

MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 25 November 2024 at 5.00 pm

**Present
Councillors**

G Westcott (Vice-Chair), D Broom,
E Buczkowski, A Cuddy, G Czapiewski,
M Farrell, C Harrower, L Knight, R Roberts
and S Robinson

**Apologies
Councillors**

L G J Kennedy and B Holdman

**Also Present
Councillors**

G Duchesne

**Also Present
Officers:**

Maria De Leburne (Director of Legal, People & Governance (Monitoring Officer)), Richard Marsh (Director of Place & Economy), Lisa Lewis (Head of Digital Transformation & Customer Engagement), Laura Woon (Democratic Services Manager) and David Parker (Democratic Services & Policy Research Officer)

**Councillors
Online**

J Buczkowski, S J Clist, S Keable, J Lock, L Taylor,
J Wright and D Wulff

Officers Online

Andrew Jarrett (Deputy Chief Executive S151), Paul Deal (Head of Finance, Property and Climate Resilience), Simon Newcombe (Head of Housing and Health) and Tristan Peat (Forward Planning Team Leader)

47 APOLOGIES AND SUBSTITUTE MEMBERS (0:03:11)

Apologies were received from Councillors B Holdman and L Kennedy.

48 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (0:03:37)

No interests were declared under this item.

49 **PUBLIC QUESTION TIME (0:03:49)**

GOFF WELCHMAN (0:04:05)

Question 1:

When agenda item 6 is discussed, would this Committee now challenge the Cabinet's refusal to allow debate in Full Council of the canal conservation area petition when their action clearly breached the Council's own constitution on petitions appendix D and yet neither the Chair nor the Monitoring Officer identified that breach during the meeting.

Question 2:

Non compliance with conditions/planning obligations resulting in harm to residential amenity or non significant harm to trees is given medium priority. Under low priority it states non compliance with other conditions.

The scope of conditions that are therefore not going to be enforced are enormous.

Not all conditions are in place to protect either trees or residential amenity. What about those safeguarding the landscape, biodiversity, ensuring adequate drainage, appropriate lighting, road safety?

It is exactly the same with the change of use. It is only going to be enforced if residential amenity is impacted (or a tree). This is huge.

When debating the Enforcement Policy agenda item would this Committee fully review the position and request a redraft of the Policy as required. If not, why not?

The Chair explained that as the questions had not been provided in writing in advance of the meeting that a written response would be provided.

BARRY WARREN (0:06:17)

Statement: I have read the report and appendices for this item and can find no mention of information requests, or the people who make them.

The Council's "Complaints and Feedback Policy" was updated in March 2024 and included requests for information, in Section 10, under the heading *Unreasonable, unreasonably persistent, and vexatious complainants*.

I quote one sentence under this heading: "*The term complaint in this guidance also covers requests made under access to information law such as the Freedom of Information Act 2000 and the Data Protection Act 2018.*"

Classing requests for information as complaints means that statistics will be recorded and collated for these *Unreasonable, unreasonably persistent, and vexatious complainants* yet they do not appear in this report, or the attached appendices.

Question 1. How was such information collected and recorded?

Answer: The Council did not class requests for information under the Freedom of Information (FOI) Act as complaints. There were two distinct policies and processes that govern the way the Council deals with complaints and requests for information. The reference under the Complaints and Feedback policy alluded to guidance on the identification of unreasonable, unreasonably persistent, or vexatious contacts with the Council.

Under FOI the request and not the requestor would be deemed vexatious. The Council holds records of FOI requests for two years, and in this time we have not identified a request as vexatious. Therefore we hold no records for this.

Question 2. How was such information made available for public scrutiny?

Answer: As stated, the Council did not record Information about vexatious complainants, we had no information of them with regard to FOI requests. However, on the complaints policy this would be a matter between the Complainant and the Authority and would be protected under General Data Protection Regulations (GDPR), under those circumstances the Council would not put that information into the public forum.

Question 3. How are such complaints and individuals reported to elected members?

Answer: As per section 11 of the Complaints and Feedback policy – “The Council’s District Solicitor would notify the relevant officers, the complainant and where appropriate the Ward Member in writing of the reason the complaint or complainant has been classed as unreasonable, persistent, or vexatious and of the actions to be taken.” The Council did not treat requests for information as complaints.

