specific reason, then they should receive sufficient notification of why they are being invited to the meeting. This should be, if possible, notified to them in writing, and copied to the Committee Members so everyone understands the basis on which they are attending. The Overview and Scrutiny Procedure Rules in the Constitution set out the procedure that needs to be followed for requiring a Cabinet Member to attend.

## **11. Annual Portfolio Holder Reports**

11.1 Each Cabinet Member will be invited to present an annual report once during the Council year. The report should summarise the work undertaken since the last report.

11.2 Members of the Committee may submit questions on the portfolio to the Democratic Services Officer at least one month before the report is due. Members are encouraged to submit questions on the report once it has been published.

11.3 The Cabinet Member will present the report at the meeting, after which the Committee will have the opportunity to ask any further questions, to clarify points and to scrutinise the report and the work of the portfolio in more depth. The Cabinet Member will have up to 10 minutes to present the report and it will be assumed that the Committee will have read the report in advance. A total of 35 minutes will be allowed for questions, the Chair has discretion to extend this time if required. The range of responses available to the Cabinet Member are set out in paragraph 13.

## **12. Attendance by Senior Officers**

12.1 Meetings of Scrutiny Committees will normally be attended by Senior Officers with responsibility for any agenda item under discussion. Senior Officers include the Chief Executive, Directors, Assistant Directors or Service Managers. The role of the Senior Officer will be to assist the Committee through the provision of professional advice and to ensure access to relevant information and personnel. However, where the agenda item relates to a "Call-In", the relevant Cabinet Member will respond in the first instance.

12.2 The Overview and Scrutiny Procedure Rules in the Constitution set out the procedure that needs to be followed for requiring a senior officer to attend and is via a request from the Chair to the Chief Executive.

12.3 Senior Officers will be expected to proactively contribute to a debate on an agenda item. Senior Officers can be required to attend a Scrutiny Committee to present an agenda item report and to answer questions or provide advice regarding operational aspects of a particular service. This will allow Members to question Officers on the likely impact of any decisions made by the Cabinet and for Members to gather a greater appreciation of reasons why a course of action was agreed upon.

12.4 Members of a Scrutiny Committee will also regularly question Officers about issues affecting the performance of a specific service and to ask for more detail around the level resources available within a service area.

12.5 Officers in attendance at Scrutiny Committee meetings should also be prepared to assist the Cabinet Member in the provision of information to the Committee in response to any question raised.

12.6 A Senior officer in receipt of a request to attend a Scrutiny Committee meeting should make reasonable efforts to do so. Where they are unable to attend on a particular date, they should notify the Chair (or relevant Officer within Democratic Services) as soon as possible, in order to agree the most appropriate course of action, which may include the attendance of an alternative representative.

12.7 Relevant Senior Officers will normally be expected to attend any meeting of a Scrutiny Committee at which it is intended to consider a 'Call-In' request in relation to their service.

### **13. Cabinet Member responses**

13.1 Following a question raised during a Scrutiny Committee meeting, the Cabinet Member may respond in the following ways: -

- (i) by way of a direct oral answer;
- (ii) where the desired information is in a publication of the Council or other published work, by reference to that publication;
- (iii) where an Officer is in attendance at the meeting, who can reasonably be expected to be in a position to give a reply, by referring the matter to the officer concerned;
- (iv) where the reply cannot conveniently be given orally, by way of a written answer circulated to all Members of the Committee within five working days; and
- (v) where the reply cannot be given within the above timescale, a brief explanation for the delay and the likely timescale for response should be provided to all Members of the Committee.

### **14. Call-in**

14.1 When a decision is made by the Cabinet, the decision shall be published by the Democratic Services team, normally within two working days of the date when the decision was made. The relevant "Call-In" period will expire three clear working days after the publication of the decision.

14.2 If the "Call-In" is accepted by the Chief Executive, the relevant Scrutiny Committee will have the opportunity to discuss and evaluate the merits of the decision. This shall take place within one calendar month of receipt of the "Call-In" request.

14.3 Unless there are extenuating circumstances, the relevant Cabinet Member would be expected to attend a Scrutiny Committee meeting when a "Call-In" is being considered. It is

accepted, however, that officers are often better placed to present greater detailed information that led up to the decision and this is deemed to be acceptable, although it should always be the decision-maker that is held to account.

14.4 The following procedure will be followed when a “Call-In” is being considered:

- (i) The Chair outlines the nature of the request;
- (ii) The Member who “called-in” the decision will be invited to explain the reasons for the request;
- (iii) The Chair will then invite the Cabinet Member to respond;
- (iv) The Committee can then ask questions of the Cabinet Member, who may ask a relevant officer to supply further information if necessary;
- (v) The Committee debates the issue and may form recommendations for consideration by the Cabinet or to Full Council, who may, in turn, refer the matter back to Cabinet for further consideration.

14.5 In the event where the relevant Cabinet Member cannot attend a meeting when a “Call-In” is being considered, another Cabinet Member will seek to attend and be accountable for the decision.

## **15. Minutes of meetings**

15.1 The minutes of each Scrutiny Committee will include any recommendations made during a Committee meeting and the reasons for those recommendations. On a quarterly basis, Scrutiny Committees will monitor progress of each recommendation, with updates provided by the relevant Officers.

