

MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 16 December 2024 at 5.00 pm

**Present
Councillors**

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

**Apology
Councillor**

L G J Kennedy

**Also Present
Councillor**

D Wulff

**Also Present
Officers:**

Maria De Leburne (Director of Legal, People & Governance (Monitoring Officer)), Simon Newcombe (Head of Housing & Health), Lisa Lewis (Head of Digital Transformation & Customer Engagement), Zoë Lentell (Economic Development Team Leader), Ewan Girling (Senior Information Officer), Amy Dugard (Growth and Regeneration Officer), Laura Woon (Democratic Services Manager) and David Parker (Democratic Services & Policy Research Officer)

**Councillors
Online**

J Buczkowski, S J Clist, J Lock and L Taylor

Officers Online

Andrew Jarrett (Deputy Chief Executive (S151)), Richard Marsh (Director of Place and Economy), Matthew Page (Head of People, Performance and Waste), Stephen Carr (Corporate Performance and Improvement Manager) and Fiona Keyes (Operations Manager for Revenues, Benefits and Recovery).

58 APOLOGIES AND SUBSTITUTE MEMBERS (0:03:27)

An apology was received from Councillor L Kennedy (Chair).

59 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (0:03:42)**

All Scrutiny Committee members had received e-mail communications from two members of the public in relation to Agenda Item 7 - Examination and Review of Freedom of Information Processes within Mid Devon District Council.

60 **PUBLIC QUESTION TIME (0:04:43)**

Nick Quinn (Re: Item 7)

I circulated a comments paper to Members of this Committee last week concerning this Briefing Report, I hope you all had a chance to read it.

The report contained some information that he wanted to challenge.

Question 1. The table shown at paragraph 4.1 gave the total number of requests received by the Council, but the log information in Appendix 2 showed that some requests were actually for information held by Devon County, not Mid Devon. Since the requests were not for this Council, were those requests included in, or excluded from, the total shown in the table?

Question 2. He noticed, from the timings given in Appendix 2 for dealing with the requests, that it took eleven working days to tell some requesters that they should be contacting Devon County instead of Mid Devon. Why did this take so long?

Question 3. The report at paragraph 4.3 made comparisons with other Councils on Information Commissioner Decision Notices and Outcomes – but instead of comparing with neighbouring District Councils, over the same period, Mid Devon's performance is compared to County Councils, including faraway Kent. Was this because the officer had advanced knowledge of the Government's White Paper on their plans for Local Government or was it because every other Devon District Council has had fewer Decision Notices than Mid Devon?

Question 4. Members would see from Appendix 2, just how poor the information published on previous requests was. Other local Councils were already publishing full request details (showing the full detail of each request and the information supplied). Please would this Committee ask for this Council to do the same?

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 (Re: Item 7)

There were two recommendations at the beginning of the report.

Recommendation 1 asked that the Committee note the report. The report did not cover all of the issues as it did not look at criticisms and recommendations from the

Information Commissioner or what actions were taken or disclosed thereby running the risk of reputational damage to the Council.

Question 1. Would Members of the Committee decline to note the report in its present form and refer it back for a fuller and more detailed report?

The second recommendation did not address the issues and a once a year report would not be relevant to current experience.

Question 2. Would Members please arrange for a full and detailed Scrutiny Committee review with recommendations that are set to achieve openness, honesty and transparency and certainly at a more frequent time scale?

Paragraph 2.4 set out what happened when there was an Information Commissioner's Office (ICO) Decision.

Question 3. Were these meetings recorded or minuted?

Question 4. Were the findings of these meetings and any 'lessons learned' and 'updates in practice' brought to the attention of elected Members and if so how?

Paragraph 3.1 referred to the role of the Deputy Chief Executive as Senior Information Responsible Officer. Taking into account that many of the more recent issues being taken to the ICO emanated from 3 Rivers Development Limited and that officer's heavy involvement with that company from the outset:

Question 5. Were the Council Policy and Procedures placing that officer in a position to have a conflict of interest?

At paragraph 4.3 comparisons were made with the figures of much larger authorities which was not really like for like.

Question 6. Why were there not comparisons given to Members in relation to adjoining District Authorities?