Statement: Requests for information were made by means of a ‘request’. If the request was not answered properly then a ‘review’ would be requested. If that review still did not satisfy the enquirer, then a ‘*Complaint*’ would be made – not to the Council, but to the Information Commissioner, who will adjudicate on the matter.

Paragraph 4.2 of the report advised that only one complaint was upheld by the Ombudsman but no mention was made of findings by the Information Commissioner in what could be classified as complaints against the Council.

Question 4. Why are the outcomes from the Information Commissioner investigations not made available by MDDC for the public to inspect?

Answer: Requests for information were not dealt with as complaints. The Information Commissioner would publish the outcomes of all investigations or cases which had been referred to them on their own website.

Question 5. How and where is this information reported to elected members?

Answer: Requests for information were not dealt with as complaints, and therefore not reported to elected Members within complaints data.

Statement: Finally

The policy defines 'Unreasonable', 'Persistent' and 'Vexatious' and then says, and I quote: "*The policy is intended to assist in **managing people** by categorising them within these terms and agreeing the actions to be taken.*"

Question 6. Who is responsible for "categorising" people in these terms?

Answer: This was done by the service manager liaising with the District Solicitor or the legal department to ensure that there was evidence to categorise whether a person was making unreasonable, unreasonably persistent or vexatious complaints to the Council. This was agreed with the District Solicitor, see section 11 of the Complaints & Feedback policy.

Question 7. Who will be "agreeing" the "actions to be taken"?

Answer: The District Solicitor as per section 11 of the Complaints & Feedback policy.

Question 8. Are any risk assessments done on "categorised" persons?

Answer: Consideration of complainant circumstances was always taken into account. This was done by liaison with services affected by regular or persistent contact with the individual to ensure any safeguarding or special characteristics were taken into account so that the Council's response was proportionate and met our responsibilities as a Council.

Question 9. How will any of this assist in "managing" the persons so "categorised"?

Answer: Officers and Members would endeavour to respond appropriately according to the individual complainant's needs, and in compliance with our complaints policy, but this guidance was to cover occasions where nothing further could be reasonably done to assist or rectify a real or perceived problem.

Answers provided by the Head of Digital Transformation and Customer Engagement.

Mr Warren asked a supplementary Question, in order to clarify, that Freedom of Information requests and outcomes are not reported to Members in any format?

Answer: The Council did not report these directly but did have a publication scheme on its website where the Council reported quarterly on the FOI requests that had been received.

Discussion took place with regard to: on FOI decisions, the vast majority supported the Council's position, however, the Council did not, as a policy, publish those decisions for Members or the public to see on the Council's own website. Councillors asked why not because the Council could be seen as justified in doing so on behalf of its ratepayers. Who was the quarterly report distributed to? Officers were encouraged to make the whole process as transparent as possible.

Answer: The information could in future be reported to the appropriate Policy Development Group. The quarterly report was published on the Council's website and could be found by searching FOI.

PAUL ELSTONE (0:18:58)

Question 1:

I note that the drafting of the MDDC Enforcement document closely resembled the East Devon District Council's same policy. Unfortunately, the Process Flow Chart – Page 14 had been corrupted in the process.

I would draw your attention to the large block in the middle of the chart starting with the words "Breach identified, and no further action required". There was no feedback to the person who reported the breach.

Additionally, there was nothing in the flow chart that showed how the high, medium and low priority system functions.

There were several other significant failings in the flow chart and which I believe fully warrants a redraft. Possibly better and, for clarity, two separate flow charts were required.

When debating the Enforcement agenda item would this Committee recommend a redraft of the flow chart is required and if not why not?

Question 2:

The intent of the Enforcement Policy as stated in the National Policy Framework was to maintain confidence in the planning system.

The proposed procedure was very subjective when setting priorities - which was one of the most important parts in making the enforcement system work, given the limited resources available.

A priority system should be open to scrutiny.

In Mid Devon the planning system was clearly being very substantially abused by some and had been for several years. Persons who had benefitted massively financially but in doing so had caused substantial detriment to many, this due to the lack of any proper enforcement.

As an example, there is one industrial facility at Crownhill Halberton and which due to a series of planning condition breaches going back 5 years, had caused the following concerns:

Firstly - Traffic and pedestrian safety issues impacting on school pupils.

Conditions and Transport statements should prevent traffic from this facility from passing through the Blundells School Campus but up to 200 tractor movements a day had been recorded. Tractors driving on pavements and tractor trailer skid marks at pedestrian crossings should be a warning to the risks that exist.

