



Agenda for Scrutiny Committee Thursday, 5th October, 2023, 6.00 pm

Members of Scrutiny Committee

Councillors: J Bailey, I Barlow, A Bruce, F Caygill, M Chapman, B Collins, R Collins, M Goodman (Chair), A Hall, J Heath, J Kemp (Vice-Chair), D Mackinder, S Smith, A Toye and J Whibley

Venue: Council Chamber, Blackdown House, Honiton

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(or group number 01395 517546)

Wednesday, 27 September 2023

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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

- 1 Apologies
- 2 Minutes of the previous meeting (Pages 3 - 8)
- 3 Declarations of interest
Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)
- 4 Public speaking
Information on [public speaking](#) is available online
- 5 Matters of urgency
Information on [matters of urgency](#) is available online
- 6 Confidential/exempt item(s)
To agree any items to be dealt with after the public (including the press) have been excluded. There are no items which officers recommend should be dealt with in this way.
- 7 Decisions made by Cabinet called in by Members for scrutiny in accordance with the Overview and Scrutiny Procedure Rules
There are no items identified
- 8 Update on draft Scrutiny Protocol

- 9 Correspondence from Simon Jupp MP regarding South West Water (Pages 9 - 13)
- 10 Update on scoping for grass cutting and re-naturing report
- 11 Forward Plan (Pages 14 - 15)
 1. To agree the scope of the Portfolio Holder reports
 2. To agree the Forward Plan

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[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Scrutiny Committee held at Council Chamber, Blackdown House, Honiton on 7 September 2023****Attendance list at end of document**

The meeting started at 6.00 pm and ended at 8.07 pm

9 Minutes of the previous meeting held on 6 July 2023 and minutes of the meeting held on 2 March 2023

The minutes of the previous meeting held on 6 July 2023 and the minutes of the meeting held on 2 March 2023 were agreed as a true record.

10 Declarations of interest

Minute 15. Section 106 and CIL Resources and Processes.
Councillor Ian Barlow, Personal, Member of Sidmouth Town Council which is in receipt of S.106 monies.

Minute 15. Section 106 and CIL Resources and Processes.
Councillor Paul Hayward, Personal, Clerk to Axminster Town Council which is in receipt of S.106 monies.

Minute 15. Section 106 and CIL Resources and Processes.
Councillor Sarah Jackson, Affects Non-registerable Interest, Details of the nature of the interest are withheld under S.33 of the Localism Act 2011.

Minute 15. Section 106 and CIL Resources and Processes.
Councillor Vicky Johns, Personal, Member of Ottery St Mary Town Council which is in receipt of S.106 monies.

11 Public speaking

One member of the public had registered to speak at the meeting. Mr Jack Rowland spoke on agenda item 11.1, the proposal form for car parking tariffs and advised that it was incorrect that the cost of all car parking across the district had been increased by 100% in 2022, as stated on the proposal form. Mr Rowland noted that some car parking tariffs had remained the same, and that over the winter period, the cost of car parking was £2 per day. Residents were also able to purchase car parking permits with an option of paying £10 per month.

Prior to the increases in 2022, car parking tariffs had not been increased for a decade and it was important to consider the overall budget plan. When compared with other local authorities in the southwest, East Devon was not the most expensive as stated on the proposal form. Mr Rowland gave examples of other authorities which were increasing their charges again. Mr Rowland also noted that it had always been the intention for a report reviewing the impact of the increase in car park tariffs to be considered by Cabinet in the autumn of this year, and so queried the timing of the submission of the proposal form.

The Chair thanked Mr Rowland for his contribution.

12 **Matters of urgency**

There were no matters of urgency.

13 **Confidential/exempt item(s)**

There were no confidential / exempt items.

14 **Decisions made by Cabinet called in by Members for scrutiny in accordance with the Overview and Scrutiny Procedure Rules**

There were no decisions made by Cabinet called in by Members for scrutiny.