In paragraph 6.1 it stated: "*MDDC are not obliged to publish full responses/data and do not do so due to the administrative overhead.*"

Question 7. What did the '*administrative overhead*' translate into in plain understandable every day member of the public language please?

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.

Paul Elstone

Review of Mid Devon District Council's (MDDC) Freedom of Information Process

A UK Government guidance document on the Freedom of Information process listed various Do's and Don'ts.

Under Don'ts the document said;

“Don’t withhold information without clear justification. Unjustified withholding will undermine the reputation of your authority in the eyes of the public and the Information Commissioner”.

Question 1. Were this Scrutiny Committee fully aware that this Council was now routinely being taken to task by the Information Commissioner for these exact same behaviours and in increasingly strong terms?

Question 2. Were this Scrutiny Committee aware that the Scottish Information Commissioner was attributed as saying something stronger, that the failure to release properly due information to the public can be taken as a lack of honesty?

To add substance to his previous two questions it was noted that the author of the report, under Section 4 Record of Performance, had been extremely selective in choosing County and City Councils including Kent as a point of reference.

The final sentence said the *“outcomes of Information Commissioner’s Office (ICO) complaints are relatively uniform between Councils”.*

If the author of the report had instead used full Information Commissioner’s Office data plus a far more representative sample, and where better than referencing the other six District Councils in Devon, the result would have been very different.

Over the period 2023/24 and 2024/25 to date the six other Devon District Councils had the Information Commissioner uphold a total of seven complaints against them. Yet Mid Devon District Council (MDDC) over the same period, had a total of ten complaints upheld against it. This being three more than all the other Devon District Councils put together.

Question 3. As opposed to just noting this report would this Committee instead return it to the author so they may present an accurate position with regards to this Council’s ICO complaints performance? Plus and importantly examine what really needed to be done to improve both this Council’s performance and reputation?

The Council Leader in a recent and highly politicised article in the local press said that this Council was Gold Standard, this with regards to timely responses to public questions, the ICO findings showed something very different. That rather than Gold Standard a booby prize it seemed was warranted, this in terms of the Freedom of Information, timely and accurate responses and as the ICO complaints process revealed.

Question 4. Would the Council Leader and all Council Members plus Senior Officers like to fully reflect on the full accuracy of that article?

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.

Note: Cllr D Broom arrived at the meeting at 5.10pm

61 **MINUTES OF THE PREVIOUS MEETING (0:14:55)**

The minutes of the meeting held on Monday 25 November 2024 were **APPROVED** as a correct record and **SIGNED** by the Vice-Chair.

62 **CHAIR'S ANNOUNCEMENTS (0:16:00)**

The Chair had no announcements to make.

63 **DECISIONS OF THE CABINET (0:16:08)**

The Committee **NOTED** that none of the decisions made by the Cabinet on 10 December 2024 had been called in.

64 **EXAMINATION AND REVIEW OF FREEDOM OF INFORMATION PROCESSES WITHIN MID DEVON DISTRICT COUNCIL (0:16:18)**

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

The following was highlighted in the report:

- The Freedom of Information (FOI) Act served to promote transparency and accountability in public authorities. It granted the public the opportunity to request access to information that a public authority may hold.
- At the point the request was made, the Council considered how the request was to be treated.
- Where there was concern about full disclosure or only partially disclosing because there may be commercial sensitivity, a data protection aspect, or another legal exemption applied including legal privilege, the requester would be informed of the decision not to disclose or to only partially disclose and the reasons for the decision.
- The decision as to what information to release was reviewed at each check point of a case. As a case moved through a review or Information Commissioner's Office (ICO) case, the Council or ICO may change its position due to circumstances changing, e.g. commercial sensitivity no longer being relevant due to the passage of time.
- The Information Management Team was made up of two full time officers who as well as processing FOI requests, managed data protection, ensured information management was compliant, maintained registers including FOI disclosure logs and assisted other services such as ICT and cyber security.
- Requests under Freedom of Information were provided to officers for collation of information and were anonymised.
- Reporting was recorded using the financial year, not the calendar year.
- Key Performance Indicator response rates were reported to the Internal Corporate Performance Group which was made up of officers.
- FOI Reporting on the Corporate Dashboard no longer appeared and the Head of Digital Transformation and Customer Engagement would speak to the Corporate Performance and Improvement Manager to get the information added back on.