15.2 Recommendations from the Scrutiny Committees will be referred to Cabinet at the earliest possible opportunity.

15.3 Where Cabinet has decided not to implement a specific recommendation made by a Scrutiny Committee, the reason for not doing so should be minuted. This will be reported back to the Committee on a quarterly basis when the Committee considers its’ ”decision tracking”.

## **16. Meetings between Scrutiny Committee Chairs and Cabinet Members**

16.1 Whilst the Scrutiny process is essentially a public one, it is recognised that the development of an informal dialogue between the Scrutiny Committee Chair and the relevant Cabinet Member(s) will enhance the interaction between the two functions. Informal dialogue will be encouraged in order to allow the Cabinet Member(s) to understand the Scrutiny Committee Chairmen’s viewpoints and vice versa.

16.2 Such dialogue will also allow the relevant Scrutiny Committee Chair and the Cabinet Member(s) to discuss major policies and key decisions that are likely to be progressed over the forthcoming months and provide an opportunity for further input into the strategic elements of the work programme.

16.3 Such dialogue could also allow consideration of Audit, Regulatory and Inspection work programmes to take place to ensure that reporting arrangements are well-planned and fully “joined up” (particularly within the context of Forward Work Programming for both Cabinet and Scrutiny).

## **17. Public Speaking at Scrutiny Committee Meetings**

16.1 The Council has published a Guide to Public Speaking at Scrutiny Committee Meetings, intended to enhance the ability of members of the public to speak at meetings of the Council's Scrutiny Committees. A copy of the Guide is attached at Appendix A.



## WHAT TO EXPECT WHEN ATTENDING A SCRUTINY MEETING

This guide provides information on what to expect when attending a Scrutiny meeting. It is split into guidance for observers, guidance on public speaking and guidance for external witnesses.

This guide has been approved and adopted by the Overview and Scrutiny Committees.

### 1. GUIDANCE FOR OBSERVERS:

#### Where and when are the meetings held?

Meetings usually take place in the Council Chamber at Blackdown House, Honiton, East Devon.

Occasionally, alternative times and venues may be used, for an up-to-date schedule of meetings please visit our website or contact us (details are at the end of this guide).

Who will be there?

Membership of the Scrutiny Committees is made up of elected Councillors from all political parties on the Council on a proportionate basis. The Council has an Overview Committee and a Scrutiny Committee. The Council also has a Housing Review Board which is a Scrutiny Committee but due to the different make-up of that Committee, this guidance does not apply.

A member of the Democratic Services Team will be present to provide advice to the Committee and a Democratic Services officer will take minutes at the meeting. A representative of the legal section will also be present to provide legal advice. Other officers with an interest in one or more of the topics on the agenda may also be present.

As Scrutiny meetings are open to the community (unless otherwise stated – i.e., confidential matters are being discussed), members of the community are welcome to attend and the press and media may also be present.

Meetings may involve contributions from a wide range of sources, including members, officers, officers from other public bodies, local businesses, voluntary groups, specialists and other members of the community.

#### What happens when I arrive to attend a meeting?

If you are attending the meeting as an observer, you will be greeted by one of the Democratic Services Officers who will show you to the public seating area and provide you with a copy of the agenda (if available).

#### How will the meeting room be set out?

A typical room layout is shown towards the end of this guide.

#### Will a written record of the meeting be produced?

Minutes of the meeting will be taken and the meeting will be aired via YouTube. The minutes will include a summary of the matters discussed and any recommendations made. They will be submitted to the following meeting for approval by the Committee.

## **2. GUIDANCE FOR PUBLIC SPEAKERS**

### **Who Can Speak?**

Anyone who lives or works in the East Devon District Council administrative area, including Town / Parish Councillors and County Councillors, is entitled to speak at a meeting of one of the Council's Scrutiny Committees provided that they have registered to speak.

### **Where do I sit?**

When it is your turn to speak, the Chair will call you forward to the registered speaker's podium. Once you have spoken, you will be asked to return to the public gallery. The typical room layout is shown towards the end of this guide.

### **How Long Do I Have To Speak?**

Each speaker will have three minutes speaking time.

### **What Can I Speak On At The Meeting?**

A member of the community speaking on an agenda item must address their speech to the item they have registered to speak upon on the agenda and cannot address other agenda items or unrelated business. The right of the community to speak, or indeed to attend, does not apply to business on the agenda in respect of which a resolution to exclude the press and public for the consideration of confidential or exempt business has been carried.

### **What can I not Speak on At The Meeting?**

The right to speak does not apply to the following agenda items: Apologies; Minutes; the Forward Plan, the Scrutiny Work Programme, any agenda item that is not accompanied by a written report or any agenda item for which the Chair has exercised her or his discretion to withdraw the right of public speaking.

The Chair of the committee will have the discretion to stop a speaker before their allotted time has concluded if, in the Chair's view, the speaker is making any comments that are, or appear to be, defamatory, vexatious, discriminatory, contain offensive language, are unrelated to the agenda item under consideration, or behaviour otherwise not appropriate for a Scrutiny Committee meeting.

