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EAST DEVON DISTRICT COUNCIL

Minutes of the meeting of LATCo Shareholder Committee held at Council Chamber, Blackdown House, Heathpark Industrial Estate, Honiton EX14 1EJ on 4 February 2026

Attendance list at end of document

The meeting started at 8.25 pm and ended at 9.15 pm

22 Minutes of the previous meeting

The minutes of the meeting held on 19 November 2025 were confirmed as a true record.

23 Declarations of interest

There were none.

24 Public speaking

No members of the public had registered to speak.

25 Matters of urgency

There were no matters of urgency.

26 Confidential/exempt item(s)

There were no confidential/exempt items.

27 Governance update

The Streetscene Project Manager's report updated the Committee on activities relating to governance of the Company and sought agreement to key elements, specifically for controlling the LATCo through updating the Articles of Association and approving the Shareholder Agreement.

East Devon Environmental Services Ltd (the LATCo) was formally registered as a company in November 2025 and was starting operations to prepare for the handover of service delivery in July 2026. It was currently governed by model Articles of Association, and the Council controlled the company through its Shareholder Committee, which was a sub-committee of Cabinet. Extensive legal support had been provided by Bevan Brittan to support creation of the company and ensure effective governance and operating arrangements. The proposed Shareholder Agreement and the updated Articles had been produced by Bevan Brittan, working in conjunction with officers and members of the Shareholder Committee.

The Shareholder Agreement was a key document for governance and control of the company. It set out the framework for how the Council would exert its control as the sole owner of the company and strategic arrangements for how the company would operate. The document reflected the governance arrangements agreed by Cabinet in July 2025 and feedback from the review process had been incorporated into the final version. It was noted that the Shareholder Committee had authority to approve the Shareholder

Agreement and to agree future changes. It was a key function of the Shareholder Committee to monitor the Company's performance and the Shareholder Agreement set out the framework for this to happen.

The Articles of Association set out the basic structure and governance arrangements for the Company, which were built on the Shareholder Agreement. This included the structure of the Board, the role of Director and the issuing of shares. The Company was registered using template Articles of Association, which enabled its formal creation but must be updated to reflect requirements in the Shareholder Agreement and wider governance needs. Bevan Brittan had developed fully formed Articles which had been reviewed by the Monitoring Officer and officers within the Place Directorate.

Bevan Brittan had been instructed to produce proposals for the terms of reference for the Committee. These set out its purpose, functions and operating arrangements, to ensure it undertook the Council's role as owner of the Company in an effective manner. The Director – Governance updated the Committee that advice from the Company Secretary was that she be granted delegated responsibility to sign a written resolution on behalf of the Company to adopt the Articles of Association.

The Vice Chair had submitted a number of questions related to the reports in advance of the meeting. Full responses had been developed by the LATCo Project Team and reviewed by the Council's Monitoring Officer. These were attached as Appendix A to the minutes.

The Vice Chair requested clarification on the definition of days in section 9.3 of the Articles of Association, which he felt should be consistent and specific. It was agreed to replace 'seven calendar days' with 'five business days'.

The LATCo Shareholder Committee agreed that the definition of Observer in section 1.1 of the Shareholder Agreement should be amended to include 'observers have speaking rights at Board meetings but cannot vote on proposals'.

Following discussion of the Terms of Reference it was agreed that wording be amended under the competency heading to read that 'All members of the Shareholder Committee and Cabinet members attending as reserves must: (a) undertake mandatory training in the relevant law and procedures which relate to the Committee's work'. This replaced the previous wording which stated that members must 'have undertaken' training.

RESOLVED:

1. that the Shareholder Committee (SHC) review and agree:
 - a. the updated Articles of Association
 - b. the Shareholder Agreement
2. that the Shareholder Committee to review the proposed Terms of Reference and
 - a. endorse them and propose their consideration by the Constitutional Working Group as changes to the Council's Constitution.
 - b. agrees to operate within the Terms of Reference until such time as the Constitution is amended to regularise the activities of the Committee.
3. that the Shareholder Committee delegates authority to the Director – Governance to sign a written resolution on behalf of the Company to adopt the Articles of Association.

