



# Simultaneous East Suffolk Council Cabinet and Southwold Town Council

## Members:

Councillor Norman Brooks (East Suffolk)  
Councillor Stephen Burroughes (East Suffolk)  
Councillor Maurice Cook (East Suffolk)  
Councillor Steve Gallant (East Suffolk)  
Councillor Richard Kerry (East Suffolk)  
Councillor James Mallinder (East Suffolk)  
Councillor David Ritchie (East Suffolk)  
Councillor Craig Rivett (East Suffolk)  
Councillor Mary Rudd (East Suffolk)  
Councillor Letitia Smith (East Suffolk)  
Councillor David Beavan (Southwold)  
Councillor Ann Betts (Southwold)  
Councillor Ian Bradbury (Southwold)  
Councillor Simon Flunder (Southwold)  
Councillor Paula Goldsmith (Southwold)  
Councillor Jessica Jeans (Southwold)  
Councillor Julie Jordan (Southwold)  
Councillor Michael Ladd (Southwold)  
Councillor Michael Rowan-Robinson (Southwold)  
Councillor Will Windell (Southwold)

Members are summoned to a **Simultaneous Meeting of East Suffolk Council's Cabinet and Southwold Town Council**  
on **Tuesday, 2 March 2021 at 5:00pm**

This meeting will be conducted remotely, pursuant to the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

The meeting will be facilitated using the Zoom video conferencing system and broadcast via the East Suffolk Council YouTube channel at

<https://youtu.be/8PBmU2G40j4>.

An Agenda is set out below.

## Part One – Open to the Public

Pages

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- 1 Election of Chairman**  
To elect a Chairman for the meeting to lead on the common debate.
- 2 Apologies for Absence**  
To receive apologies for absence, if any.
- 3 Declarations of Interest**  
Members and Officers are invited to make any declarations of Disclosable Pecuniary or Local Non-Pecuniary Interests that they may have in relation to items on the Agenda and are also reminded to make any declarations at any stage during the Meeting if it becomes apparent that this may be required when a particular item or issue is considered.
- 4 Protocol for the Simultaneous Meeting** **1 - 3**  
To note the Protocol to be used for this Meeting. At the last Simultaneous Meeting, held on 15 March 2019, the Protocol was agreed and adopted for that Meeting and all future Simultaneous Meetings.
- 5 Public Forum**  
In accordance with the Protocol for Public Speaking at Southwold Town Council meetings, there will be a Public Forum, for 10 minutes, during which time, electors can put questions to the Chairman, regarding matters on the agenda. An elector must not speak for more than 3 minutes. Where possible, a response will be given.  
  
**Please inform the Clerk of Southwold Town Council, should you wish to speak at the meeting, by using the email address:**  
**[admin@southwoldtowncouncil.com](mailto:admin@southwoldtowncouncil.com)**  
  
**You will be sent the Zoom meeting invitation and when joining, you will be placed in a waiting room until admitted to the meeting. Please contact the clerk on 07572 812124 if you have any problems logging in on the day.**
- 6 Governance of the Southwold Harbour Lands - Next Steps ES/0683** **4 - 40**  
Report of Councillor Craig Rivett (Deputy Leader of East Suffolk Council and Cabinet Member with responsibility for Economic Development)

## Part Two – Exempt/Confidential

Pages


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There are no Exempt or Confidential items for this Agenda.

**Close**



Stephen Baker  
Chief Executive, East Suffolk Council



Lesley Beevor  
Town Clerk, Southwold Town Council

### **Filming, Videoing, Photography and Audio Recording at Council Meetings**

The Council, members of the public and press may record / film / photograph or broadcast this meeting when the public and press are not lawfully excluded. Any member of the public who attends a meeting and objects to being filmed should advise the Committee Clerk (in advance), who will instruct that they are not included in any filming.

If you require this document in large print, audio or Braille or in a different language, please contact the Democratic Services Team on 01502 523521 or email:

[democraticservices@eastsoffolk.gov.uk](mailto:democraticservices@eastsoffolk.gov.uk)



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## **Protocol for the Simultaneous East Suffolk Cabinet and Southwold Town Council Meeting**

### **Background**

Simultaneous meetings are not the same as joint meetings of two authorities.

The basis for holding a Simultaneous meeting for East Suffolk Council's (ESC) Cabinet and Southwold Town Council (STC) is:

- Two meetings in one room
- Two local authorities
- One agenda
- One debate
- Two sets of decisions / Minutes
- One common purpose

The two local authorities will be considering the same report and undertaking a common debate but can each reach separate / different decisions.

### **Purpose**

Simultaneous meetings held with the East Suffolk Council's Cabinet will primarily be held to consider reports that are pertinent to another authority and / or which concern matters for progressing partnership working between two different authorities and / or for making decisions that affect both local authorities.

### **Chairmanship**

The common debate at simultaneous meetings will be chaired by the Chairman elected for that meeting. The Leader of East Suffolk Council (as Chairman of the ESC Cabinet) and the Chairman (Mayor) of Southwold Town Council will lead in respect of their own authorities.

For each individual local authority, for the purposes of agreeing recommendations and

taking decisions, Southwold Town Council will be chaired by their Chairman (Mayor) and likewise the Leader of East Suffolk Council will chair in respect of East Suffolk Council's discussions.

### **Location of Meetings**

Due to the Covid-19 pandemic, this meeting will be conducted remotely, pursuant to the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. The meeting will take place via Zoom and there will be a link to YouTube, should members of the public wish to view the meeting as it takes place, or at their leisure after the meeting has concluded.

In accordance with Southwold Town Council's Protocol for Public Speaking, there will be a Public Forum, for 10 minutes, during which time, electors can put questions to the Chairman, regarding matters on the agenda. An elector must not speak for more than 3 minutes. Where possible, a response will be given. This part of the agenda will be managed by the Clerk of Southwold Town Council and facilitated by East Suffolk Council officers.

### **Governance Arrangements**

The requirements of the Local Government Act 1972, the Access to Information Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and other associated legislation will be adhered to in relation to the publication of the Agenda / reports and production of Decision Notices / Minutes for East Suffolk Council.

The requirements of the Local Government Act 1972 will be adhered to in relation to the publication of the Agenda / reports and production of Minutes for Southwold Town Council.

The Constitutional requirements for each respective authority will also apply.

There will be one Agenda for both authorities, which will be available on both authorities websites.

East Suffolk Council is statutorily required to publish a formal Decision Notice(s) (in addition to the production of Minutes) - which may be subject to call-in.

One set of Minutes will be produced for both authorities. These Minutes will need to be referred separately to each local authority for approval as a correct record.

Each local authority will vote separately and each Member shall be entitled to one vote (except for those occasions when the Chairman may need to exercise a casting vote).

Quorum – The current rules will apply with regard to a quorum for each authority – ie for Southwold Town Council the quorum is 4, whilst for East Suffolk Council the quorum is 5.

Declarations of Interest – Should any Councillor be a twin-hatter on both Southwold Town Council and East Suffolk Council then this would need to be declared at the appropriate place on the Agenda (ie the Member would need to declare a Local Non-Pecuniary Interest as s/he is an elected representative for both Southwold Town Council and East Suffolk Council).

Voting – As the Simultaneous Meeting is in effect two formal meetings of two separate local authority bodies considering a single item of specific interest to both parties at the same time, all Members on both local authorities have the right to speak and vote (and subject to an equality of votes the Chairman of either / both authorities would have a casting vote). This means that any dual-hatters who are Elected Members on both authorities would be able to vote twice (once for East Suffolk Council and once for Southwold Town Council).