Secondly - Noise and dust and odour issues which were elevated due to condition breaches.

Thirdly - Impacts on the Grand Western Canal Conservation Area

Each of these three impacts deserve a high priority classification, in its own right, according to the policy.

Therefore, when the three impacts were considered together the planning breaches should demand the very highest level of priority classification. The proposed policy, however, did not recognise this.

When establishing enforcement priorities could I suggest that MDDC adopted a scoring system - not unlike the system used to score whether a tree merits a Tree Protection Order. This would be able to weight cumulative planning breach exposures.

When debating the Enforcement agenda item would this Committee recommend that a scoring system, similar to the Tree Protection Order system, be fully considered and made to form part of thin enforcement policy and if not why not?

The Chair explained that as those questions had not been provided in writing in advance of the meeting that written responses would be provided.

50 **MINUTES OF THE PREVIOUS MEETING (0:23:52)**

The minutes of the meeting held on Monday 28 October 2024 were **APPROVED** as a correct record and **SIGNED** by the Chair.

51 **CHAIR'S ANNOUNCEMENTS (0:24:35)**

The Chair had no announcements to make.

52 **DECISIONS OF THE CABINET (0:24:38)**

The Committee **NOTED** that none of the decisions made by the Cabinet on 12 November 2024 had been called in.

53 ANNUAL REPORT OF COMPLAINTS AND COMPLIMENTS (0:24:45)

The Committee had before it a *report from the Head of Digital Transformation and Customer Engagement.

The following was highlighted in the report:

- The report covered two time periods. The Ombudsman's report covered the period 2023-24.
- There had been an overall increase of 5% in customer and residents' feedback.
- With the new Customer Relationship Management System (CRM) the Council were rolling out new surveys as each service was provided.
- There had been a rise in complaints of 6% over the period which sounded a lot but in context of the thousands of individual services provided by the Council, anything under 10% increase in complaints, the Officer suggested, should not raise too much concern.
- There was a significant decrease in the number of complaints received in certain service areas as mentioned in paragraph 3.5 of the report, services were doing better especially when it was borne in mind that in 2023/24 there were staff vacancies to enable the Council to balance its budget.
- During 2023-24 two cases had been investigated by the Ombudsman, only one of which had been upheld and the Council had provided an apology which the Ombudsman had thought an appropriate response to that complaint.
- Overall, there was no significant increase in complaints which would be reflective of a decrease in service.
- The Council had recently moved to a new Code of Complaints and had instigated a new reporting system.
- One of the Council's targets, 'initial acknowledgement within 5 days', had not been met, some of which could be put down to an anomaly in the system and better staff training being required. However, at the time of writing the report, the Council was meeting the response within time target 100% of the time.
- The Head of Digital Transformation and Customer Engagement was now the senior officer responsible for complaints (excluding Housing) along with the Cabinet Member for Service Delivery and Continuous Improvement.

Discussion took place with regard to:

- Manual checks were being made in the new system to check the reporting.
- There would be additional qualitative analysis moving forward which would be started in the next quarter.
- That the Scrutiny Committee should keep the Report of Complaints and Compliments coming to it as an annual report.
- Whether Freedom of Information (FOI) data could come to the Scrutiny Committee quarterly perhaps by way of a dashboard, alternatively, whether a FOI report would be included within an Annual report to the Scrutiny Committee? This could be a separate report from the Customer Complaints report.
- In order to be transparent the FOI data was published on the website quarterly. The Committee requested that they be provided with the data on a quarterly basis. Complaints and the nature of the complaints were changing.

In proportion to the number of communications and services the Council offered, the proportion of complaints was very low.

- With the change in customers visiting the Council offices and telephoning, now moving to on-line communications, how did that affect the way that the Council were responding? The Officer replied that nothing had changed in that each complaint was dealt with on its own merits.
- Where a complaint was justified the officer would record whether there were any lessons to be learned or whether there were any process changes that needed to be implemented. That information was recorded on the CRM system and would influence the qualitative work that was to be done and evidence that change had been implemented.
- If FOI data was already reported on the website and had its own dashboard, it should not be a burden for the Scrutiny Committee to see it once a quarter in arrears which would be more useful to the Committee. Key Performance Indicators that could be measured might include the response time.

The Head of Digital Transformation and Customer Engagement agreed to produce a briefing report for the December 2024 meeting of the Scrutiny Committee with some suggestions and proposals as to how to move forward with the reporting of FOI to the Scrutiny Committee.