15 **Section 106 and CIL Resources and Processes**

The Committee considered the report from the Assistant Director – Strategic Planning and Development Management on Section 106 (S.106) and Community Infrastructure Levy (CIL) resources and processes. The report highlighted a number of issues in relation to the Council's work in administering planning obligations such as CIL and S.106 agreements. Some of the issues had been highlighted in an audit in 2020 and while actions recommended by the audit were completed, due to various staffing issues there was a significant backlog again. The report proposed measures to address this, including a new staffing structure within the planning team that would be funded by a revised S.106 monitoring fees charging schedule as well as changes to the process for the spend of S.106 monies to try and reduce the administrative burden on the Council.

The Chair advised that he had visited six Town and Parish Council Clerks and had also spoken to Cllr Johns in her capacity as Chair of Ottery St Mary Town Council. The Chair had written a report with recommendations which had been seen by the Assistant Director – Strategic Planning and Development Management. The Chair's report would be circulated to Members following the meeting.

Discussion of the Assistant Director's report included the following points:

- As the Strategic Planning Committee had already considered the same report and had agreed the report's recommendations to Cabinet, it was questioned why the report had come to the Scrutiny Committee.
- At the previous meeting of the Scrutiny Committee, it had been noted that Town and Parish Councils across the district were having problems with accessing S.106 and CIL monies, and the Committee had considered this an important matter to scrutinise.
- Concern was expressed that the equalities impact assessment should not be low impact, as shown in the report, but should be high impact as S.106 is time limited.
- Members were aware of cases where S.106 money had been returned to developers as the time limit had expired.
- There was concern that the proposals for staffing arrangements set out in the report would take a long time to implement and it was suggested that an interim arrangement should be put in place to ensure that S.106 monies due to town and parish councils are not lost in the meantime.
- Members noted that there are around 150 cases where a notice of payment had been issued and where monies remained outstanding. It was questioned who would make the decision as to whether it was expedient or not to pursue these outstanding funds in the case of the smaller amounts.
- It remains unclear as to why it has taken so long to resolve the issue with S.106 and CIL resources and processes and there is a need to understand what has happened. It was

suggested that it would be beneficial to meet with the Clerks, Chairs and Deputy Chairs of the larger town and parish councils to understand what the problems are.

- It was noted that the Town and Parish Councils need training on how to manage S.106 and CIL, and that this has been acknowledged by the Assistant Director – Strategic Planning and Development Management.
- More staff have been taken on in the past and this did not resolve the issues.
- Private contractors could be brought in to assist with staff resources in the short term.
- Advice could be sought during the upcoming peer review and the processes used in neighbouring councils could be looked at.
- The whole S.106 and CIL process has been opaque when it should be open and transparent.
- Concern was expressed that the on-going issues with S.106 and CIL have a negative impact on the leisure strategy.
- The Council owes it to the local communities to bring in contractors to sort out the issues.
- It was noted that progress was being made but that this was then impacted by staff leaving.
- It was particularly urgent to have an initial push at resolving the issues.
- There was concern that the proposed structure and number of staff would not be sufficient to deal with the issues.
- The Parish and Town Councils could assist with providing information on developments.
- A Task and Finish Forum could be set up to consider various issues including how to ensure payments are collected so that Town and Parish Councils can spend the money they are owed. The TaFF could consist of Scrutiny Committee members with Overview Committee members invited.
- It was noted that the Assistant Director's report would continue through the Strategic Planning Committee process to Cabinet.

The Deputy Monitoring Officer advised that advice would need to be given through the Chair on the political balance and number of members on the TaFF. Notice of setting up the TaFF had not been given due to it arising from the discussion at the meeting, and members of the Overview Committee would not be aware of the discussion and subsequent decision. The TaFF could be held virtually.

RESOLVED:

To set up a Scrutiny Committee Task and Finish Forum, with members of the Overview Committee invited to participate, in order to consider various issues regarding S.106 and CIL monies collection and spend.

Members of the Scrutiny Committee and the Overview Committee would confirm their interest in joining the TaFF to the supporting Democratic Services Officer.

The following recommendations to Cabinet were then agreed:

RECOMMENDATIONS TO CABINET:

1. Recommend that Cabinet support the proposed revised S.106 Monitoring Fees charging schedule appended to the report [Report on Section 106 and CIL Resources and Processes] and recommend to Council that these charges be applied with effect to Section 106 agreements associated with planning applications received once the new charges have been published on the Council's website.
2. Recommend to Cabinet and to Council that the proposed Planning Obligations Team incorporating the existing CIL and Section 106 Officer posts and the proposed new Planning Obligations Manager and Planning Obligations Support Officer posts be created with the new posts to be funded from S.106 Monitoring Fees and CIL admin funds.