Where the ESC Cabinet does not have decision-making powers, it must refer recommendations to a Full Council meeting but it is envisaged that for the purpose of this Simultaneous Meeting no such decisions will arise in this case.

Southwold Town Council, meeting as a local council, would have the full necessary decision-making powers and so referral of any decision to another body is not required.

Each local authority will include details of the Simultaneous Meeting arrangements on their respective websites.

## **PROCEDURE**

1. The Chief Executive of East Suffolk Council will open the meeting and ask both ESC and STC Members present to elect a Chairman to lead the debate at the Simultaneous Meeting (Ordinarily this would be the Chairman of the lead authority – in this case, the ESC Cabinet).
2. The elected Chairman for the meeting will be responsible for management of the Agenda and the meeting, as per normal meeting arrangements and will deal with the preliminary Agenda items (Apologies / Declarations of Interest etc).
3. For each report under consideration, both local authorities will undertake a common debate, chaired by the appointed Chairman for the meeting.
4. Following the common debate, the Chairman of the ESC Cabinet will seek a 'Mover' and 'Seconder' and take a vote to agree the recommendation(s) / make a decision on the item(s) under consideration.
5. The Chairman of Southwold Town Council will then seek a 'Mover' and 'Seconder' and take a vote to agree the recommendation(s) / make a decision on the item(s) under consideration.
6. At the conclusion of business, the appointed Chairman will close the meeting.



## **SIMULTANEOUS MEETING OF EAST SUFFOLK COUNCIL'S CABINET AND SOUTHWOLD TOWN COUNCIL**

Tuesday, 2 March 2021

### **GOVERNANCE OF THE SOUTHWOLD HARBOUR LANDS - NEXT STEPS**

#### **EXECUTIVE SUMMARY**

1. On 6 March 2019, following a consultation exercise and detailed review of the position, the Southwold Harbour Lands Joint Committee (JC) rescinded resolutions about previous planned governance changes which had proved inappropriate, and made the recommendations set out in section 5 of this report, including the recommended governance improvements described in paragraph 2 below.
2. On 15 March 2019, Waveney District Council's (WDC) Cabinet and Southwold Town Council (STC) noted and endorsed these recommendations and as recommended, directed the JC to arrange to consult professional advisers and stakeholders and advise WDC's Cabinet and STC on proposals for a Harbour Management Committee (HMC) to succeed the JC and:
  - (i) enable short term governance improvements (including more local involvement and engagement in management and delivery) in line with the key principles in a June 2014 consultation document and the Ports Good Governance Guidance (PGGG) issued by the Department for Transport (DfT) in March 2018; and
  - (ii) design proposals to deliver medium term improvements, which are likely to be made by application to the Marine Management Organisation for a Harbour Revision Order to update the 1933 legislation which governs the harbour.
3. On 1 April 2019, East Suffolk Council (ESC) replaced WDC. Pursuant to the recommendations and directions outlined above, specialist solicitors, Ashfords LLP were instructed to advise and prepare a draft constitution for the proposed HMC.
4. On 5 July 2019, the JC met to consider the advice and draft constitution and had questions and reservations about whether to follow the advice from the solicitors (which recommended following the PGGG) or, for example, have automatic places for member(s) of STC and a greater proportion of members from ESC, as proposed in the report to the JC for 6 March 2019 and the instructions to the solicitors. To enable this to be resolved as soon as possible, the JC resolved to put the advice and draft constitution out to public consultation with a circular highlighting key points and the JC's concerns.
5. The public consultation which was carried out between September and December 2019 was considered by the JC in the report presented to the meeting of 3 February 2020 (the February 2020 Meeting), together with the consultation responses, and changes to the draft constitutional documents which were recommended in light of the JC's initial concerns (as highlighted in the consultation circular) and the consultation responses.

6. At the February 2020 Meeting, the JC considered the consultation responses and proposals to recommend to ESC's Cabinet and STC, as set out in the report which was presented (the February 2020 Report). The JC also took advice, in person, from a solicitor from Ashfords, about the proposed way forward. Resolutions were made at the February Meeting as set out in the February 2020 Report.
7. Following the February 2020 Meeting, Ashfords were instructed by the ESC to:
  1. Advise on the method of appointment to the HMC (including proposed appointments panel) and to provide input into the skills audit being carried out to identify the skills required on the HMC during its initial establishment (and broadly during its first three years).
  2. Prepare the draft terms of reference and structure for the Advisory Group
8. ESC then carried out a further public consultation exercise which commenced on Friday 1 May and closed on Friday 12th June 2020 about the:
  1. Skills audit for the initial appointment of members of the proposed HMC
  2. Draft Terms of Reference for the Stakeholder Advisory Group (the Advisory Group).
9. The purpose of this report is to consider the outcome of the last public consultation and to consider the next steps, leading to the formation of the HMC. Lara Moore, a solicitor from Ashfords, will be present at the meeting on 2 March 2021 to answer provide advice and to answer any questions.

Is the report Open or Exempt?	Open
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<b>Wards Affected:</b>	Southwold
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<b>Cabinet Member:</b>	Councillor Craig Rivett Deputy Leader and Cabinet Member with responsibility for Economic Development
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<b>Supporting Officer:</b>	Kerry Blair Head of Operations 01502 523007 <a href="mailto:kerry.blair@eastsoffolk.gov.uk">kerry.blair@eastsoffolk.gov.uk</a>
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## 1 INTRODUCTION

- 1.1 Links to various documents forming the background to in this matter are provided in the table at the end of this report.
- 1.2 Also attached for ease of reference are links to:
- (i) PGGG published by the DfT;  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/684839/ports-good-governance-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684839/ports-good-governance-guidance.pdf).
  - (ii) The Port Marine Safety Code published by the DfT and the Maritime and Coastguard Agency;  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/564723/port-marine-safety-code.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/564723/port-marine-safety-code.pdf).
  - (iii) February 2020 Report  
<https://eastsuffolk.cmis.uk.com/eastsuffolk/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/136/Committee/26/Default.aspx>

## 2 BACKGROUND

- 2.1 The February 2020 Report sets out the background to this matter, and provides a chronology of what happened, when, and why, relating to the proposed changes to the governance of the Southwold Harbour Lands (SHL). The SHL is an area including Southwold harbour and neighbouring lands, including the relevant stretch of the River Blyth, Buss Creek, Salt Creek, the caravan and camping site and commercial properties leased to independent operators to generate rental income for the harbour.
- 2.2 At the February 2020 Meeting, the JC resolved to recommend to the Cabinet of ESC and to the STC:
- a. That the Harbour Management Committee should be created by the Cabinet of East Suffolk Council, based on the revised Terms of Reference and the revised Memorandum of Understanding agreed in the meeting and initialled by the Chairman for the purposes of identification;
  - b. That Ashfords LLP should be instructed to prepare the draft terms of reference and structure for the Advisory Group as soon as reasonably practicable;
  - c. That a skills audit for the Harbour Management Committee is carried out as soon as reasonably practicable; and
  - d. That the Joint Committee should be disestablished on creation of the Harbour Management Committee.
- 2.3 The revised terms of reference for the HMC which were agreed and initialled at the February 2020 Meeting are attached to this report as Appendix A. The Memorandum of Understanding which was agreed and initialled at the February 2020 meeting is attached as Appendix B to this report.
- 2.4 Following the February 2020 Meeting, Ashfords were instructed by the ESC to:
- 1. Advise on the method of appointment to the HMC (including proposed appointments panel) and to provide input into the skills audit being carried out to identify the skills required on the HMC during its initial establishment (and broadly during its first three years).
  - 2. Prepare the draft terms of reference and structure for the Advisory Group

- 2.5 ESC then carried out a further public consultation exercise which commenced on Friday 1 May and closed on Friday 12th June 2020 about the:
1. Skills audit for the initial appointment of members of the proposed HMC
  2. Draft Terms of Reference for the Advisory Group.
- 2.6 The purpose of this report is to consider the outcome of the last public consultation and to consider the next steps, leading to the formation of the HMC. Lara Moore, a solicitor from Ashfords, will be present at the meeting to provide advice and to answer any questions.
- 2.7 It is noted and appreciated, with some regret, that there has been a short delay in considering the outcome of the second public consultation. This has been due to the pressures of other work, caused by the COVID-19 pandemic. However, it is hoped that the report now sets out a clear way forward, with the associated timeline leading to the formation of the HMC and the Advisory Group.