The right to speak does not include the right to ask any questions of any District Councillor, Officer of the Council, invited attendee, or any other public speaker.

### **How Do I Register to Speak?**

The agendas for Scrutiny Committee meetings are published on the Council's website five working days before the date of the meeting. Members of the community who wish to register to speak at meetings of the Council's Scrutiny Committees should register to speak by no later than 12.00 noon two working days before the meeting by contacting Democratic Services (see the contact details at the end of this guide). Any requests received after this time will automatically be rejected. In addition, no request to speak will be accepted prior to the publication of the Scrutiny Committee agenda. To assist the Committee, Democratic Services will ask you to provide an outline of the issues you wish to raise at least 24 hours prior to the meeting.

### **3. GUIDANCE FOR EXTERNAL WITNESSES:**

If a Scrutiny Committee decides that they would like to invite you to come along to one of their meetings as a witness, the Democratic Services Officer will contact you informally about the process. There is no obligation for people from outside the Council to attend (except where legislation provides otherwise), but by attending you will be making a valuable contribution in helping the members of the Committee to gain an accurate view of the issue/s being discussed. You can nominate another person to come on your behalf if they are fully briefed on the issue. Occasionally, organisations, rather than an individual, are invited to give evidence. In this case, it is up to you to decide who would be most appropriate to attend.

#### **Where and when are the meetings held?**

The Democratic Services Officer will contact you beforehand and provide details of the date, time and location of the meeting. If you agree to come along you will be sent a formal invitation confirming these details.

Meetings usually take place at 6pm in the Council Chamber, Blackdown House, Honiton. Occasionally, alternative times and venues may be used, but you will be informed accordingly beforehand.

#### **How can I prepare for the meeting?**

The formal invitation will contain details of the relevant inquiry (including any notes of previous evidence sessions) and the way Scrutiny works at the Council. You will also be provided with an outline of the likely questions to be asked of you or issues to be discussed.

If you have been asked to give a presentation, the Democratic Services Officer will discuss with you beforehand the style and length of your presentation and ask you to provide a copy of any PowerPoint presentation before the start of the meeting. If you haven't been asked to give a presentation but feel that it would be beneficial, please contact the Democratic Services Officer to discuss.

You will be informed of any documents that the councillors wish to have produced for them. Councillors will usually find it helpful if you can prepare a brief paper setting out some of the key facts and issues. Please consult with the Democratic Services Officer co-ordinating the meeting about arrangements for copying and distribution. If you have any further information that you think will aid the inquiry then please send it to the Democratic Services Officer (contact details at the end of this guide) who will make sure that it is put on the agenda or circulated to councillors prior to the meeting. If you have any special requirements, please contact the Democratic Services Officer.

#### **Who will be there?**

Membership of the Scrutiny Committees is made up of elected councillors from all political parties on the Council. A Democratic Services Officer will also be present to provide advice and to take minutes at the meeting. A representative of the legal section will also be present to provide legal advice. Other officers with an interest in one or more of the topics on the agenda may also be present.

As Scrutiny meetings are an important means of democratic accountability and are open to the public (unless otherwise stated – i.e. confidential matters are being discussed), members of the community are welcome to attend and the press and media may also be present.

Meetings may involve contributions from a wide range of sources, including members, officers, County Council employees, NHS employees, education representatives, local businesses, voluntary groups, specialists and other members of the community.

### **What happens when I arrive to attend a meeting?**

One of the Democratic Services Officers will show you to your seat.

### **How will the meeting room be set out?**

Please see the diagram of the typical room layout towards the end of this guide. **To be produced**

### **What happens at the meetings?**

At the beginning of the meeting there will be a number of procedural items of business that the Chair will address, such as approving the minutes of the last meeting and taking apologies from absent members etc. Whilst these are formal meetings of the Council, the structure tends to be much more informal, with free and open discussion.

If there is any information that you do not wish to give in public, you should make this clear to the Chair prior to the meeting. The Council is able to conduct some of its business in private provided that the information in question falls within a number of set criteria such as personal information or financial or business details. These categories are set out by statute – further details are available on request. If a meeting (or part of a meeting) is to be conducted in private, the public and press will be asked to leave and, whilst minutes will be produced, they will only be made available on a restricted basis.

### **What happens when I give evidence?**

We will ensure that all witnesses are treated with courtesy and respect and that all questions to witnesses are made in an orderly manner as directed by the Chair of the meeting.

When it is your turn to speak on your agenda item, the Chair will ask you to introduce yourself and to make your presentation. Once you have finished your presentation Members of the Committee will be invited to ask you any questions.

You should try to be honest and open in your responses and to volunteer relevant information and views, even if not specifically asked by the Committee. If there is factual information available to back up any views which you may have, it will be helpful to refer to this, either directly or by stating the source of the information. You should try to be as precise as possible in your responses. If you do not know the answer to a question, simply say so and if appropriate send us the information after the meeting. Also, if you are only able to give an estimate, for example of costs involved in a project or about timescales, explain that it is only an estimate and not a definitive amount. Explain if there are factors or assumptions which may have a significant impact on any figures or estimates given.

If you are attending on behalf of an organisation, you should make it clear whether any views expressed are personal views or those of the organisation.