28 **Recruitment of Directors for East Devon Environmental Services Ltd**

The Streetscene Project Manager's report outlined proposed arrangements for constituting and operating the Board of Directors for East Devon Environmental Services Ltd. The report explained that the company was formally created and registered at Companies House in November 2025 and had subsequently been renamed as East Devon Environmental Services Limited. Two senior officers from the Council had been appointed as Company Directors, enabling it to be registered and to operate. It was intended that these appointments were a short-term measure while long-term arrangements for the Company Board were agreed and recruitment took place. Governance arrangements outlined in previous Cabinet reports created a Company Board of Directors consisting of the Managing Director, a Finance Director and three Non-Executive Directors.

It was noted that the Managing Director had been recruited and was due to start work on 16 February 2026. The role was as both a staff member and a Director. It was intended that the Monitoring Officer would formally register the postholder as a Director of the LATCo within 15 days of commencing their appointment.

There had been extensive discussion among stakeholders about roles within the Board and how to ensure it operated effectively. The report addressed and the Committee considered the roles of the Chair of the Board, the Finance Director and how the Company Secretary function would be delivered. It was noted that Association for Public Service Excellence (APSE) were supporting administrative arrangements for the Board and had been instructed to develop role profiles for the Chair and other Non-Executive Directors (included in the report).

The role of the Chair of the Board was set out in the report and discussed by the Committee. It was proposed to delay the appointment of the Finance Director and that alternative arrangements be made for financial scrutiny. A finance business partner or manager would be recruited into the LATCo staff. The role of executive Finance Director would be retained as a role on the Board which could be appointed at a future time by a recommendation of the Board of Directors to the Shareholder Committee.

Although there was no legal duty for a Company to have a designated Secretary it was felt that the functions of this role were integral to effective governance and compliance. In November 2025 the Shareholder Committee agreed to source specialist skills from APSE to carry out this role during the set up and initial trading period. APSE would act in an advisory capacity to the Board throughout 2026 and would train and support a member of the Board or Company's management team to take on the role. It was recommended that decisions on the long-term arrangements for Company Secretary functions were delayed until later in 2026, allowing time for the company and its Board to operate for a period. This would help to ensure that the Shareholder Committee made good decisions based on local circumstances.

The report explained the current structure of the Board was a Managing Director, a Finance Director and up to three Non-Executive Directors (NEDs). Pausing the recruitment of a Finance Director would leave four active positions on the Board, creating circumstances where voting or key decisions had potential to be tied, requiring the Chair's casting vote to be used. Therefore, it was recommended that a fourth NED was created and that the Shareholder Committee appoints to this role. This would add

additional capacity and experience to the Board and would also support effective decision making.

The roles profiles, criteria for appointment and the recruitment process for the NEDs and the Chair were set out in the report. It was best practice for LATCo Company Directors to have full independence from the Council, reflecting their legal duties to always act in the best interests of the Company. Although the objectives and interests of the Company were usually aligned with the Council, this was achieved through other governance arrangements, in particular by the Shareholder Committee. Therefore, the appointment of Directors should ensure that they were able to act independently and apply good judgement in all circumstances. Appointments and removal of Directors were controlled by the Shareholder Committee so it was essential that members of the Committee were involved throughout the selection process.

Clarification was provided in the meeting that the Chair of the Board was also an NED. It was also clarified that NEDs were office holders under company law, not employees. It was noted that Directors were treated as employees for the purposes of taxes on income, but not for employment rights legislation. Suitable contracts would be drawn up by Fitzgerald HR, ensuring that the NEDs were treated appropriately for both employment law and taxation on income.