### **3. SKILLS AUDIT**

- 3.1 The skills audit, set out below, takes into account the likely key tasks and priorities of the proposed HMC during its first three years of operation. These include the tasks set out at Annex 2 of the Memorandum of Understanding for the HMC which has already been the subject of the public consultation. Those tasks were:
1. To review and finalise the Schedule of Assets for the SHL (and review annually)
  2. To draw up an initial/ five-year business plan for SHL (and then implement, with an annual and five-year review)
  3. To draw up the proposed budget for SHL (and then to report on performance against budget every 6 months)
  4. To prepare an annual report for SHL every year.

In addition, in line with the Memorandum of Understanding and Terms of Reference already consulted on, the following additional tasks will also be key tasks and priorities for the HMC during its initial three years of operation:

5. On establishment of the HMC to establish the proposed Advisory Group (and once established to consult with it and other stakeholders).
  6. To consider and progress an application for a Harbour Revision Order to modernise the statutory provisions applying to SHL (including placing the HMC and Advisory Group on a statutory footing).
  7. In designing these long-term improvements, by applying for a Harbour Revision Order or otherwise:
    - a. specific safeguards should, subject to legal advice and the requirements of stakeholders, be included to protect income from the SHL and preserve the SHL in the ownership of the ESC; and
    - b. the HMC should consider whether any appropriate additional powers should be sought, including powers of general direction and/or to carry out or fund works to the Blyth estuary, outside the Harbour, for the protection of the Harbour.
- 3.2 Having considered the above tasks, the key skills required on the HMC during its first three years of operation include:

1. Risk Management and Mitigation (including Coastal defence, flood protection, health and safety and marine engineering)
2. Knowledge of and management of ports / harbours
3. Financial/organisational/strategic planning and management
4. Knowledge of local stakeholders including the local community (e.g., residents, businesses, commercial users, leisure users, caravan site owners, visitors, Blyth estuary)
5. Management/development of property/facilities (and in particular caravan site operation and tourism)
6. Communications, marketing and consultation

#### **4 PROPOSED TERMS OF REFERENCE FOR THE ADVISORY GROUP**

- 4.1 As to the proposed Terms of Reference for the Advisory Group, these are set out at Appendix C to this report.

#### **5 RESULTS OF THE CONSULTATION AND RECOMMENDATIONS**

- 5.1 As to the Skills Audit for the establishment of the HMC, a number of the consultation responses provided similar suggestions/comments in respect of this. The comments, followed by the ESC's responses to them, is set out below:-

1. A further skills audit should be carried out after two years. The ESC accepts this recommendation and a further skills audit of the HMC will be conducted in 2 years' time. The current Skills Audit document has been updated to reflect this.
2. Other skills were suggested for inclusion, such as those around securing funding, business planning, team working, problem solving, knowledge of the LA, and other agencies e.g., the Environment agency. Also, skills such as project management, expertise in climate change, rising sea levels, flood protection, flood mitigation, coastal defences, basic engineering experience (science of the estuary in an engineering role), environmental matters and tourism. The ESC agrees that all of these skills are relevant. Indeed, a number of them were already expressly included in the current skills matrix. Whilst many of them were within the more general scope of the skills already included, the Skills Audit has been amended to make this clearer.

- 5.2 On the draft Terms of Reference for the Advisory Group, a number of the consultation responses provided similar suggestions/comments in respect of them, to reflect the fact that:

1. An Executive of approximately 4 persons should be formed from the Advisory Group. The ESC will keep this suggestion under review once the Advisory Group has been established. However, the usual way for any harbour stakeholder group to engage with the statutory harbour authority is through its meetings, and the provision of relevant minutes and written questions/representations, as well as by the attendance of Officers of the harbour authority (for example the Harbour Master or another suitable person) at the Advisory Group meetings to answer questions etc. Therefore, it is proposed to establish the Advisory Group and to keep the structure under review as it progresses through its first year of operation.
2. Shoreside trader representatives should include large businesses such as Adnams and the Harbour Marine Services. There are already two spaces allocated on the Advisory Group for shoreside traders who operate close to the harbour. This now includes a reference to businesses as well as traders. Adnams and/or the Harbour Marine Services can submit an application to join the Advisory Group if they wish to do so, along with any other shoreside traders and businesses. Any applications will be assessed and members will be selected

with a view to being representatives, overall, of the businesses/traders close to the harbour.

3. There should be a Scientific Adviser who understands tidal flows, coastal surges, expertise in rising sea levels and flood protection, engineering. There is already a position provided for a representative of the Environment Agency. Given the Environment Agency's central role in coastal defences and flood protection, any such representative should have this expertise. If the Environment Agency choose not to appoint a representative, then an alternative person with appropriate skills will be sought as per the provisions of the Terms of Reference.
4. There should be a representative of the 6 Blackshore homeowners. The STC representatives will assist in presenting the views of local residents. However, it is agreed that a representative of local residents should be offered a separate position on the Advisory Group. Therefore, a new position has been created. It is not limited solely to the Blackshore home- owners, but they are invited to submit an application for the position.
5. Additional comments were also submitted, followed by the ESC's response to them.

(1.) That the Advisory Group must have real influence and that its advice and recommendations must be fully taken into account by the HMC and clear reasons given for any decisions made against advice from the Advisory Group. It is correct that the HMC should take into account the advice of the Advisory Group and it is intended that any future Harbour Revision Order will place the right of the Advisory Group to be consulted and for its views to be taken into account on a statutory footing. However, it is important from the outset to understand that taking account of the views of the Advisory Group does not necessarily mean implementing its recommendations. When taking decisions, the HMC/ESC will set out the basis upon which its decisions have been reached, as it is required to do, under the usual public law requirements in this regard.

(2.) The £25,000 cap on the proposed HMC's budget should be removed, if the sum in question is within the HMC budget agreed with the ESC. It is confirmed that where sums have already been approved as part of the HMC budget, then, further approval of the sum by the ESC, when being used for the approved purpose, would not usually be required. (Note, however, that there may be an internal sign off procedure required for release of the funds by the ESC).

(3.) To establish a charitable arm, within the HMC's business plan, in order to fund the considerable capital investment required for future flood defences of the Harbour and River. Establishing a charity as part of a statutory harbour authority is not without precedent in England. However, it is very rarely done, and its establishment would be a involve a complex process which may or may not be successful. Once the HMC is established, it will be able to give the suggestion due consideration, should it consider that it is appropriate to do so.