3. Recommend to Cabinet that the current spend process for S.106 receipts for spend in the community on play areas, open space and other community spaces be amended as per option 2 as detailed in the report and delegated authority be given to the Assistant Director – Planning Strategy and Development Management to issue best practice guidance on the Council's website on how Town and Parish Councils should engage their communities on spend decisions.
4. Recommend to Cabinet that an interim solution be found to put resources in place as soon as possible in respect of dealing with the approximately 150 outstanding cases where a notice of payment has been issued and monies remain outstanding.

The following was then agreed:

RESOLVED:

1. That the Scrutiny Committee receive an update report in late Summer 2024 to advise of progress in forming the new planning Obligations Team and their progress in addressing the issues highlighted in the report, and
2. That the Scrutiny Committee receive an interim update on progress in February 2024 as a matter of urgency.

16 **Update on the draft Scrutiny Protocol - Monitoring Officer**

The Deputy Monitoring Officer advised that the Monitoring Officer had been working on the draft Scrutiny Protocol and that there was a slight delay pending advice from the Centre for Governance and Scrutiny. It was anticipated that the draft protocol would come to the October Committee meeting.

17 **Update on progress with the quarterly performance report task force - Committee Chair**

The Chair provided an update on progress with reviewing the quarterly performance report. The Chair and Vice-Chair had held a very positive meeting with the Management Information Officer. It had been agreed by senior officers and internal audit that changes to the report were needed and a number of recommendations were being followed up.

The Chair, Vice-Chair and Cllr Whibley had been invited to attend the performance review workshop. It had been agreed with officers to bring the next quarterly performance report for quarter 2 to the November Scrutiny Committee meeting. This to be added to the Forward Plan.

18 **Forward Plan**

The Committee considered two proposal forms regarding:

1. a review of car parking tariffs, and
2. a review of public toilets.

1. Car parking tariffs

The Chair advised that he had submitted the proposal form in order to assist Cabinet with the provision of information when it considers its review of car parking tariffs in November.

The discussion included the following points:

- Concern was expressed that the incorrect figure regarding the increase in car parking tariffs contained in the proposal form was being quoted in the media.
- A number of complaints regarding car parking tariffs had been received, although this had not been indicated on the proposal form.
- Car parking permits should be publicised more widely and particularly when members of the public make a complaint regarding car parking tariffs.
- Information on parking permits could be included when council tax bills are sent out.
- As Cabinet would be reviewing the increase in car parking tariffs, it was not appropriate for Scrutiny to review at the present time.
- It was noted that district wide car parking tariffs would have a detrimental impact on asset transfers in Beer.
- It was suggested that proposal forms be fact checked by officers before publication.
- Any review of car parking tariffs should be undertaken with full information and there was a need to agree what data would be required for a review.

The Deputy Monitoring Officer advised that the Committee should agree the exact nature of what would be included in any review.

As Cabinet would consider an officer's report on the increase in car parking tariffs at its November meeting, or when the report was ready, it was agreed to defer this item on the Forward Plan until Cabinet had discussed this matter.

2. Public toilets

The Chair advised that he had met with officers to discuss issues with public toilets in Sidmouth and that, in his view, there was a lack of public awareness regarding the previously agreed toilet strategy which has begun to be implemented. Information regarding public toilet provision in Sidmouth had recently been published on the Council's website.

As a result of discussions with officers, the Chair wished to withdraw this proposal form and had submitted a proposal form to the Overview Committee instead.

The Chair of the Overview Committee advised that she was only looking for an update from officers on progress with implementing the toilet strategy.

Forward Plan

With the amendments as agreed at the meeting, the Forward Plan was agreed.