- On review, the disclosure log in the current format would be published monthly from January 2025.
- Transparency and lessons learned from ICO rulings would be included in the Annual Report.
- The Annual Report would include lessons learned from ICO rulings.

Discussion took place with regard to:

- Reporting would be reviewed within the team to establish how more detail could be provided to the Committee.
- Regaining the trust of members of the public, who wanted greater openness and transparency.
- Freedom of Information dashboards to be presented to Scrutiny Committee and oversight on a quarterly basis – the dashboard limited to top line information.
- Members mentioned that there appeared to be three themes emerging – the number of judgments against the Council, not comparing like for like and not being open and transparent. – The Committee wanted the process to be as transparent as possible.
- Lessons learned – what form and frequency? The officer explained that the intention was that the team would look at each of the findings and examine what they did not do well.
- The information would be contained in the Annual Report.
- The Information Management System turned non-working days such as bank holidays into negative data. The Senior Information Officer would review the disclosure log.
- The review process would commence in January 2025 but may take time to implement due to cyber security activities that the team were committed to. Quarterly performance reports would come to the Scrutiny Committee.
- Ongoing Appeals were operational matters that could not be brought to the Scrutiny Committee as it was a public forum and not a place to discuss individual cases. The Appeals were a legal process that had the potential to go through a tribunal system. Information Officers seek legal advice as necessary from the Legal Department.
- The quarterly dashboard would show the numbers of requests, reviews and the number escalated to the ICO and how many had been upheld.

The Committee **NOTED** the report on the practice and performance of MDDC in the processing of FOI and EIR requests.

The Scrutiny Committee **AGREED** that the Head of Digital Transformation and Customer Engagement provide an Annual Performance Report to the Scrutiny Committee of the performance of Mid Devon District Council's Freedom of Information and Environmental Information Regulations processing.

RECOMMENDED to Cabinet that delegated authority be given to the Head of Digital Transformation and Customer Engagement to make minor legislative changes to the Complaints and Feedback Policy.

(Proposed by the Chair)

Note: *Report previously circulated.

65 CORPORATE PERFORMANCE QUARTER 2 (0:56:47)

The Committee had before it and **NOTED** a *report from the Corporate Manager for People, Governance and Waste and the Corporate Performance and Improvement Manager which provided an update against the Corporate Plan 2024-28 and service performance measures for Quarter 2 – July to September 2024.

The following was highlighted in the report:

- This was the first time that this report, in its new format had been presented to the Scrutiny Committee.
- This report was presented to Cabinet on 10 December 2024 and it presented performance information up to September 2024. The report and the accompanying dashboards were structured according to the five themes of the Corporate Plan.
- The dashboards contained 99 measures on how services were performing across the Council, and those indicators that were part of the Corporate Plan were highlighted in yellow text.
- Section 2 of the covering report provided performance analysis on a theme by theme basis, with the focus on Corporate Plan performance indicators.
- The Performance Dashboards had also been reviewed by the relevant Policy Development Groups and the Planning Committee.
- The Planning Dashboard on page 46 of the report pack needed to be corrected. It stated that the total number of open planning enforcement cases was 338. Having reviewed this, it should have stated 319.

Discussion took place with regard to:

- On the Economy and Assets Dashboard, under Capital Slippage percentage of projects why was there no annual target? The target was that none of the projects should slip, however, 26% had slipped into the 2025/26 period, the largest of the projects was the Cullompton Relief Road which had only recently received funding approval.
- Why, on the Corporate Performance Dashboard Finance Measures, the annual target for Agency Spend 'v' Budget was nothing budgeted? The Corporate Manager for People, Performance and Waste replied that the aim was not to incur any agency spend, however, due to circumstances there were officer positions within the Finance department that had to be covered.
- On the Homes Dashboard under delivery of Social Housing – were the Council unlikely to meet their target of 100 new social houses? The Corporate Performance and Improvement Manager explained that the target was an annual target and all of the targets were shown as annual targets for consistency. This report measured up to the end of Quarter 2 and the 44 new homes delivered was more than 10% less than the target and so attracted a red rating. This was a mid-year point and it was expected that the slippage would be made up.
- A correction was needed at paragraph 2.1 of the report, Crofts was in Sandford and not Lapford.
- The Officer was thanked for providing a very helpful glossary to the dashboards.