The Committee agreed to **NOTE** the report and **AGREED** the following:

That the Annual report of Compliments, Comments and Complaints be allocated to the Service Delivery and Continuous Improvement Policy Development Group as well as the Scrutiny Committee.

Note: (i) *report previously circulated

(ii) Councillors D Broom, A Cuddy and M Farrell left the meeting after this item.

54 **THE IMPACT OF THE GOVERNMENT'S PROPOSED CHANGES TO NATIONAL PLANNING POLICY ON THE COUNCIL'S PRIORITIES AND PREPARATION OF A NEW LOCAL PLAN (0:53:45)**

The Committee had before it and **NOTED** a *report from the Director of Place and Economy.

The Forward Planning Team Leader stated that the report had been prepared at the request of the Committee to advise it of the affects that the Government's proposed changes to the National Planning Policy Framework (NPPF) would have on the preparation of the Council's new Local Plan.

The following was highlighted in the report:

- There was an emphasis on delivering new homes nationally in order to kick-start economic growth.
- The proposals related to housing land supply and sought to re-introduce a requirement for local planning authorities to continually demonstrate a 5 year deliverable supply of new homes.

- The consultation proposals also included making the standard method for calculating district housing requirements mandatory and also using a stock based approach that would see many local planning authorities experiencing a significant increase in their district annual housing requirements.
- Mid Devon District Council had provided a detailed response to the Government's proposals in September 2024.
- Work was progressing on the new Local Plan towards publishing and consulting on Draft Policies and Site Options as soon as possible in the early part of 2025 once the outcome of the amended NPPF and standard method was known.
- The new timetable would be subject to a review of work completed and any additional work that was needed to inform the draft policies and site options.
- The Council's Forward Plan currently showed a report on draft policies and site options going to the Cabinet meeting on 4 March 2025.
- The Local Development Scheme would be taken to the Cabinet Meeting on 1 April 2025.

Discussion took place with regards to:

- The no comment replies in relation to questions 34 and 41, on the response to the Government about proposed reforms to the NPPF, related to the "Green Belt" and there was no "Green Belt" in Mid Devon.
- Class Q was separate to the NPPF.
- The revised deadline for submission of Local Plans under the current system had been put back to December 2026.
- The current standard method would place a requirement for 346 new homes per year in Mid Devon. Under the consultation it was proposed that the figure would increase to 571 homes per year, the new standard method / figure would be advised to Councils by 31 December 2024. Therefore, if the Government proposals were accepted this would equate to an increase of 4,500 homes over 20 years.

Note: *Report previously circulated.

55 **PLANNING ENFORCEMENT POLICY UPDATE (1:03:50)**

The Committee had before it a *report from the Senior Enforcement Officer.

The following was highlighted within the report:

- New legislation was included in the new Policy.
- The Policy had been reviewed as a whole from the Policy that was previously before the Scrutiny Committee in February 2024 and some changes had been made within it to make it more accessible and easier to follow.
- The Policy currently shown on the Council's website was out of date due to a change in legislation.
- The Senior Enforcement Officer introduced the Assistant Planning Enforcement Officer.

Discussion took place with regard to:

- High, medium and low priorities could change depending upon circumstances.

- High priorities included matters such as Listed Buildings and Tree Preservation Orders.
- With regard to medium priority matters, each case was unique so it was difficult to categorize.
- Low priority matters included such things as a fence being 2 inches too high or a shed that was forward of the principle elevation etc., it included nothing that was irreversible or causing detrimental effect at that time.
- A serious breach would be a high priority.
- A team meeting was held every Monday when cases were triaged and new information could mean that a case moved between categories.
- No other Councils, in the experience of the Officer, triaged the cases in the way that Mid Devon District Council did, but it was important for the Council to do this whilst they dealt with the back log of cases.
- Priorities could change following site visits as cases were fluid within the categorisations.
- The Senior Enforcement Officer was congratulated for her work, for settling in well and for leading a workshop.
- All 300 outstanding cases had now been triaged. The oldest dated back to 2019 but was at prosecution stage. The Officers were now working on cases from 2023/24.
- All cases were now looked at as they came in.
- The 300 cases were not static, approximately the same number of cases came in as were completed.