Attendance List

Councillors present:

J Bailey
I Barlow
M Chapman
R Collins
M Goodman (Chair)
A Hall
J Heath
J Kemp (Vice-Chair)
D Mackinder
A Toye

Councillors also present (for some or all the meeting)

P Arnott
B Bailey
P Hayward
N Hookway
B Ingham
S Jackson
V Johns
G Jung
M Rixson

Officers in attendance:

Andrew Hopkins, Communications, Digital Services and Engagement Manager
Sarah Jenkins, Democratic Services Officer
Anita Williams, Principal Solicitor (Deputy Monitoring Officer)

Councillor apologies:

B Collins
S Smith
J Whibley

Chair

Date:

FROM SIMON JUPP MP REGARDING ACTIONS TO REQUIRE IMPROVEMENTS FROM SOUTH WEST WATER

RECEIVED BY EMAIL 29TH SEPTEMBER 2023

Dear Ms Jenkins,

Thank you for your letter dated 1st September 2023 asking me to provide an update on actions I have taken to require improvements from South West Water, primarily regarding sewage discharge into the district's rivers and coastline.

I will first talk about the work this Conservative government is doing to crackdown on water companies – including South West Water.

I will then move on to what I am doing in East Devon to require improvements from South West Water.

We all agree that the failure of water companies to adequately reduce sewage discharges is totally unacceptable.

As you will know, excess rainwater and sewage are ending up in our rivers and the sea from storm overflow discharges from combined sewer overflows, or CSOs. Those mechanisms are meant to be emergency safety valves to stop sewage backing up into our homes and streets. But, to put it simply, the infrastructure cannot cope with the growing population and heavier storms.

Our sewage systems are old. Many of them date back to Victorian times. Water companies have been relying on storm overflows far too often, without adequately addressing the issues behind their continued use.

In a perfect world, we would stop sewage spills completely and immediately. Sadly, that is virtually impossible in the short term; because of the pressure on our water infrastructure, we would risk the collapse of the entire water network. Stopping sewage overflows tomorrow would lead to sewage backing up into people's homes and streets. Given the eye-watering costs involved, the government cannot in good conscience legislate for this to happen and let water bills reach astronomical levels.

In the South West, we already pay the highest sewerage bills in the country. The government already subsidises water bills in our region by £50 per household every year. I have called on South West Water to commit to funding the support itself should it ever be withdrawn by the Government. I am sad to report that South West Water has so far refused to make such a commitment.

This Conservative government has a credible plan to tackle sewage discharges, through more investment, stronger regulation, and tougher enforcement. And, as I have been clear in Parliament and in my discussions across our district, South West Water needs to invest more in infrastructure to protect the public from poor water quality, rather than protecting its company bonuses.

What has the government done?

- The government placed a legally binding duty on water companies in the **Environment Act 2021** to progressively reduce the adverse impacts of discharges from storm overflows.

- The government has set new targets, enshrined in law, to generate the most significant capital investment (£56 billion) and delivery programme ever undertaken by water companies. Through the **Storm Overflows Discharge Reduction Plan**:
 - By 2035, water companies will have: improved all overflows discharging into or near every designated bathing water; and improved 75% of overflows discharging to high priority sites.
 - By 2050, no storm overflows will be permitted to operate outside of unusually heavy rainfall or to cause any adverse ecological harm.
- The government has required water companies to fit **monitors for all storm overflows** by the end of 2023. 91% currently have them fitted across the country, up from only 7% in 2010. I am told by SWW they have already achieved 100% in their network. It is as a result of this monitoring that the government is able to see the extent of what is happening and take action to address it. In February, the Secretary of State asked water companies to set action plans for all storm overflows in England, prioritising those spilling more than a certain number of times a year, and those spilling into bathing waters and high priority nature sites. As per Section 81 of the Environment Act 2021, all water companies must provide data about the frequency and duration of storm overflow discharges for all overflows in near real time and make this available to the public no later than 2025.
- The government has published a five-year strategy for water – the recent Plan for Water – which includes **bringing forward £1.1 billion investment on storm overflows**. It follows a request from Defra to English water companies to accelerate investments between now and 2025 to tackle storm overflow discharges, reduce nutrient pollution from treatment works, and address water resilience challenges. (More detail below on this project for Sidmouth & Tipton St John).
- The government has passed new laws to allow **regulators to impose unlimited civil penalties on water companies that break the rules**. This will mean that penalties can be proportionate to the degree of environmental harm and culpability; and can act as a powerful deterrent. This will also offer regulators a quicker method of enforcement than lengthy criminal prosecutions. Money from those fines and penalties will also now be channelled back into the environment. Regulator Ofwat is currently investigating South West Water's wastewater treatment works and leakage reporting. South West Water was fined £13 million last year alone because of missed targets.