Note: *report previously circulated.

66 DESTINATION MANAGEMENT PLAN (1:07:18)

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

The Economic Development Team Leader highlighted the following:

The Destination Management Plan Update Report was requested by Members and provided a summary of tourism data and how this supported the delivery and review of the Council's Destination Management Plan.

The Council's Destination Management Plan was currently being reviewed for the next five years. The Destination Management Plan directly supported the Economic Strategy and complemented or was supported by project work such as the Shared Prosperity Fund Delivery Plan.

With regards to data, the Economic Development team utilised several data streams to monitor tourism trends locally. There was a delicate balance between usefulness of data and value for money as the majority of the data had a cost element attached to accessing it. Therefore, the team made use of the best value data for ongoing monitoring and then commissioned the more bespoke elements such as the Visitor Survey periodically when needed. The Visitor Survey was a useful research tool to understand visitor profiles, characteristics, destinations of choice and feedback for helping shape the new Destination Management Plan.

Visitor Survey:

- The 2024 Visitor Survey, undertaken between Easter and October this year, surveyed just over 600 people.
- It showed that Mid Devon's visitors were predominantly day visitors (66% coming from within the South West).
- 2024 saw a slight increase in family visitors from the 2016 survey which directly linked to the growth of new attractions since then such as Bear Town and the funded project work through Shared Prosperity Fund such as the Swan Trail.
- Visitor Satisfaction was high with a percentage of 83% being repeat visits.
- 34% of visitors were couples over 55, which was the target customer base for the Mid Devon Walking Festival

The Report before Members also identified other data streams the team used including:

- An annual Volume and Value of Tourism Report, which outlined visitor spend data, showing that in 2023, Mid Devon attracted approximately 232,000 staying visits combined with approximately 1.4 million day visits, generating an estimated £121 million worth of visitor spend in the local economy. Approximately 5% of Mid Devon jobs were tourism related.
- Additionally, the Economic Development Team had footfall data, which allowed them to monitor footfall data to our main town centres, which included visits by day/time, dwell time, visit frequency and catchment data.
- The Economic Development team also had coach booking information, although currently that was only for the coach bays in Tiverton.

- Digital Engagement data that the Economic Development Team monitored such as through the Visit Mid Devon website and social media platforms.

Coming forward:

- A new Local Visitor Economy Partnership (LVEP) for Devon was formally approved by Visit Britain earlier this year. This was a collaborative partnership consisting of Devon authorities and key destination management stakeholders across Devon. This Partnership was in its early stages and was working on forming its Business Plan. Mid Devon District Council had a seat on the Partnership Board and the Team would continue working with them. The Destination Management Plan would both support and be supported by the LVEP's wider business plan.
- Two new data sources the Team were working with included a new South West Tourism Data Hub, which was intended to collate data from tourism businesses and share this with LVEP members.

Secondly, a new organisation called Screen Devon was seeking to create a database of potential film/TV locations across Devon to support requests from that industry. Once up and running, the Economic Development Team should receive data about requests for the Mid Devon area.

In regards to next steps for the Destination Management Plan, as part of the process for reviewing the Economic Strategy, the Economic Development Team was in the process of hosting a series of Informal PDG Workshops. The next session on 23 January 2025 would focus on Tourism, Town Centres and Place as well as scoping the revised Destination Management Plan, all Members were invited to attend.