(4.) All minutes of meetings and accounts should be posted online and all meetings should be open for members of the public to observe. HMC meetings will be conducted in accordance with normal ESC procedures including publication of papers, minutes, attendance of public at meetings and accounts. Also, as confirmed at the February 2020 Meeting, all harbour revenue (including revenue received by the ESC in respect of the Caravan Park and Camping Ground situated on harbour land) will be treated and applied only in accordance with article 39 of the Southwold Harbour Order 1933. (This Order provides the governing legislation for the harbour undertaking, as summarised in section 2 of the report to the JC of December 2018).

## 6 NEXT STEPS

- 6.1 The recommendations of the JC were made to both the Cabinet of ESC and STC with regard to:
  - a. the establishment of an HMC, based on the revised Terms of Reference and the revised Memorandum of Understanding agreed in Joint Committee meeting of 3 February 2020; and
  - b. the dissolution of the Joint Committee (JC) on the establishment of the HMC.
- 6.2 Assuming that as a result of this simultaneous meeting of the ESC Cabinet and STC, the establishment of the HMC is confirmed, then, the ESC will begin the process of establishing the HMC based on the Skills Audit (referenced above), the Terms of Reference, and Memorandum of Understanding already agreed by the JC at the February 2020 Meeting, and the recommendations of the PGGG. The anticipated timescales are set out below.
- 6.3 The functions of the ESC as a harbour authority are carried out by the Council's Cabinet. Paragraph 3.2 of Section D (Cabinet) of Part 2 (Function and Responsibilities) of the Council's Constitution, and sub-paragraph 7) of paragraph 5.11 (Services and Functions within Cabinet Responsibility) of Section D, refer to this. The HMC will consist of 5 persons appointed by the Cabinet, and 4 persons who are co-opted to the HMC by the Cabinet.
- 6.4 Taking into consideration the Skills Audit, it will be necessary to identify potential Cabinet appointees that hold one or more of those skills. At the same time, it will be necessary to identify any gaps, where the required key skills may not be held by potential Cabinet appointees.
- 6.5 Thereafter, a public advertisement can be placed for the four co-opted HMC positions. This advertisement will provide the full list of skills required for the HMC, but also identify, as a priority, those key skills which are not already provided by the Cabinet appointees. It is suggested that there be a 21-day application period for the co-opted appointments.
- 6.6 All applications for the co-opted appointments will need to be reviewed and a short list of applicants prepared, having due regard to the Skills Audit requirements (if the number of applicants means that a shortlist is required). Short listed applicants will be invited for an interview.
- 6.7 It is recommended that the short-listed applicants be interviewed by an Appointments panel consisting of a member of the ESC, a member of STC and an independent external person. Ashfords may well be able to recommend such an independent person to the ESC, based on their previous experience of making such appointments. On the conclusion of the interviews, the Appointments Panel will make recommendations to the ESC Cabinet as to the persons it considers should be appointed to the co-opted HMC positions for the Cabinet to consider at a subsequent meeting.
- 6.8 In considering the recommendations of the Appointments Panel, the Cabinet will also consider its potential Cabinet appointees and whether all remain suitable for appointment or whether, with regard to the Skills Audit and applications received, any other person should be appointed in place of one or more of the potential Cabinet appointees. Once the Cabinet has met to confirm the appointment of the Cabinet appointees and the externally, co-opted appointments to the HMC, it will need to also consider and confirm the length of the initial terms of office for the co-optees (in accordance with the Memorandum of Understanding and the Terms of Reference).
- 6.9 All HMC members will be bound by the Suffolk Code of Conduct (the Code), whilst serving on the Committee. Therefore, the co-opted Members of the HMC will need to make the declarations of interest, in writing, which are required under the Code. Co-opted Members will need to be familiar with all of the obligations set out in the Code whilst serving on the HMC.

6.10 Co-opted Members of the Council are also paid an allowance which is in accordance with paragraph 5 of the ESC's Members' Allowances Scheme. A link to ESC's Constitution is included here, which includes the Code, in Part 4, and the Members' Allowances Scheme, in Part 5;

<https://www.eastsuffolk.gov.uk/assets/Your-Council/East-Suffolk-Council-Constitution.pdf>

The amount payable as an allowance for co-opted HMC Members is an amount per meeting, being the Basic Allowance (currently £7 706.25) multiplied by between 1% to 4% the equivalent of between £77.06 and £308.25 per meeting. The % is to be determined at the discretion of the Chair of the Committee on which the co-opted Member sits. Therefore, the % payable will be a matter for the Chair of the HMC to determine, at the first meeting of the HMC. The Chair and Vice-Chair of the HMC will be elected Members of the Cabinet. For the ESC Members of the HMC, note that under the Members' Allowances Scheme, up to two Special Responsibility Allowances may be paid to each Member, being 100% of the highest eligible allowance and 25% of the second highest allowance, provided that the second allowance does not relate to a position on the same Committee.

6.11 As well as being entitled to a co-opted Members' Allowance, the Members' Allowances Scheme allows Members and co-opted Members to claim:-

1. Travel and limited subsistence as expenses. Mileage incurred on HMC business, for approved duties such as including driving to meetings (assuming they resume in person) are paid at 45p per mile. Mileage must be claimed within 3 months of the costs being incurred. Claims are made via the Council's HR system, so the co-opted Members would be set up on that, so they can make their claims online. Note that subsistence is not paid for the costs of breakfast, tea or lunch and only the costs of an evening meal can be claimed when linked to an overnight stay, where the overnight stay is required to attend a course, or such like.
2. The actual costs of using public transport can be reclaimed for approved duties, so, travel costs to meetings if bus or rail is used. Taxis fares are only paid in urgent cases where no public transport is reasonable available to carry out approved duties.
3. An hourly Dependant Carers Allowance of £20.00 per hour to cover the costs of carers or nursing, to allow attendance at meetings.
4. An hourly babysitting/childcare allowance of up to £10 per hour to cover the costs of childcare to allow attendance at meetings. For the allowances referred to in this subparagraph, and 3) above, receipts for the costs incurred must be provided, and family members cannot be used to provide the caring, nursing or babysitting etc.

6.12 The payment of allowances is subject to Income Tax under PAYE and National Insurance deductions. Receipts for allowances claimed, including tickets/fares, are required and it must be noted that the Council publishes details of all claims and payments made under the Members' Allowances Scheme.

6.13 After the appointment of the HMC, it is suggested that all Members of it meet, to receive a training session about the statutory harbour authority, including information about the PMSC, PGGG and their duties as HMC Members. Immediately following the training session, it is suggested that the first HMC meeting should take place. On the first meeting of the HMC, the JC will be dissolved, automatically.

6.14 Agenda items for the first meeting will include approving:

1. The draft Terms of Reference for the Advisory Group;
2. The public notice inviting applications for membership of the Advisory Group and letters inviting nominations (where appropriate).
3. Establish the Advisory Group Membership Committee (Membership Committee)

- 6.15 Thereafter, a public notice can be published and nomination request letters sent out to invite applications for membership of the Advisory Group with a closing date for applications/nominations 21 days later. Applications/nominations can then be considered by the Membership Committee and recommendations formulated. A second HMC meeting may then be convened to confirm the appointments to the Advisory Group. Once the HMC has met and confirmed the members of the Advisory Group, its first meeting may be held.