The Shareholder Committee agreed that the recruitment panel should comprise of the Chair, Vice Chair and Portfolio Holder – Environment Operations. The Project Manager suggested that a SHC meeting be held immediately after the NED interviews so that the Shareholder Committee could review and ratify the decision. The Committee discussed the balance of the Board and the importance of recruiting the right people, which should reflect the nature of the community.

RESOLVED: that

1. the Shareholder Committee (SHC) approve that a Chair for the Board is selected and appointed as outlined within the body of the report.
2. the SHC agree that the Monitoring Officer arranges for the Managing Director to be appointed as a Director of the LATCo within 15 working days of them commencing their appointment.
3. the SHC agree that selection and appointment of a member of staff to the role of Executive Finance Director is paused for the reasons set out in the report and that the role remains unfilled on the Board until such time as the Shareholder Committee resolve to fill the vacancy.
4. an additional Non-Executive Director (NED) post is created, increasing the total available positions to four. When appointing NEDs, at least one should have extensive experience of strategic financial oversight and corporate legal and financial compliance, with specific responsibilities for strategic financial governance and compliance.
5. the SHC delegate responsibility to the Director of Place, in conjunction with the SHC Chair, to implement the proposals for recruitment of Non-Executive Directors, as set out in the report. Three members of the Shareholder Committee will form a panel to conduct the selection process and will make recommendations to the Committee for suitable arrangements.

The Shareholder Committee received a presentation from the Project Manager, Streetscene. He reminded members of project management structures and updated

them on the current position; the company had been created, the Shareholder Committee was operational, and temporary Directors and a Managing Director had been appointed. Project management structures were operating effectively and work was progressing across key workstreams.

Key risks of the project were:

- Achieving fleet maintenance contract procurement in timescale (the fleet needed to have its own contract in place).
- Establishing workplace pension provider in time for Managing Director arrival (need to procure a pension provider).
- Project cost overrun due to workstreams not identified and reliance on external advice to augment internal skills and capacity.
- Delays in recruiting key staff to the LATCo.

These risks were all being managed effectively.

The next steps were:

- Application for Fleet Operator's Licence (started).
- Implement procurement strategy for fleet maintenance.
- Develop detailed plan for delivery of Company financial arrangements.
- Onboard Managing Director and develop plan for full management team structure. The Managing Director was commencing on 16 February 2026 and an interim finance business partner was starting on 9 February.

The Project Manager, Streetscene updated the Committee on the IT, HR, fleet planning, communications, SUEZ demobilisation, and the company set up and governance workstreams, which were all on target. IT costs were likely to be below budget, whereas HR costs could over run due to the extended scope to include payroll and recruitment, but was currently delivering effectively. The finance workstream was at risk, but was now being reported as improving; the development of a plan for the finance workstream was critical to ensure effective delivery. Company branding was being worked on by an external communications agency and proposals would be presented to the Shareholder Committee.

The Committee noted the draft structure of East Devon Environmental Services Ltd. This would need to be reviewed once the Managing Director was in place. Any changes to the proposal would need to be agreed by the company's owner.

Plan B had completed a review of project management arrangements and effectiveness. Key areas to address were finance workstream, procurement of new supplier contracts and more robust arrangements for SUEZ demobilisation. It was noted that these had recently been addressed and further focus was needed. Members questioned why external assurance had been commissioned and the Chief Executive explained that the Council did not currently have the specific inhouse expertise for a programme review of a LATCo so critical friend assurance was sought.

The Portfolio Holder - Environment Operational updated the Shareholder Committee on SUEZ contract performance. He was pleased to report that the Christmas collection period went well and the teams had worked very hard during the recent floods. The Committee agreed that SUEZ provided a fantastic service. The Project Manager reassured the Shareholder Committee that communications with SUEZ staff were ongoing, both formally under TUPE and informally by EDDC staff. They were committed to ensuring that SUEZ staff would have the same terms of employment and were valued.

On behalf of the LATCo Shareholder Committee the Chair thanked the Project Manager for his presentation and the project update was noted.