### **Will a written record of the meeting be produced?**

Minutes of the meeting will be taken and the meeting will be live-streamed to YouTube. The minutes will include a summary of the matters discussed and any recommendations made. They will be submitted to the following meeting for approval by the Committee and will be published on the Council website.

### **What happens next?**

Following the proceedings, you will be written to (where appropriate) and informed of the outcome.

Once the Committee has finished the review, a report will usually be written to present a full picture of the inquiry and recommendations will be made. If the recommendations are accepted, Scrutiny members will monitor progress on changed policies, procedures etc.

## **4. GENERAL DISTURBANCE**

It is recognised that some matters being scrutinised may be controversial. However, to ensure that business is conducted in an orderly fashion, it is essential that the procedures outlined in this guide are followed. In the event of any disorderly conduct, the following rules will apply:-

- If anyone interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.
- If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

Contact details for Democratic Services:-

Democratic Services ([democraticservices@eastdevon.gov.uk](mailto:democraticservices@eastdevon.gov.uk))

Blackdown House, Heathpark Industrial Estate, Honiton EX14 1EJ



Report to: Council

Date of Meeting 6th March 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

## Exmouth Emergency Seawall Repairs Update

### Report summary:

The report is to update cabinet on the situation in Exmouth regarding the emergency repairs and to ask for decisions on its repairs and additional funding

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

1. That council notes the decision to specify sheet piles of in-excess of 50year design life, which enables greater options for future cladding. This decision has changed since the previous cabinet report.
2. That council notes that the works will be phased, with the eastern section work (phase 1) being undertaken this March 2024, and the western section being deferred until all remaining risks can be mitigated, with the earliest start being September 2024.
3. That council notes that the eastern section works (Phase 1) proceed starting in March, with the aim to finish late-May.
4. That council notes that decisions will have to be made regarding the completion of phase 2, without the benefit of knowing the outputs of the larger Exmouth Seafront Placemaking strategy.
5. That council notes that optional weekend working is undertaken to reduce duration on site.
6. That council resolves to increase funding of Phase 1 only to £1.5m (from £1.1m for both Phase 1 and Phase 2 of the wall)
7. That council notes that a further request for funding will be needed to progress phase 2 and cladding.
8. That council notes the need for a further exemption to contract standing orders to allow the direct award contract to Moffat and Nichol (consultant) from due to the increase from £60k to £200k (within existing project budget outlines in recommendation 6)
9. That council notes that expenditure on the contract to Moffat and Nichol has exceeded £100k

### Reason for recommendation:

1. Although there could be a £75k saving, specifying thicker sheet piles at this point will give greater flexibility in selecting cladding in the future, to give the wall a 100year design life.
2. Although undesirable, from a business, visitor and residents' perspective, the benefits outweigh the negatives for a March start, with late-May Finish.
3. Due to uncertainties regarding the future of the placemaking of Queens Drive space, and the existing concessions and their leases, we cannot commit to design and construction without delay to the failed eastern section.

4. If weekend working is permitted, it will reduce the overall duration on site, reducing impact.
5. Cross service officer work is required to ensure phase 2 can begin before plans are finalised for any future Exmouth Seafront Placemaking plans, and to do so, phase 2 will need to work on assumptions and may require difficult decisions to be made regarding this section of wall.
6. Unlike most large construction schemes which are years in the making, this scheme has had rapid development, and to keep momentum, and meet deadlines, we may need to make major decisions that cannot wait for cabinet cycles.
7. Project costs have increased largely due to poor ground conditions following surveys so previously agreed expenditure needs to increase.
8. The original £1.1m estimate for the whole wall (without cladding) was based on assumed better ground conditions than found. Therefore Phase 2 and cladding will need to be funded from further budget increase at a later date.
9. As the project has progressed additional research and design has been required.

Officer: Tom Buxton-Smith, Engineer Project Management, [tbuxton-smith@eastdevon.gov.uk](mailto:tbuxton-smith@eastdevon.gov.uk),  
01395571630

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

**Equalities impact** Low Impact

**Climate change** High Impact

**Risk:** High Risk; See main report

**Links to background information** N/A

**Link to [Council Plan](#)**

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

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## Report in full

1. **Background:** Please refer to Wednesday 29<sup>th</sup> November Cabinet Report Item 20. for further information. [Exmouth Sea Wall Emergency Repairs Budget.pdf \(eastdevon.gov.uk\)](#)
  - 1.1. In late August, EDDC engineers were made aware of cracks in the seawall in front of the Sideshore development, and appointed Moffatt and Nichol to gain all the required permissions to carry out trial holes and carry out investigations.
  - 1.2. However, a storm over the weekend of 28<sup>th</sup> /29<sup>th</sup> October significantly dropped beach levels and caused the wall to crack and slump, putting the wall at serious risk of collapse.