## **7 HOW DOES THIS RELATE TO THE EAST SUFFOLK STRATEGIC PLAN?**

- 7.1 The changes to governance proposed for the SHL support a number of themes in ESC's Strategic Plan. The wider representational base of the HMC and the Advisory Group provides an opportunity for greater engagement with our Communities and enables them to contribute to the running of an important local asset. Being set up in accordance with the PGGG will provide the support of the DfT and give a base for a subsequent Harbour Revision Order, thus securing a more modern approach to the management of the SHL. Having a skills-based approach to the recruitment of the HMC Members, and having co-opted Members on it, will provide a new and exciting approach to the management of the SHL. It will also provide a more transparent means of operating the SHL, given that the HMC will be set up and run as any other Committee of the Council/Cabinet would be, and will be subject to the same rules around accessibility of information, openness etc.
- 7.2 By having this new approach to the management of the SHL assets, it will fit with the other themes in the Strategic Plan, such as Enabling Economic Growth, Caring for Our Environment and Remaining Financially Sustainable. In terms of these themes, the new governance arrangement will support any plans which there might be to develop or renovate the built environment of the SHL, to attract inward investment, maximise its economic potential, build business partnerships or support the delivery of infrastructure.

## **8. FINANCIAL AND GOVERNANCE IMPLICATIONS**

- 8.1 ESC agreed to advance funds to enable instruction of the external solicitors to advise on the appropriate constitution for the HMC. This has been arranged through Legal and Democratic Services at ESC to control expenditure and work cost-effectively with the arrangements for the new constitution for ESC.
- 8.2 The longer term financial and governance considerations for the SHL are described and considered in section 12 of the February 2020 Report, at Appendix A.
- 8.3 There will be some modest costs associated with the next steps set out in this report, such as for advertisements for the recruitment of the co-opted Members of the HMC, and the Members of the Advisory Group. Also, for the payment of an Allowance for the co-opted Members of an amount per meeting, based on between 1% and 4% (to be determined) of the Basic Allowance of payable to Members of ESC

## **9. OTHER KEY ISSUES**

- 9.1 This report has been prepared having taken into account and reviewed the results of an Equality Impact Assessment (EIA), as published with the February 2020 Report and available at the link to that report, above. The EIA was carried out to ensure that the proposed way forward takes into account any potential impact on groups with protected characteristics. These groups may share particular and protected characteristics, such as gender, sexual orientation or disability. Please refer to the EIA for full details, but in particular:

9.1.1 As to the physical environment of the SHL, we consider that the facility in its current condition is accessible to all groups. Due to the nature of the marine environment, access to vessels may require special adaptations. However, the pontoons and jetties themselves are, where possible, level and accessible. The Head of Operations at ESC has arranged a review of access to jetties for marine users to better understand parameters for their use and inform planning for future improvements whatever governance structure applies.

9.1.2 The facility is free to access. While there are some commercial outlets on the Blackshore and harbour areas, it is not a requirement that people spend money to access the harbour. Therefore, it is considered that the harbour and its facilities are open to people regardless of socio-economic status.

9.2 We consider that the proposal will not adversely affect the status quo and should improve it. Currently, the SHL are managed by officers of ESC, in consultation with the Southwold Harbour and River Blyth Users Association (SHRBUA) and the Southwold Caravan Owners Association (SCOA), and others. The proposed HMC would be well placed to enhance equality of access. In particular, external appointees would be engaged following open advertisement, in accordance with the PGGG.

9.3 No points have been made by consultees during the further consultation exercise about any potential impact on groups with protected characteristics, other than general comments about the need to give priority to good access by land and sea to ensure future viability and a suggestion for improved roadways and footpaths, with particular references to improvements to the access road. This would be a matter for the proposed HMC to take forward.

## **10. CONSULTATION**

10.1 This report has been prepared taking into account the results of the consultation exercise referred to above. Further, the proposed approach would enable ongoing consultation, including the provisions for establishment of the Advisory Group described above.

## **11. OTHER OPTIONS CONSIDERED**

11.1 The February 2020 Report sets out the various proposals which have been made previously, in relation to the governance of the SHL, and the background to the decisions to be made in this report. See section 11 of the February 2020 Report for the various options.

## **12. REASON FOR RECOMMENDATIONS**

12.1 The recommendations in this report are made in response to the February 2020 Report and the resolutions passed at the February 2020 Meeting, as set out above. The Terms of Reference and the Memorandum of Understanding were agreed at the February 2020 Meeting, and the further consultation builds upon the work carried out thus far, to implement the new governance model for the SHL. Not to follow those recommendations would not serve the good work which has been undertaken, to date, to develop a more modern, working model of governance for the SHL.

12.2 It is considered that the recommended approach strikes the right balance, in terms of accommodating the wishes of stakeholders as far as possible and enabling the HMC to comply with the PGGG. It is recommended that the proposed HMC should be created as soon as possible, to allow it to begin work and evolve based on its experience and ongoing consultation with stakeholders.



## RECOMMENDATIONS

- a) That the outcome of the further consultation is considered and the East Suffolk responses to the points raised from it be noted
- b) That the proposed Terms of Reference for the Advisory Group, at Appendix C to this report, be approved
- c) That the establishment of an Harbour Management Committee for the Southwold Harbour Lands, based on the revised Terms of Reference and the revised Memorandum of Understanding agreed and initialled at the meeting of the Southwold Harbour Lands Joint Committee held on 3 February 2020, be confirmed; and
- d) That on the establishment and first meeting of the Harbour Management Committee for the Southwold Harbour Lands, the dissolution of the Southwold Harbour Lands Joint Committee be confirmed and
- e) That delegated authority be given by the East Suffolk Council's Cabinet to the Strategic Director, to run the recruitment processes outlined in paragraph 6 of this report, and in consultation with the Head of Legal and Democratic Services, to establish the Harbour Management Committee, the Appointments Panel, the Advisory Group and the Membership Committee.

## APPENDICES

<b>Appendix A and B</b>	Terms of Reference for the HMC as agreed and initialled at the February 2020 Meeting and the Memorandum of Understanding as agreed and initialled at the February 2020 Meeting
<b>Appendix C</b>	Proposed Terms of Reference for the Advisory Group

## BACKGROUND PAPERS

Date	Type	Available From
<b>6 March 2019</b>	The documents considered by the JC on 6 March 2019 as referred to in this report, including the specific items listed below for ease of reference	<a href="https://www.eastsuffolk.gov.uk/yourcouncil/council-meetings-and-decisions/agendas-reports-and-minutes-of-council-meetings/waveney-district-council-meetings/2019-meetings/march-2019-meetings/southwold-harbour-lands-joint-committee-6-march-2019/">https://www.eastsuffolk.gov.uk/yourcouncil/council-meetings-and-decisions/agendas-reports-and-minutes-of-council-meetings/waveney-district-council-meetings/2019-meetings/march-2019-meetings/southwold-harbour-lands-joint-committee-6-march-2019/</a>
<b>June 2014</b>	Consultation Document	<a href="https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/Southwold-Harbour-Lands-Joint-Committee-06-03-19/Item-06-Appendix-C-Southwold-Harbour-Lands-Consultation-June-2014.pdf">https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/Southwold-Harbour-Lands-Joint-Committee-06-03-19/Item-06-Appendix-C-Southwold-Harbour-Lands-Consultation-June-2014.pdf</a>