30 **Appendix A - questions submitted relating to reports considered by the Committee on 4 February 2026**

Attendance List

Councillors present:

P Arnott
S Hawkins
G Jung
J Loudoun
T Olive

Councillors also present (for some or all the meeting)

R Collins
P Faithfull

Officers in attendance:

Simon Davey, Director of Finance
Tracy Hendren, Chief Executive
David Robertson, Project Manager Recycling and Waste
Alethea Thompson, Democratic Services Officer
Melanie Wellman, Director of Governance (Monitoring Officer)
Andrew Wood, Director of Place

Councillor apologies:

Chair

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Date:

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Appendix A

Shareholder Committee 4th February 2026 Response to questions and clarifications from Cllr Loudoun

Cllr Loudoun has submitted questions relating to reports being considered at Shareholder Committee on 4th February. The responses have been developed by the Latco Project Team and have been reviewed by the Council's Monitoring Officer.

Item 8 – Recruitment of Directors.

Section 5.1 – Impact of additional Non-Executive Director and leaving Finance Director post unfilled.

Question: Will only have 4 NEDs (including Chair) as losing Finance Director. Lack of achieving majority vote is a concern.

Response

The previous proposal, agreed at Cabinet, was for 2 Execs and 3 NEDs. This proposal leaves the Exec position of Finance Director unfilled and creates an additional NED to take a lead on financial governance. The primary duty on all directors is to act in the best interests of the company, but the balance of power is now more in favour of the NEDs not the exec directors. Although this could be seen as a potential risk, the Board remains constrained by the Shareholder Committee, which retains ultimate control as the owner's representatives. The Directors are also bound by the terms of the Shareholder Agreement, which is comprehensive, monitored and can be amended by SHC at any time.

The additional NED proposed removes issues of majority vote concern.

Sections 5.3 & 5.4 – Recruitment of Chair, NEDs and their employment status.

Question: Do we need to make it clear that we are recruiting 4 NEDs of which one would be the Chair? Does Chair and NED in here need to be separated out as its confusing? Surely, they shouldn't be employees but rather have a contract for services? Are both the Chair and other NEDs being treated as employees and taxed as proposed?

Response:

The Committee papers have been published, so they cannot be amended but clarification can be provided in the meeting.

The Chair is also a NED, details of the role of the Chair are set out in section 2 of the report. Further clarification can be provided in the meeting if needed.

The NEDs are Office Holders under company law, not employees; Fitzgerald HR will ensure that the contracting arrangements make their status clear, see 5.4 *Contracts of employment will be drawn up by Fitzgerald HR, ensuring that the NEDs are treated appropriately for both employment law and taxation on income.*

However, HMRC treat personal income from non-exec director roles as taxable under the same regime used for employees, causing some confusion. This is a key reason to ensure that their employment status is clarified through the contracts issued to them.

Section 6.1 – Skills and experience of Directors

Shouldn't the skills and experience in the table be replicated in the NED Role Profile?

Role description NEDs – Needs to cross reference to 6.1 table. Add the need to understand and working within a complex political environment. Needs to identify required Essential Skills.

Role Description Chair – Needs to state this is in addition to the role description of a NED.

Add the need to understand and working within a complex political environment. Needs to identify required Essential Skills.

Response:

Agreed, the table of Strategic Objectives (6.1) will be included in the selection process along with the requirements in Appendixes A & B. The role profiles will be amended to include the proposed additions.

7.3.1/7.3.2/7.3.3/7.3.4 – Criteria for independence of Directors.

Question: As these all refer to the “company or group” surely, they don’t apply. If it stated “council” that would make sense.

Response:

Bevan Brittan are being thorough and anticipating a wide range of circumstances which could impede a Director's independence, including future possibility of the Latco operating as a group structure. 7.3.2 and 7.3.6 would also prevent Council employees from being independent directors. If a director did fail any of the tests on 7.3 then this would not necessarily prevent them from being a director, but they would not be an *independent* director. John Symes and Catrin Stark are NEDs, but not independent. This has relevance in some sections of the Articles such as section 4 on quorate meetings. There are no references to 'Council', but this is covered by 7.3.6 which states *represents a significant shareholder*.