What have I done as MP?

As your MP, I want South West Water to clean up their act – and I'm holding them to account, using legislation brought in by the Conservative government.

It's worth being clear that any suggestion that MPs voted to legalise or allow more sewage to go into our waters is not true. My Conservative colleagues and I have only ever voted to strengthen requirements on water companies and the government. I voted for targets through the Environment Act 2021 to strengthen the rules on pollution from wastewater and agriculture. The Storm Overflows Discharge Reduction Plan followed, as required under the Environment Act.

We have the legislation, the investment plan, and the means to hold water companies to account. We need South West Water to continue to step up, to invest and improve our sewage infrastructure, and to stop the sewage discharges.

I have been working cross-party with East Devon parish, town, district and county councillors, and environmental groups to hold South West Water to account about their plans to invest in East Devon and urgently fix specific local problems as and when they do crop up. I have previously secured compensation for Clyst St Mary residents after foul flooding in the village. I have facilitated meetings between both Sidmouth Town and Lympstone Parish Councils and senior figures from South West Water to look at the data and plans in granular detail. I have also worked constructively with campaign groups such as ESCAPE Exmouth to raise their concerns on their behalf with South West Water's bosses and Defra Ministers.

Sidmouth & Tipton St John

Following a debate I secured in Parliament, where I called on South West Water to invest in our area and modernise their water infrastructure, South West Water announced new investment in East Devon.

This much-needed new multi-million-pound package will upgrade sewer overflows in Sidmouth and Tipton St John, alongside work to support nutrient neutrality in Axminster.

Over £30m will be spent locally to upgrade combined sewer overflows at The Ham, Fortescue Road and Manstone Road that flow into the River Sid and Tipton St John's combined sewer overflow upgraded that flows into the River Otter.

Regulator Ofwat says this investment must ensure compliance with bathing water quality standards, shellfish water standards, and meet the Storm Overflow Discharge Reduction Plan spill targets.

Work to reduce nutrient pollution and support nutrient neutrality at Axminster Kilminster waste water treatment works was also announced. By no later than March 2025, the site should comply with phosphorus nutrient pollution standards.

But I also want to see action in Exmouth and Budleigh Salterton. In Exmouth, South West Water say they are working to improve Maer Road and Phear Park pumping stations' storm overflows performance.

In Budleigh Salterton, South West Water say they are working to clean the 7km sewer pipe from Lime Kilns pumping station to Maer Lane sewage treatment works. I'm monitoring their progress in both towns closely.

Meeting with Ofwat in Parliament

I'm working with Ofwat and the Environment Agency to put as much pressure as possible on South West Water to clean up their act and our water.

I recently met with the Chief Executive of Ofwat David Black alongside other MPs from our region to discuss the regulator's key role in holding South West Water to account on their poor performance.

This Conservative government is giving regulators like Ofwat and the Environment Agency more powers to clamp down on water companies than ever before. Key investigations are ongoing into South West Water's wastewater treatment works and leakage reporting - and Ofwat has enforcement powers to fine up to 10% of company turnover.

I will continue to work with regulators, armed with additional enforcement powers by this Conservative government, to protect our precious environment.

Meeting with South West Water in Sidmouth

In July, I met with the Chief Executive of South West Water, Susan Davy, to urge the water company to move swiftly on their £30 million investment plans for Sidmouth and Tipton St John.

Visiting their Sidmouth Wastewater Treatment Works site and storm overflow at The Ham, I urged South West Water to move quickly on the projects included in the investment plans which are set to reduce storm overflow spills and improve bathing water quality.

With my meeting with the Chief Executive of Ofwat fresh in my mind, I also expressed my deep disappointment in the fact that South West Water has found themselves under investigation by the regulator once again. Whilst its overall performance has improved, South West Water's Chief Executive acknowledged that there is more to do moving forward.