<b>28 July 2014</b>	Minutes of the simultaneous meeting of WDC's Cabinet and STC	<a href="https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/Southwold-Harbour-Lands-Joint-Committee-06-03-19/Item-06-Appendix-E-Minutes-of-the-WDC-Cabinet-and-STC-meetings-on-28-July-2014.pdf">https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/Southwold-Harbour-Lands-Joint-Committee-06-03-19/Item-06-Appendix-E-Minutes-of-the-WDC-Cabinet-and-STC-meetings-on-28-July-2014.pdf</a>
<b>November 2018</b>	Equalities Impact Assessment (EIA)	<a href="https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/Southwold-Harbour-Lands-Joint-Committee-06-03-19/Item-06-Appendix-I-Equalities-Impact-Assessment.pdf">https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/Southwold-Harbour-Lands-Joint-Committee-06-03-19/Item-06-Appendix-I-Equalities-Impact-Assessment.pdf</a>
<b>December 2018</b>	December Report	<a href="https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/Southwold-Harbour-Lands-Joint-Committee-06-03-19/Item-06-Appendix-J-Report-on-Future-of-Southwold-Harbour-Lands.pdf">https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/Southwold-Harbour-Lands-Joint-Committee-06-03-19/Item-06-Appendix-J-Report-on-Future-of-Southwold-Harbour-Lands.pdf</a>
<b>February 2019</b>	February Report	<a href="https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/Southwold-Harbour-Lands-Joint-Committee-06-03-19/Item-006-Southwold-Report.pdf">https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/Southwold-Harbour-Lands-Joint-Committee-06-03-19/Item-006-Southwold-Report.pdf</a>
<b>6 March 2019</b>	March Resolutions	<a href="https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/Southwold-Harbour-Lands-Joint-Committee-06-03-19/Decision-Notice-for-Southwold-Harbour-Lands-Joint-Committee.pdf">https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/Southwold-Harbour-Lands-Joint-Committee-06-03-19/Decision-Notice-for-Southwold-Harbour-Lands-Joint-Committee.pdf</a>
<b>15 March 2019</b>	Resolutions by WDC's Cabinet	<a href="https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/WDC-Cabinet-and-Southwold-Town-Council-Meeting/99-Decision-Notice-Simultaneous-Cabinet-15-March-2019.pdf">https://www.eastsuffolk.gov.uk/assets/Your-Council/WDC-Council-Meetings/2019/March/WDC-Cabinet-and-Southwold-Town-Council-Meeting/99-Decision-Notice-Simultaneous-Cabinet-15-March-2019.pdf</a>
<b>5 July 2019</b>	July Report	<a href="https://eastsuffolk.cmis.uk.com/eastsuffolk/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/108/Committee/26/Default.aspx">https://eastsuffolk.cmis.uk.com/eastsuffolk/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/108/Committee/26/Default.aspx</a>
<b>July 2019</b>	Draft Terms of Reference as published for consultation	<a href="https://www.eastsuffolk.gov.uk/assets/Visitors/Southwold-Harbour/Management-consultation/Terms-of-Reference.pdf">https://www.eastsuffolk.gov.uk/assets/Visitors/Southwold-Harbour/Management-consultation/Terms-of-Reference.pdf</a>
<b>July 2019</b>	Draft Memorandum of Understanding as published for consultation	<a href="https://www.eastsuffolk.gov.uk/assets/Visitors/Southwold-Harbour/Management-consultation/Memorandum-of-Understanding.pdf">https://www.eastsuffolk.gov.uk/assets/Visitors/Southwold-Harbour/Management-consultation/Memorandum-of-Understanding.pdf</a>
<b>August 2019</b>	Consultation circular	<a href="https://www.eastsuffolk.gov.uk/assets/Visitors/Southwold-Harbour/Management-consultation/Consultation-Circular.pdf">https://www.eastsuffolk.gov.uk/assets/Visitors/Southwold-Harbour/Management-consultation/Consultation-Circular.pdf</a>
<b>August 2019</b>	Draft outline business case	<a href="https://www.eastsuffolk.gov.uk/assets/Visitors/Southwold-Harbour/Management-consultation/Outline-Business-Case.pdf">https://www.eastsuffolk.gov.uk/assets/Visitors/Southwold-Harbour/Management-consultation/Outline-Business-Case.pdf</a>

**[REVISED DRAFT]**

**HARBOUR MANAGEMENT COMMITTEE – Terms of Reference**

**1. Introduction**

- 1.1. The Council is the Owner and Statutory Harbour Authority for Southwold Harbour (the 'Harbour').
- 1.2. Under the Constitution, any function of the Council as Harbour Authority is a Cabinet responsibility.
- 1.3. The Cabinet has resolved to dissolve the existing Southwold Harbour Lands Joint Committee and replace it with the Harbour Management Committee (the 'Committee') to manage the Harbour.
- 1.4. The Committee will manage the Harbour in accordance with the provisions of the Harbours Act 1964, the Southwold Harbour Order 1933 and the Harbour Docks and Piers Clauses Act 1847 (as incorporated), as amended from time to time (the 'Harbour Legislation').
- 1.5. The Southwold Harbour Order 1933 includes protective provisions in relation to any sale of the harbour undertaking and the revenue from the harbour undertaking. Further, the Council has endorsed the recommendations made by the Southwold Harbour Lands Joint Committee on 6 March 2019 [and 3 February 2020], including the recommendations that:
  - 1.5.1. the Committee should be established to replace the Southwold Harbour Lands Joint Committee, enable short-term governance improvements and design proposals for long-term improvements, including an application for a Harbour Revision Order to update the Southwold Harbour Order 1933;
  - 1.5.2. when designing these long-term improvements, by applying for a Harbour Revision Order or otherwise:
    - 1.5.2.1. specific safeguards should, subject to legal advice and the requirements of stakeholders, be included to protect income from the Harbour and preserve the Harbour in the ownership of the Council; [and
    - 1.5.2.2. the Committee should consider whether any appropriate additional powers should be sought, including powers of general direction and/or to carry out or fund works to the Blyth estuary, outside the Harbour, for the protection of the Harbour.]

**2. Purpose of the Committee**

- 2.1. To, in respect of the Harbour, perform functions:
  - 2.1.1. within the definition of a Harbour Authority in Section 57(1) of the Harbours Act 1964 and the Southwold Harbour Order 1933 and the Harbour Docks and Piers Clauses Act 1847 (as incorporated), as amended from time to time; and
  - 2.1.2. arising out of any Byelaws made by the Council under the above legislation.
- 2.2. The discharge of these functions within any policy and budget approved by Council to be delegated as set out in the Memorandum of Understanding between the Committee and the Council.
- 2.3. The Committee shall not incur any expenditure, enter into any obligations or take any other action except:

- 2.3.1. within the budget determined by the Council in accordance with the following provisions; and
- 2.3.2. as set out in the harbour business plan approved by the Cabinet in accordance with the following provisions (the 'Harbour Business Plan').
- 2.4. The Committee shall only make decisions regarding the management, acquisition and disposal of assets in accordance with the Council's acquisitions and disposals policy, financial procedure rules and contracts procedures rules.
- 2.5. The Committee shall not make decisions on the disposal or acquisition of property assets unless:
  - 2.5.1. the decision(s) accord with the provisions of the Harbour Legislation and Council's plans, policies and strategies and in particular the Harbour Business Plan; and
  - 2.5.2. 21 days' prior notice has been given to the Council's Asset Management Service; and
  - 2.5.3. the Cabinet of the Council has not requested that the decision(s) be referred to the Council for consideration and decision; and
  - 2.5.4. it involves a transaction value of £25,000 or less.
- 2.6. The Committee shall not make disposals or acquisitions of assets with a value in excess of £25,000 but shall make recommendations to the Cabinet in respect of such transactions.
- 2.7. The Committee will review and then recommend an annual budget, (including rental charges and central re-charges to the Council) and an annual schedule of charges and dues for the Harbour and these will be determined by the Cabinet.
- 2.8. The Committee will monitor performance against approved budgets and take appropriate action where this is required.
- 2.9. The Committee will make a six monthly and annual report to the Cabinet reporting on performance against budget.
- 2.10. The Committee will publish a Harbour Business Plan and any other plan required from time to time following approval from the Cabinet.
- 2.11. The Harbour Business Plan and other plans should promote the Harbour to be financially self-sustainable in the long term, reducing the risk of the need to call upon the Council's General Fund.