8.4 – Membership of the recruitment panel

Question: Need to agree who the 3 panel members are to be. Needs to be recorded as a decision.

Response:

It is anticipated that SHC will discuss and propose three members. It might be sensible to allow some flexibility so that members can be changed if needed. An option is for members to be proposed within the meeting and for the Chair to liaise with SHC members if changes are needed. It would be useful to have input from the Managing Director and senior officers also.

Recommendation 4 – Creation of additional Non-Executive Director

Question: It would be better to state that we create an additional NED role thus taking the total to 4. Plus, state separately that when appointing the NEDs at least one should have “experience of strategic financial oversight and corporate legal and financial compliance” as set out in 3.3. Don’t link the additional NED role to specifically be a finance etc role.

Response:

A proposed change to the recommendation is:

(old text) That an additional Non-Executive Director post is created, with specific responsibilities for strategic financial governance and compliance

(new text) That an additional Non-Executive Director post is created, increasing the total available positions to four. When appointing NEDs, at least one should have extensive experience of strategic financial oversight and corporate legal and financial compliance. with specific responsibilities for strategic financial governance and compliance.

Recommendation 5 – Delegation to implement proposals

Question: After “delegate responsibility to the Director of Place” “in conjunction with the SHC Chair”.

Response:

A proposed change to the recommendation is:

(old) The SHC delegate responsibility to the Director of Place to implement the proposals for recruitment of Non-Executive Directors, as set out in this report. Three members of the Shareholder Committee will form a panel to conduct the selection process and will make recommendations to the Committee for suitable appointments.

(new) The SHC delegate responsibility to the Director of Place, in conjunction with the SHC Chair, to implement the proposals for recruitment of Non-Executive Directors, as set out in this report. Three members of the Shareholder Committee will form a panel to conduct the selection process and will make recommendations to the Committee for suitable appointments.

Item 7: Governance

Recommendation 2a – Terms of Reference for Shareholder Committee

Proposal: Add “in order that they may be adopted at the 2026 Annual Council meeting”.

Response:

This proposed change can be considered by SHC

2. The Shareholder Committee to review the proposed Terms of Reference and

a. Endorse them and propose their consideration by the Constitutional Working Group as changes to the Council's Constitution in order that they may be adopted at the 2026 Annual Council meeting.

Clarification of terminology in relation to types of Director

Proposal: Regularise terminology – NEDs are described variously in both Governance and Recruitment reports. Sometimes referred to as NEDs and also Independent Directors.

Response:

Independent Directors are a sub-set of NEDs, they have different definitions in the Articles so it is recommended that no change is made, ensuring that the distinction between types of director is retained across the documents.

Shareholder Agreement section 1.1

Question and proposal:– Add NEDs. Need to determine that Observers don't have voting rights. But do they have speaking rights? Need to ensure that any changes in definitions in the Shareholder Agreement are reflected in the same in the articles of Association, and visa versa.

Response:

It is proposed to amend the definition of Observer to include the text in italics

Observer means such person as nominated in writing by the Owner to the Company from time to time to act as an Observer on the board. *Observers have speaking rights at Board meetings but cannot vote on proposals.*

Executive and Non-Executive Directors are defined in UK Companies Law so do not need to be included in the definitions section

Shareholder Agreement section 2.1 – Objectives and Business Plan

Question: It refers to doing things for the “Owner” which is the council. What if it enters contracts with a third party; there’s no reference to these being part of the Objectives?

Response:

It is implicit in the current drafting that the Company can enter into commercial contracts, but only where these support delivery of the Objectives in 2.2, eg *To support local economic development and contribute local value*. Therefore no change is recommended by Officers.