Statutory Consultees

I have been campaigning to make water companies statutory consultees on major housing developments.

Water companies – including South West Water – are not currently compelled by law to respond to planning applications while local councils are deciding on them.

I want to make sure new developments in East Devon come with the infrastructure residents deserve. Forcing water companies to reveal the state of their infrastructure will put pressure on them to invest to help give communities peace of mind.

In the House of Commons, I called on the Secretary of State for Levelling Up, Housing & Communities, Michael Gove MP, to include the measure in planning reforms within the Levelling Up and Regeneration Bill.

The government has now made a commitment, during the passage of the Levelling Up and Regeneration Bill, to consult on whether or not to make water companies statutory consultees on certain planning applications, and if so, how best to do this. The Secretary of State is able to make changes to the list of statutory consultees through legislation.

Engaging with cross-party local councils

In Autumn 2021, the local drainage system in Clyst St Mary was unable to cope with torrential rainfall. As a result of this, the villagers worst affected had to wade through sewage and some were left without usable toilet facilities.

Immediately, I asked the chief executive of South West Water to urgently get a grip on the situation and liaise directly with the local parish council who were gathering information on the ground.

South West Water's engineering director met with the community to explain the short and long-term actions they planned to take. It will include new piping for properties and increasing capacity at nearby pumping stations.

Recognising the need to press for immediate action too, I met with South West Water and asked them to set out a clear timetable of actions and communicate with residents as often as possible to

provide updates on work being done. Following my request, South West Water later agreed to pay compensation to those affected by this flooding.

I encourage all my constituents to raise specific local issues with my office. I will always do my best to help.

I hope this comprehensive letter should prove valuable to the scrutiny committee's work.

Kind regards,

Simon

Simon Jupp MP

Member of Parliament for East Devon

Phone: 01395 542750 to leave a voicemail

Address: Mamhead View, Exmouth, Devon, EX8 1DU

Twitter: [@simonjamesjupp](https://twitter.com/simonjamesjupp)

Facebook: [Simon Jupp MP](https://www.facebook.com/SimonJuppMP)

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Scrutiny Committee Forward Plan 2023/24
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Work for scoping and/or allocation to the Forward Plan

Proposed date	Topic
2 November 2023	Portfolio Holder report on Communications and Democracy (scope to be agreed)
2 November 2023	Quarterly performance report Q.2
2 November 2023	Update on climate change action plan progress
7 December 2023	Report on car parks review (following consideration by Cabinet)
7 December 2023	Portfolio Holder report on Economy (scope to be agreed)
10 & 11 January 2024	Joint Scrutiny and Overview budget meetings
1 February 2024	Interim update on progress with S.106 and CIL Resources and Processes
1 February 2024	Portfolio Holder report on Finance and Assets (scope to be agreed)
1 February 2024	Portfolio Holder report on Sustainable Homes & Communities (scope to be agreed)
7 March 2024	Portfolio Holder report on Strategic Planning (scope to be agreed)
7 March 2024	Portfolio Holder report on Climate Action and Emergency Response (scope to be agreed)
4 April 2024	Portfolio Holder report on Coast Country and Environment (scope to be agreed)
4 April 2024	Portfolio Holder report on Council and Corporate Co-ordination (scope to be agreed)
June 2024	Portfolio Holder report on Culture Leisure Sport & Tourism (scope to be agreed)
Late summer 2024	Report on progress with S.106 and CIL Resources and Processes

Dates to be confirmed	
TBC	Report from MPs setting out their actions on requiring improvements from South West Water (responses awaited)
TBC	Proposal from Mid Devon DC Scrutiny Committee regarding a joint review into the planning controls and regulatory requirements associated with the bio-energy industry within Devon, in particular anaerobic digesters. Note: no response was received from MDDC with regard to their proposal; this to be followed up again and detailed scoping required
TBC	Review of effectiveness of Blackdown House in terms of fit for purpose for both employees and Members – proposal form from Councillors and scoping required
TBC	Devon County Council's flood event report
Correspondence regarding Scrutiny Committee topics	
Date received	Details