### **3. Form and Composition**

- 3.1. The Committee will be comprised of nine members (9), five (5) elected members ~~of the Cabinet~~ will be appointed by the Cabinet and four (4) non-elected members will be co-opted onto the Committee following an appointment process to assess the skills and expertise that they can bring to the Committee.
- 3.2. The Chair and Vice Chair of the Committee shall be elected members of the Cabinet.
- 3.3. The elected members of the Committee shall be nominated by the Cabinet.
- 3.4. The non-elected members will be recommended to the Cabinet for appointment and their appointment is subject to ratification by the Cabinet. Non-elected members will serve the Committee in accordance with the following arrangements:-
  - 3.4.1. Co-opted Membership for the first term of the Committee shall be as follows:

- 1 Co-opted Member will sit for only 1 year
- 2 Co-opted Members will ~~be nominated by 30% of the Town Council~~ sit for only 2 years
- 1 Co-opted Member will ~~be nominated by 60% of the Town Council~~ sit for a full term of 3 years

- 3.5. Co-opted Members who sit for only one or two years in the first term may be appointed for one or two subsequent three-year terms without further competition being required.
- 3.6. Following this transition period, terms for Co-opted Members will remain at three years from appointment.
- 3.7. A Co-opted Member may be appointed to a second three-year term without recourse to open competition, subject to the agreement of both the Chairman and the Co-opted Member, and the Committee's assessment that the Member has performed satisfactorily during the first term (all Membership of the Committee is subject to ratification by the Cabinet).
- 3.8. Re-appointment of a Co-opted Member for a third term shall involve competition with other candidates.

#### **4. Meetings**

- 4.1. The Committee shall meet at least 6 times a year and be governed by the Cabinet Procedure Rules as set out in the Council's Constitution.
- 4.2. All members of the Committee shall abide by the Council's Code of Conduct;
- 4.3. The quorum for meetings of the Committee shall be 5 save that at no time shall there be less than 3 Cabinet elected members present at the meeting.
- 4.4. The Committee shall consider the following business:
  - 4.4.1. Approval of the Minutes of the previous meeting;
  - 4.4.2. Declarations of Interest, if any;
  - 4.4.3. Report and feedback from any Stakeholder Forum(s);
  - 4.4.4. The business otherwise set out on the Agenda for the meeting;
- 4.5. An Annual Meeting of the Committee will take place during the year. This will be an informal meeting and include invitation to all members of Stakeholder Forums.



CR.

Dated

2020

(1) East Suffolk Council

(2) The Southwold Harbour Management Committee

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**MEMORANDUM OF UNDERSTANDING  
IN RESPECT OF SOUTHWOLD HARBOUR**

**DRAFT**

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## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made on the \_\_\_\_\_ day of \_\_\_\_\_ 2020

Between

**East Suffolk Council** whose principal place of business is at East Suffolk House, Station Road, Melton, Woodbridge, IP12 1RT (hereinafter referred to as 'the Council')

and

**The Southwold Harbour Management Committee** (a Committee of the Cabinet of the Council) whose principal place of business is at East Suffolk House, Station Road, Melton, Woodbridge, IP12 1RT (hereinafter referred to as "the HMC")

Who are jointly referred to in this Memorandum of Understanding as 'the Parties'

WHEREAS:

- The Council is the Owner and Statutory Harbour Authority for Southwold Harbour ('the Harbour');
- The Southwold Harbour Lands Joint Committee ("JC") was a Joint Committee of the Cabinet of the Council and Southwold Town Council established on [*please insert date*]. The JC was established to assist with improvement of the governance of the Harbour.
- Following further advice and consultation with stakeholders including the Department for Transport, the JC was dissolved on [ *date to be inserted if JC dissolved* ] and instead, in accordance with advice from the Department for Transport, the Council at its Cabinet meeting on [ *date to be inserted* ] resolved to establish the Southwold Harbour Management Committee ('HMC') as a Committee of the Cabinet of the Council pursuant to the provisions of the Local Government and Housing Act 1989 and having regard to the recommendations for governance changes made in the Ports Good Governance Guidance ('PGGG') published by the Department for Transport in March 2018;
- The MOU is made pursuant to the recommendations made in the PGGG. The Parties wish to set out their commitment to implementing the recommendations contained in the PGGG relevant to the establishment of the HMC.

### **1) Definitions and Abbreviations**

For the purposes of this MOU the following definitions and abbreviations shall apply;

- a) The "Assets" shall mean the property, equipment and all other matters set out in the Asset Register at **Annex 3** annexed hereto.
- b) The "Constitution" shall mean the constitution of the Council as amended from time to time.
- c) The "Cabinet" shall mean the Cabinet of the Council.
- d) The "Council" shall mean East Suffolk Council or, as appropriate, the Cabinet.

- e) The "DfT" shall mean the Department for Transport.
- f) The "Harbour" shall mean Southwold Harbour, the limits of which are established under the 1933 Order.
- g) The "Harbour Business Plan" shall mean the Harbour Business Plan for the relevant period as approved by the Cabinet of the Council.
- h) The "Harbour Revenue" shall mean and include the charges dues rates tolls and other moneys and receipts which may be taken and received by way of income from or in respect of the harbour undertaking under the authority of the 1933 Order or the Harbours Act 1964.
- i) "HMC" shall mean the Southwold Harbour Management Committee.
- j) "HMC Guidance Notes" shall mean the guidance notes contained in Annex 4 of this MoU.
- k) "MoU" shall mean Memorandum of Understanding.
- l) The "Parties" shall mean the Council and the HMC.
- m) "PGGG" shall mean the report published by the Department for Transport in March 2018 called *Ports Good Governance Guidance*.
- n) "Terms of Reference" shall mean the matters incorporated into the Constitution under the heading "Harbour Management Committee".
- o) "1933 Order" means the Southwold Harbour Order 1933, as amended from time to time.

## **2) Purpose of MoU**

- a) Subject to the requirements of the Constitution the purpose of this MoU is to
  - (i) Provide a clear framework for the decision making, accountability, and financial management of the Harbour to enable the HMC to address the needs of the Harbour as a business and an environmental and community asset, which takes full account of the commercial realities of municipal port operations; and
  - (ii) Assist in clarifying the role of the HMC to carry out its functions under its Terms of Reference
- b) The statutory role and functions of the Parties are not affected by the requirements of the MoU.
- c) This MoU is a statement of the understanding between the Council and the HMC. The MoU is not, and is not intended to be, legally binding to either Party. The detailed working arrangements may change over time by the agreement of the Council.
- d) The MoU provides that the Harbour will be governed according to best practices as set out in the PGGG.