Shareholder Agreement section 2.5 – Adoption of Business Plan

Question: Can we realistically expect a Business Plan to be adopted by 1 July if we only are planning (Recruitment timetable at 8.5) to offer NEDs “formal appointment and contract” on 8 May?

Response:

Officers recommend no change.

The Managing Director will have four months to develop a draft business plan, this is a reasonable timescale as it is a critical document for governance and contract control. The BP for first year may be lighter touch and can be developed into a more substantial document in future years. SHC has control over the Shareholder Agreement and can permit a delay if it is requested by the MD, but this is undesirable.

Shareholder Agreement section 4.2.2 – Quorum of Company Board meetings

Question: Should the MD be described as an Executive Director here? Add to definitions too?

Response:

Officers recommend no change.

The Managing Director and Finance Director are shown as executive directors in the definitions. Section 4.2.2. does not need to specify MD/FD as this is already covered.

Shareholder Agreement section 5 – suspending and terminating directors

Comment: There is no reference to the suspension or termination of NEDs. There is no reference to NEDs being employees or whatever is determined.

Response:

Officers recommend no change.

Appointment and termination of all directors are an Owner Consent Matter (5.1). There is no need to set out the circumstances which would justify a termination as this is an absolute power and should not be qualified in any way.

The Shareholder Agreement does not need to specify the employment status of NEDs

Shareholder Agreement section 5.2.3 – appointment of Observers

Question: Who appoints the Observers; is it the SHC?

Response:

5.4 gives this power to the Owner, the SHC is the Owner's primary tool for instructing the company, however there will be circumstances where the Monitoring Officer or others will serve written resolutions of the Owner and decision could plausibly be made by Cabinet or Council. Officers recommend no change.

Shareholder Agreement section 5.3 – Limitations to terms of NEDs

Question: After 2 terms, then a gap year, can NEDs then be reappointed for up to 2 terms plus a gap year and repeat? Should we not limit their total maximum length of tenure? How long should the Chair be in office?

Response:

All NEDs including the Chair are bound by this rule. If SHC chose to reappoint a former Director after a one year break then they may do so. This approach is

advised by Bevan Brittan, however SHC can agree an alternative time period by passing a proposal from one of its members if desired.

Articles of Association section 5 - Powers of delegation

Question: The Directors' powers of delegation seem extremely wide ranging. Is this standard?

Response:

The wording reflects best practice and ensures that the management team are given enough scope to make decisions under guidance and supervision of the directors. In all cases, the company is bound by the annual business plan which is approved by the owner, along with the Shareholder Agreement, Articles and statutory duties on the company directors.

Articles of Association section 7.2 – Decision making where there is only one director

Observation: This doesn't seem to be in line with Shareholder Agreement 4.3 and Articles of Association 11.

Response:

If there is only one Director then 7.2 empowers them to make decisions without the need for a Directors meeting, which would in effect serve no purpose, so section 11 wouldn't apply.

It is plausible, but very undesirable for there to be only one director in post. In this circumstance, the sole director can make decisions for the company without the need for Board meetings, but is still bound by all the other terms of the Articles and Shareholder Agreement.

Articles of Association section 9.3 – Clarification on definition of days

Question: this section refers to "days". Elsewhere there's a definition for "Business Days2 and even clear days (23.2) What is a day – Business, calendar or working?

Response:

This is inconsistent drafting, but the effect of 9.3 is seven calendar days. The benefit of changing this to five business days or anything else is minimal, but can be done if SHC directs. Officers recommend no change.

SHC Terms of Reference

Question: Committees of the Exec – Unclear about who determines. Is it Leader or Cabinet or either? More generally this is not a clearly worded section.

Terms of reference – Refers to "the Council's companies". Is this in case the council creates another company?

The wording is intended to allow scope for both the Leader or Cabinet to exercise power, depending on circumstances. Bevan Brittan have proposed changes to the Constitution which will apply for any future companies that the Council may operate.