- 1.3. Emergency works were completed in the following days to shore up the wall through the next storm, with the wall surviving. Due to limited time, the works consisted of concrete blocks placed at the base of the wall, and lots of sand being placed on the wall. This kept the wall intact.
- 1.4. Following the storm, a large void opened out in the old lifeboat slipway and required fixing to enable access to the beach.
- 1.5. To date the temporary sand bund has held and the wall is still standing.
- 1.6. Following Item 20 on Wednesday 29<sup>th</sup> Cabinet, Moffat and Nicholl were appointed as consultant to deliver the design and Teignmouth Maritime Services were appointed to deliver the construction.
- 1.7. The target date for being on site was January 2024, but now a mid-March date is likely.
- 1.8. The reason for the delays is multiple issues have arisen which are not uncommon for a large civil engineering project that only started in December 2023. These issues include:
  - 1.8.1. Ground investigation was added to the scope to help design the wall, as without it, the wall design may have been over specified, therefore increasing cost, or potentially may lead to failure.
  - 1.8.2. Ground investigation revealed ground is poor, so further design has been needed for anchoring ties to hold the wall back.
  - 1.8.3. The design is based on having quickly available sheet piles, and availability has changed over the project's life.
  - 1.8.4. Investigations into providing a wall rebuild around the concessions has taken a lot of time, revealing more risks.
  - 1.8.5. A desk study revealed a risk of unexploded ordinance in the area, requiring further survey. This risk, requiring further survey, which has recently confirmed low risk
  - 1.8.6. Assents, permissions, etc taking longer to sort than anticipated.
  - 1.8.7. The piling operation cannot occur for 2.5hours over every low tide, due to disruption to feeding birds. Which limits amount of work that can be done in a day.
- 1.9. Although we have had some design delays, we have achieved the following.
  - 1.9.1. Design drawings complete
  - 1.9.2. Plant and materials reserved for use.
  - 1.9.3. Consultation with member's event
  - 1.9.4. Consultation with public and concession tenders
  - 1.9.5. SSSI assent application submitted and now approved
  - 1.9.6. DCC streetlighting removal booked.
  - 1.9.7. Relevant plant provisionally booked.

## **2. Sheet pile design life**

- 2.1. Whilst designing the wall, the project team has had to make a decision regarding specification of the sheet piles to ensure critical path deadlines have been met.
- 2.2. Based on cabinet's desire to have the sheet piles clad at a later date, we previously had selected thinner section sheet piles that will need cladding installed to give a 100-year design life, but have since found out the thinner sheet pile selection would limit choices of cladding, likely costing the overall project more
- 2.3. Without cladding, these thicker piles would have a design life between 50 and 100years, however it is still intended to clad the piles to give the full 100year design life.
- 2.4. Installing thicker piles will cost £75k more but will enable cladding options that save at least that amount in the future.

## **3. Continuing work into the summer or delaying starting on site until September.**



- 3.1. Due to design and licencing delays, we have not started on site in January on site as hoped, and now looking at a mid-March start. This means the current programme is looking at a late-May finish on site. Clearly this will have an impact on visitors, residents and businesses in the spring months, and beyond the Easter Holiday target we had hoped for. Therefore, we will be working through the end of March, April and into May which is the best time of year to avoid disruption.
- 3.2. The date of council gives us a last chance opportunity to defer the start until September to avoid some of the risks of construction during spring, however this would in turn bring other risks to the project.
- 3.3. The risks of either option are outlined below. With further discussion below.

### **3.3.1. Spring 2024 Construction Start**

#### Advantages

- Emergency works status and buy in/momentum from professional partners and the public from the public.
- Access to FDGiA funding, retaining the emergency works status.
- Potentially more lenient DCC requirements on partial road closures.
- Retrospective planning requirements only.
- Functioning coastal defence structure in place of the failed wall with a walkway open to the public for most of the Summer and Autumn.
- Positive public perception that repairs have been made, promenade is clear for the summer, plans are in hand for the final scheme.
- Coastal protection against Autumn / Winter storms (and throughout Summer albeit that the risk of summer storms is lower)
- Time to review and plan the Phase 2 works effectively, without the programme pressures to repair the failed section.
- Opportunity to further test ground conditions for anchors and ties which may reduce construction cost of phase 2.
- Phased approach means that disturbance and “noisy” works in particular are very limited in duration.
- The construction will hopefully benefit from improving daylight hours and weather.
- Wall and landward area should be tidy prior to main summer season (with further construction planned at a later date)

#### Disadvantages

- Spring and early summer disruption to the public.
- Completion of Phase 1 only without cladding
- Negative public perception of the wall without cladding.
- Rapid consultation period.
- Various programme risks do exist that could push the works out towards summer.
- Managing expectation of not achieving Easter completion
- Will incur additional site mobilisation/de-mobilisation costs for completing phase 2 at a later date. (Estimated to be around £40k)
- Events are planned for the green triangle nearest Sideshore in June, and any delay may impact these

### **3.3.2. September 2024 Construction Start**

#### Advantages

- Potentially complete Phase 1 & Phase 2 as one construction programme with cladding included (although completing Phase 1 and 2 together generates some other additional risks).
- Time for further consultation on design and finishes.
- No disruption in the early summer from construction works.
- Risk of construction overrun will affect business/public less.
- Opportunity to tender construction to confirm value for taxpayer.