Discussion took place with regard to:

- Visitor spend data came from National Tourism data. The data set was not included within the report.
- Whether it was possible to have Town Centre data?
- The data was in a standard format to allow comparisons to be made year on year.
- In order to gather Town Centre data, visitors would need to agree to a data sharing agreement, and the survey would be a completely separate data gathering exercise.
- There were 1,553 full time equivalent tourism related jobs within the district, volunteers were not included within that number.
- Whether there were any apprenticeships or educational facilities available to help bring people into the tourism industry? Comment was made about there being a void in further education in the district and Petroc College not offering any tourism specific courses.
- Recruitment and Training – what were the issues and challenges?
- There were two data sets; the Visitor survey which interviewed visitors face to face, and the National Survey.
- The Economic Development Team were organising a networking event early in 2025 and would be asking businesses what recruitment and training opportunities were needed.
- The Cambridge Economic Impact Model (using national tourism surveys and regional local data) was one of the tools that the tourism industry used and had confidence in.

- The Tourism survey was an annual survey.
- How often the visitor survey was repeated remained to be decided due to the cost. If it was to become more frequent then the Economic Development Team would have to ask for more funds to be allowed within the budget. The Visitor Survey was a full package with people on the ground interviewing visitors then collating the information and writing up a full report.

Note: *report previously circulated.

67 **PORTFOLIO PRESENTATION FROM THE CABINET MEMBER FOR QUALITY OF LIVING , EQUALITIES AND PUBLIC HEALTH (1:23:09)**

The Committee received and **NOTED** a presentation from the Cabinet Member for Quality of Living, Equalities and Public Health.

The Quality of Living, Equalities and Public Health portfolio broadly encompassed public health and welfare, licensing, and many regulatory functions. It also included many of the Council's technology and data processing functions including information governance and digital transformation, which drove changes to the way the Council delivers both internal and external services. This was more important than ever with the Council's need to balance the increasingly difficult local government funding picture against its recognised high performance in a number of vital public services – and the need to improve where the Council may fall short of where they wanted to be. The Council also delivered a number of discretionary services that were nonetheless really important to its communities. This was where the 'Quality of Living' part of the portfolio became really important to check and challenge the Council's services to ensure they deliver fairly, and bring improvements to the lives of its residents to the front of the Council's decision making.

The complete presentation is available on the Council Website as a supplementary agenda item. Slides covered the following subjects:

- Key function
- Information Governance
- Information Policies
- Recognised Risks
- Digital Transformation
- ICT Services
- Licensing and Regulatory
- Community Safety
- Local Welfare Assistance
- Household Support Fund
- Online Resources

Discussion took place with regard to:

- Thanks given for the installation of the direct-access telephone connection from the lobby of Phoenix House, thanks also given to the Community, People and Equalities Policy Development Working Group for developing the suggestion.
- With the ever increasing use of automated electronic systems, during the procurement process, the Council did look at similar Councils to see what

systems they used and were part of the Devon County Council Procurement Partnership to get best value for money. The Council also worked with other local authorities to see whether it was possible to purchase at the same time and so get a better deal.

The Vice-Chair thanked Councillor D Wulff for his presentation.

68 **WORK PROGRAMME (1:47:44)**

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

The following was highlighted:

- The items already listed in the work programme for the next scheduled meeting in January 2025.
- The item on house maintenance, emergency repairs, pollution monitoring and resident safety would also include general repairs.
- South West Water had confirmed that they would be able to attend the Scrutiny Committee Meeting scheduled for 17 March 2025.
- The Portfolio presentations from Cabinet Members had now been through each portfolio and had reached the end of the cycle. No further Cabinet Portfolio presentations would be made unless there was a specific reason to do so.
- The work proposal form relating to how Devolution might affect Mid Devon District Council was **AGREED** and programmed in for the meeting on 17 February 2025. (Proposed by Cllr G Czapiewski, seconded by Cllr E Buczkowski)
- There was discussion about the work proposal form relating to infrastructure around Cullompton. A lot of the infrastructure proposed, would be controlled by other authorities even though Mid Devon District Council had spearheaded the work that had been positive. It was **AGREED** that the work proposal needed further work to refine it before it was re-presented to the Scrutiny Committee.
- A suggestion that the Scrutiny Committee considered the Emergency Plan in relation to linking with the Community and Town and Parish Councils state of preparedness was requested to be formulated into a formal work proposal.

Note: *the Forward Plan and the *Scrutiny Committee Work Programme were previously circulated.

(The meeting ended at 7.02 pm)

CHAIR