The Committee **NOTED** the report and **AGREED** the following:

- The updated Planning Enforcement Policy - including that the Planning Policy Advisory Group had recommended the presentation of the updated Planning Enforcement Policy to the Cabinet for approval.
- That delegated authority be given to the Development Management Manager, in conjunction with the Cabinet Member for Planning and Economic Regeneration, to make any future revisions to the Planning Enforcement Policy to ensure it accorded with National Planning Policy.

(Proposed by the Chair)

Note: (i) *Report previously circulated.

56 **PORTFOLIO PRESENTATION FROM THE CABINET MEMBER FOR PARISH AND COMMUNITY ENGAGEMENT (1:17:23)**

The Committee received and **NOTED** a presentation from the Cabinet Member for Parish and Community Engagement.

The following was highlighted in the presentation:

- This was a new role created as a direct consequence of the State of the District debate, which took place on 20 March 2024. The role was announced by Cabinet on 4 June 2024.

- This administration was committed to listening and building closer positive relationships with all of their stakeholders.
- The role acknowledged the importance of the relationship between the District Council working together with the Towns and Parishes.
- The role did not in any way seek to replace the important link between Ward Members and the Towns and Parishes.
- A key aim was to identify common issues across the district and through working together, seek to resolve or understand what could be achieved. To do that the Cabinet Member had started visiting the Town and Parish Councils or their representatives, that work continued.
- In the first six months of the role the updated Town and Parish Charter had been adopted by the Cabinet on 9 July 2024, prior to that the Council had consulted with the Devon Association of Local Councils. The Annual Meeting of the Town and Parish Clerks had been held on 20 November 2024.
- Work was underway to meet the rest of the Town and Parish Clerks or their representatives.
- The Cabinet Member would continue to assist with pointing Towns and Parishes in the right direction to things like funding opportunities and any other information they may require to assist them (in addition to any planning training the Council may have already provided).
- The Cabinet Member explained that she was there to:
 - Listen
 - Help break down barriers
 - To build bridges.

Discussion took place with regard to:

- Resources available to Towns and Parishes included advice on Emergency Plans and the support that was available to develop such plans. Community Land Trusts and how they could assist parishes.
- The State of the District Debate had generated a lot of good will and improved relationships with Towns and Parishes.
- Individual District Councillors encouraged good relationships with the Towns and Parishes in their wards and when they asked for it received good support from officers.
- The Cabinet Member would welcome Ward events.
- Success in the post and how it could be measured? The Cabinet Member hoped that in 18 months' time, satisfaction levels would have increased and Towns and Parishes would feel that they could easily contact people at the District Council. She also hoped that Town and Parish clerks would find it easier to get through to the officers that they needed to contact.
- Common concerns from the Towns and Parishes focused on enforcement and s106 matters.
- How could the District Council publicise the good work that was being done at the Council. Could it get good news into the Tiverton Gazette and other local papers? Perhaps the Council was too modest in letting the public know of their achievements.
- The Cabinet Member wrote a monthly newsletter for her Parish Council detailing what had been happening at the Council and suggested that other District Councillors could do the same if they were not doing so already.

- Could the Cabinet Member let Ward Councillors know when she was visiting Towns or Parishes in their Ward? The Cabinet Member commented that she did not go anywhere without being invited.

57 **WORK PROGRAMME (1:46:15)**

The Committee had before it and **NOTED** *the Forward Plan and the *Scrutiny Committee Work Programme.

The following was highlighted:

- The item on house maintenance, emergency repairs, pollution monitoring and resident safety would come to the Scrutiny Committee in April 2025.

Discussion took place with regard to:

- The proposal from Mr Barry Warren, with regard to the examination and review of Freedom of Information processes within Mid Devon District Council, was **ACCEPTED** and added to the Work Plan. The Head of Digital Transformation and Customer Engagement would be able to bring a report to the Scrutiny Committee Meeting on 18 December 2024.
- A proposal from Cllr R Roberts with regard to the Social Housing Rents Error was **ACCEPTED** and added to the Work Plan. The report from the Deputy Chief Executive would come to the Scrutiny Committee meeting on 13 January 2025 following the report going to Cabinet in December 2024.
- A proposal to identify particular issues with regard to an update on the infrastructure matters in Cullompton. The Member agreed to discuss this proposal with other ward members before finalising any proposal form.
- There was a query as to how often Cabinet Members should be asked to present their Portfolio. The Clerk would discuss this with individual Portfolio holders.

(The meeting ended at 7.15 pm)

CHAIR