#### Disadvantages:

- Will not be seen as emergency works.
- Access to FDGiA (central government funding) funding may receive more scrutiny.
- Central Government funding may not be available in year (as viewed as not an emergency) so may need to wait to a later year.
- Planning approval requirements - it won't be retrospective.
- Failed seawall is vulnerable to further failure / collapse leading to elevated risk and much harder to implement emergency works.
- Ongoing Health and safety risks associated with the partially failed seawall and the walkway.
- Both the seawall and the walkway will continue to deteriorate and lose fines, risking further failure outside excluded area.
- Reputational damage with a closed off walkway for the entire summer period.
- Delayed programme could run into the winter providing challenging working conditions.
- Although completing Phase 1 and 2 together generates some efficiencies e.g., mobilisation costs, it does generate additional risks to the programme, for example:
  - all agreements with concession need to be in place and
  - final decisions on cladding and placemaking are required.
  - The potential consequence of all of the above is that an Autumn start could be unachievable, a deferred start could result in being a Winter 2024 / Spring 2025 start.
  - Some minor additional costs through ongoing management and abortive licences/permit applications
  - Ongoing disruption for events such as park run.

- 3.4. The current onsite construction programme is 2 months 1 week, inclusive of site set up and reinstatement which are generally less intrusive activities. As of 13<sup>th</sup> February 2024, the target on site programme is as follows:

#### **March**

- 18<sup>th</sup> Mobilise on site in the triangle grass area to the west.
- 21<sup>st</sup> Start removal of wall to enable piling.
- 26<sup>th</sup> Two and a half weeks of piling - Should be finished mid-April.
- 4 Day Easter Break, no works proposed.

#### **April**

- Ongoing sheet pile anchors and walers installation, wall capping, removing defunct wall etc.

#### **May:**

- Installation of new handrailing
- Reinstatement of the grass area and footpath/cycleway. (2 weeks)
- Removal of Compound – End of May

- 3.5. The noisiest and arguably most disruptive element of the works is the sheet piling activity. This is due to take 2.5 weeks and could start just before the Easter 4-day bank holiday weekend (if we start early-March) The sheet piling is due to be installed from the west end, working east towards sideshore.
- 3.6. The remaining works are generally less noisy and there will be less disruption and impact etc.
- 3.7. The works will be disruptive to the public and businesses, although there could be some offset with increased visitor numbers viewing unusual construction in a public place.
- 3.8. The majority of the disruption will be in April (if we start in mid-March) and would be in mid-September (if we start in September) with both periods being busy but not peak season, so there is similar disruption for both periods, however the risk of overrunning into the summer exists for an early/ mid-March start, verses an overrun into poorer weather conditions for a September start.

#### **4. Phasing of works to the wall.**

- 4.1. Regardless of a decision on recommendation 2, we believe the works will need to be phased, with the failed eastern section needing to occur sooner, and works to the non-failed but at-risk western section being deferred until ongoing risks can be mitigated.
- 4.2. The Emergency seawall repair is generally characterised by the following:
  - Eastern Section- 90m of failed wall requiring urgent work to replace the wall. This is the section from the Sideshore development running east towards the first concession. To aid discussion, this is referred as Phase 1
  - Western section- 115m (not including slipway) of wall at risk of failure (due to low beach) but not yet failed. This is the section encompassing all three concessions to the slipway. To aid discussion, this this is referred as Phase 2.
- 4.3. Via the cabinet report, and support from cabinet, we originally planned to complete both sections at once, to secure the seafront wall, to minimise construction impact to Exmouth.
- 4.4. As we have developed the project, ever increasing risks/opportunities have come to light for the western section of the wall repair. We will not have time to address these risks within the next day's/weeks to enable works to start work this side of Easter. To enable the Eastern section to have its work completed soon, we need to delay the start to the western section until all the risks have been resolved or managed.



Above: Map of Site.

4.5. Project risks: The risks involve cross service solutions, as well as member and public consultation. We would need to progress resolving these risks as a council immediately to allow for as earliest start on the western section as possible. There is some urgency to protect/maintain the western wall from failure. Provisionally this would be September 2024, but wary this could slip a year.

4.6. To help identify the risks, they are split into each phase as below.

#### 4.7. Phase 1 risks

- 4.7.1. Programming around Spring/Early Summer, and delays will push towards summer.
- 4.7.2. Ongoing part and soon to be full closure of the footpath/cycleway.
- 4.7.3. Small risk of damage to Sideshore land.
- 4.7.4. Retrospective planning permission needed for change of wall from sloped revetment to vertical.
- 4.7.5. General Risks reduced as site and material need reduced to only a 90m construction.

#### 4.8. Phase 2 risks:

- 4.8.1. There are three concessions along this stretch. The western most concession is in an EDDC building, and is leased out. The other two concessions rent the land from EDDC, but are responsible for their building.
- 4.8.2. Sheet piling around the existing concessions risks damage to the buildings and adds significant cost.
- 4.8.3. The two eastern concessions are at significant risk of storm damage in existing locations, even with sheet piling.

- 4.8.4. Potential to move one/two of the concessions to a single enlarged site next to the western concession building. This would make the wall repairs simpler and cheaper and offer better longevity to the concessions. Wary any changes have implications for any future plans for the Queens Drive space.
  - 4.8.5. Relocating buildings using retrospective planning is extremely risky, so really would need to follow the correct planning procedure and be complementary with the larger placemaking plan.
  - 4.8.6. One of the buildings has poor foundations given the lowered beach, so the building's life is limited.
  - 4.8.7. The other building has much more substantial foundations and better build quality due to a larger investment in the building to date. It however remains at risk of storm damage, and the building/concession would still want benefit from increased sea defences.
  - 4.8.8. Another choice is stopping wall repairs at the concessions and infill when the concessions move in the future, which although cost effective and reduces risk of building damage would be unpopular, as EDDC would be seen as not protecting its concessions.
  - 4.8.9. There is also an ongoing rent review process, seeking to update rent rates, which further complicates issues.
  - 4.8.10. Aside from creating new space next to the slipway, (to allow for an easier uniform wall repair) there is no suitable site for the concessions to move to within the QDS This is due to the QDS placemaking being in its infancy.
  - 4.8.11. Although it is generally accepted that the failed eastern wall (of Phase 1) would be replaced as a vertical wall, the sloped revetment of phase 2 has not failed, and potentially could be saved using a different construction technique.
  - 4.8.12. Phase 1 works will need to have retrospective planning for a wall change, which would be reasonable, however for phase 2, potentially relocating buildings using retrospective planning permission would be extremely risky to EDDC.
  - 4.8.13. Not fixing the wall in Phase 2 risks it failing in the next large storm (until the wall is improved)
  - 4.8.14. Any buildable land 'gained' on the foreshore, will need to be compensated for either locally, or as part of contributions towards other schemes. Therefore and land gain should be balanced with land being returned to the foreshore.
  - 4.8.15. There are general concerns over the long term beach levels at this location, due to current trend of the movement of Pole Sands towards the mouth of the Estuary, with the navigation channel being pinched towards Exmouth.
- 4.9. Risks of trying to complete Phase 1 and 2 prior to summer.
- 4.9.1. Given the big decisions that need to be made in less than a month, it unlikely the project would get to site this side of summer.
  - 4.9.2. If we did want to complete both phase 1 and phase 2 prior to summer, EDDC would need to make snap decisions with no consultation with members, concession owners and the public. EDDC would be gambling with retrospective planning permission.
- 4.10. Mitigating risks of leaving Phase 2 wall less protected for the foreseeable future
- 4.10.1. It is important to note that the wall of phase 2 has currently not failed, and the beach did not drop low enough adjacent to it to cause failure.
  - 4.10.2. We are planning on reusing the concrete Lego blocks used in the temporary repair to shore up the wall.

4.10.3. Sand levels have built up so much at Orcombe Point end that a large-scale beach pull back will be required to avoid frequent and expensive closures of the highway. There is an opportunity to move significant volumes down to the phase 2 area.

## 5. Opportunity of weekend working.

- 5.1. We originally were hoping to avoid weekend working, but due to the construction programme heading towards summer, it has been suggested by the contractor to bring the programme duration down.
- 5.2. We are proposing that the contractor to be allowed to carry out weekend working for half of the weekends within the current programme.
- 5.3. The expectation is that weekend working would be planned around the long-range forecast for poor weather weekends (when possible)
- 5.4. Weekend working would only be used for essential activities that would reduce project duration times.
- 5.5. Weekend working would help reduce the duration of piling activities are on site (as they are restricted with prohibitive working windows over low tides.
- 5.6. Additional staff cost for works would be offset by less time on site.

## 6. Phase 1 construction cost increase.

- 6.1. When the previous paper was put before cabinet, the estimate for 210m of sheet piling was £800k. This along with a risk budget, consultant fees and expected cost of emergency temporary works would bring the project in under £1.1m
- 6.2. The original estimate had no allowance for anchor ties, but was thought if some were needed, it they would be within the risk budget.
- 6.3. Due to the ground conditions being so poor, many more ground anchors were needed, and costs for the anchors have added an additional £450k to the project.
- 6.4. Although it is hoped the beach will return, it was prudent to design the wall to allow for future lower beaches, rather than risk a failure in the future. This has contributed to the increased cost.
- 6.5. With the aim to reduce costs, we have investigated not installing anchor ties at this stage, however calculations show the wall would only be fine with the beach at its current level. Any further dropping of the beach (of 500mm or more) could risk wall failure. This risk was felt too high to take, so tie anchors have been included, so no cost saving is possible.
- 6.6. To reduce time on site, and further cost, the sheet pile wall will finish flush with the esplanade path, removing the cost of a temporary capping. As the esplanade is a shared use path, 1,4m railings are now required to protect against fall to users. This has added additional cost.
- 6.7. The temporary emergency works cost more than expected. This included two mobilisations of plant, lots of large concrete blocks to site and an emergency slipway repair. The final figure is still being debated, but is significant and included in the table below.

Phase 1 90m	Estimated spend	Notes
Emergency repairs	£ 165,341.10	
Design of Phase 1	£ 136,029.24	
Permits/enabling works	£ 25,000.00	
Construction of Phase 1	£ 1,053,353.16	
Risk Budget of Phase 1	£ 105,335.32	10% of construction cost
Phase 1 totals	<b>£ 1,485,058.82</b>	

- 6.8. All the above costs have pushed the construction cost for phase 1 above the £1.1m value for the whole wall



- 6.9. Due to the emergency nature a compliant competitive tender process has not been possible, therefore the work has been direct awarded to a South West Contractor
- 6.10. To ensure the construction price of phase 1 is good value for the taxpayer, we have had an independent contractor benchmark price the job. We believe the works to be fairly priced

## 7. Further estimated costs for phase 2, cladding and external contributions.

- 7.1. Although we are not seeking funding approval to spend for phase 2 and cladding now, it is worthwhile to give some understanding of the likely future costs.
- 7.2. The table below shows an interpolation of phase 1 costs for the remaining wall of phase 2, plus additional estimates for cladding
- 7.3. Phase 2 costs are extrapolated costs from phase 1. We will consider alternative construction types, or further phased delivery to reduce costs in Phase 2. These will be identified at a later cabinet report.

Phase 2 115m	Estimated Costs	Notes
Further design	£ 50,000.00	
Construction of phase 2	£ 1,331,297.72	Extrapolated from phase 1
Risk budget phase 2	£ 266,259.54	20% of construction cost
Estimate for additional concession repairs and slipway repairs	£ 200,000.00	Rough estimate
<b>Phase 2 total estimate</b>	<b>£ 1,847,557.26</b>	

Cladding	Estimated Costs	Notes
Further design	£ 50,000.00	Rough estimate
Cladding	£ 674,000.00	Estimate from similar job
Risk Budget for cladding	£ 269,600.00	40% of construction estimate
<b>Cladding total</b>	<b>£ 993,600.00</b>	

Total construction estimate	<b>£ 4,326,216.08</b>	
Likely external contributions	£ 1,100,090.00	Not confirmed
<b>EDDC to fund</b>	<b>£ 3,226,126.08</b>	

- 7.4. The project should be eligible for grant funding from central government (Flood Defence Grant in Aid from the Environment Agency) Our draft business case suggests this eligibility will be in the region of £1.1m It is not confirmed yet, but hoped EDDC will be eligible for these funds in 2024/15

## 8. Increase in consultant spend above authorisation and above £100k threshold.

- 8.1. Moffat and Nichols were direct awarded the work to carry out the design of the emergency repair. This was due to them being previously involved, and the emergency timetable meaning competitive tender was not possible.
- 8.2. Their initial estimate of the works was £60k.
- 8.3. The current estimate for remaining tasks is £136,029.24.
- 8.4. The additional costs are outlined in the table below.

Cost Description	Cost (£s)
Original time charge from emergency call out	5000
C001 Topographic survey*	3650
C002 No cost	NA
C003 Ground Investigation*	13,678.50
C004 Natural England Fee*	2055.74
C005 Ground investigation for Unexploded Ordinance (UXO)*	2013
C005 Updated time charge	15000
C007 Principle Designer support (Legal requirement)*	12200
C008 Project costs to 26/01/24	20473
C009 Ongoing Project management and engagement - for 20 Weeks	14112
C010 NEC4 production which is Completing contract for construction	5672
C011 OBC – producing document to gain funding from the EA	2080
C012 CDM– Required safety roles and documents for the built	7755
C013 Final design	16916
C014 Required Consents*	3228
C015 Site support of 6 weeks	12196
C016 Further design work to reflect budget and product availability	16250
C017 Additional UXO check	1600
Total	153879.24

\*Costs charged to consultant, which EDDC could have paid direct, but due to staff resource, M+N have arranged and paid for. These total £36,825.24

Note: Costs up to CE009 have been either fully or mostly incurred to date. Costs from CE009 have not been incurred but are estimates.

- 8.5. On Wednesday 29<sup>th</sup> November Cabinet, approval was only noted for expenditure up to £60k, and the additional forecast costs exceed this. Therefore, a further exemption in the sum of £200k will be issued through the exemption provisions permitted in contract standing orders.
- 8.6. The additional expenditure is within the £1.5m budget requested.
- 8.7. The main reason for increased costs is that the design and required legal requirements have taken more time than first anticipated. To meet the deadline for the Cabinet report of 29<sup>th</sup> November, we had to estimate the best available costs at that point, having not had time to sufficiently investigate the project.
- 8.8. Since the original report was written. Additional costs (C016, C017) have been realised. A further UXO check has determined and confirmed that the risk is low. Further design work was required due to availability of anchor ties differing from original design. Changes in wall layout to give greater flexibility in future cladding. Design around change of pile thickness, and abortive work on potential redesign to reduce the cost of the wall, which was not carried on due to potential risks on wall stability.
- 8.9. Much of the above costs will feed into Phase 2 design and management.



**Financial implications:**

The financial implications are included within the body of the report. Completing phase 1 requests a further £400,000 and consideration of its financing is required as any additional new funding will have ongoing revenue budget implications. To remain within the approved capital financing budget a review of other projects/budgets, seeking reductions, could be undertaken in order to avoid further revenue budget strain. Phase 2 and cladding will also require further budget approval and financing.

**Legal implications:**

This is a complex project that is within the power of EDDC to deliver. It is important that procurement and legal advice is taken in respect of the various stages of the project and this is being done. There are no additional substantive legal comments to be added to this report.