## **3) Ports Good Governance Guidance 2018.**

- a) The PGGG was published by the DfT in March 2018, following extensive consultation with Industry. It sets out a number of recommendations for the accountability, governance, and finance of statutory harbour authorities and Part C applies specifically to Ports and Harbours within the Municipal Sector.
- b) The PGGG is based on a number of other documents, particularly the UK Corporate Governance Code (UKCGC). It replaces that in previous documents such as Modernising Trust Ports (MTP), published by the then DETR in 2000, its second edition Modernising Trust Ports (MTP2), published by DfT in 2009, and Opportunities for Ports in Local Authority Ownership, published by DfT in 2006. The guidance also reflects the recommendations of the Department's Trust Port Study, published in May 2016.
- c) The PGGG does not have force of law and is not legally binding. It does not replace any legal duties or obligations that SHAs might have in their own legislation or general acts of Parliament, such as the Harbours Act 1964 or the Companies Act 2006. Where such legal duties conflict with the PGGG, the legal duties take precedence.
- d) Whilst the guidance is advisory, the DfT expects all SHAs to carefully consider it and to implement its principles if these are not already in place, where practical and appropriate to the circumstances of the SHA.
- e) It has been agreed by the Council that this MoU is drawn up to address the recommendations contained in the PGGG. An extract from the PGGG related to the establishment of Harbour Management Committees is set out at **Annex 1**.
- f) Following the decision made by the Council at its Cabinet meeting on the **[date to be inserted]** the requirements arising from the PGGG have been considered and an Establishment Plan has been prepared to ensure that all the required topics are properly addressed – see **Annex 2**.
- g) This MoU is prepared on the basis of the findings of the PGGG. However, it is recognised by the Parties that the PGGG deals with short, medium and long term issues. It is fully appreciated that circumstances may change and for this reason a review and monitoring mechanism is essential to underpin this process.
- h) On this basis it is intended that a report will be put to the HMC annually to allow the HMC to review and monitor this MoU and recommend to Cabinet any changes to it as are required by amendments to the PGGG or developments in respect of the PGGG.

#### **4) General Commitments of the Council and the HMC**

- a) This MoU records that the Council and HMC have considered the guidance of the PGGG and records the commitment of the Council and the HMC to implement the recommendations contained therein; and
- b) This MoU further records that Council and HMC shall take all reasonable steps to work together constructively to mutually facilitate the implementation of the recommendations contained in the PGGG.

#### **5) Agreements of the Council and HMC**

The Council and HMC agree that:

- a) The reporting lines relevant to all Committees of the Cabinet of the Council and pursuant to the provisions of the Local Government and Housing Act 1989 and having regard to the recommendations of the PGGG will be maintained to assist the HMC to carry out its functions under its Terms of Reference.
- b) The HMC will, subject always to the requirements of the Cabinet of the Council, be required to exercise the Council's functions in respect of the Harbour under and in accordance with the Harbours Act 1964, the 1933 Order and the Harbour Docks Piers and Clauses Act 1847 (as incorporated) as amended from time to time.
- c) **Annex 5** sets out the organisational structure that is to be put into place defining the reporting lines between the Parties.
- d) Establishment of **assured accounts**: In accordance with article 41 of the 1933 Order, it is the intention of the Parties that all Harbour Revenue and capital monies are placed into a separate assured account with capital distinguished from revenue. The funds shall be used to allow for the maintenance and upkeep of the Harbour, for implementation of the future business plan of the Harbour and for the Harbour Revenue to be applied in accordance with article 39 of the 1933 Order.
- e) The assured accounts are to include any monies in any reserve fund established under article 38 of the 1933 Order.
- f) Companies Act accounts are to be established and maintained for ease of understanding for the HMC, and to fulfil statutory obligations under the Harbours Act 1964.

#### 6) Agreement of the Council

The Council agrees that:

- a) The Assets (including land, buildings, infrastructure, plant and machinery) of the Council that are utilised for the running of the Harbour as listed in **Annex 3** shall be managed by the HMC in accordance with its Terms of Reference, the Harbour Business Plan, the Council's plans and policies and the provisions of this MoU; and
- b) An annual budget including all harbour rental charges and central re-charges will be recommended by the HMC and will then be reviewed and determined by the Cabinet of the Council annually; and
- c) The annual charges and dues for the Harbour will be recommended by the HMC at the same time as the annual budget and will be reviewed and determined by the Cabinet of the Council annually; and
- d) Any shortfall in the Harbour Revenue in any year, shall be managed in accordance with article 40 of the 1933 Order; and
- e) The HMC shall be permitted to obtain specialist services from sources other than the Council by agreement with the Cabinet of the Council where specific expertise is not available from within the Council; and
- f) The Cabinet of the Council will ensure that its aims and objectives for governing and managing the Harbour on its behalf are agreed and clearly set out between the Parties in policies and plans; and

- g) The Council's policies and plans for the Harbour are stated by the Council in the form of the Environmental Policy and the Harbour Business Plan; and
- h) It is the intention of the Parties that these policies and plans will support the Harbour as a financially self-sustainable body, without the need to call upon the Council's General Fund; and
- i) The Cabinet of the Council will consider for approval updated policies and plans proposed by the HMC from time to time, and utilise the skills and experience of the HMC to its best advantage; and
- j) Borrowing facilities may at the Council's discretion be made available to the HMC to fund revenue generating projects in the Harbour where the HMC can demonstrate that such borrowing facilities are consistent with the Council's policies and plans and the 1933 Order; and
- k) The Council will make payments to all HMC members in accordance with the Council's Members' Scheme of Allowances at Part 5 of the Constitution.

## **7) Agreement of the HMC**

The HMC agrees that:

- a) The HMC will manage the Harbour under its delegation from the Cabinet of the Council on its behalf to address the needs of the Harbour as a business and an environmental and community asset, which takes full account of the commercial realities of harbour operations; and
- b) Any matters beyond the delegated authority of the HMC that comes before the HMC for decision will be recommended to the Cabinet of the Council for determination; and
- c) The HMC shall, subject to Clause 7(d) and (e) only make decisions regarding the management, acquisition and disposal of assets in accordance with the Council's acquisitions and disposals policy, financial procedure rules and contracts procedures rules; and
- d) The HMC shall not make decisions on the disposal or acquisition of property assets unless:
  - (i) it accords with the provisions of the 1933 Order and Council's plans, policies and strategies and in particular the Harbour Business Plan; and
  - (ii) 21 days' prior notice has been given to the Council's Asset Management Service; and
  - (iii) The Cabinet of the Council has not requested that the decision(s) be referred to the Council for consideration and decision; and
  - (iv) It involves a transaction value of £25,000 or less; and
- e) The HMC shall not make disposals or acquisitions of assets with a value in excess of £25,000 but shall make recommendations to the Cabinet of the Council in respect of such transactions; and
- f) The HMC will review and then recommend an annual budget, (including rental charges and central re-charges to the Council) and an annual schedule of charges and dues for the Harbour and these will be determined by the Council; and

- g) The HMC will monitor performance against approved budgets and take appropriate action where this is required; and
- h) The HMC make a six monthly and annual report to the Cabinet of the Council reporting on performance against budget; and
- i) The HMC will produce and publish a Harbour Business Plan and any other plan required from time to time following approval from the Cabinet of the Council; and
- j) The Harbour Business Plan and other plans should promote the Harbour to be a financially self-sustainable body in the long term, reducing the risk of the need to call upon the Council's General Fund; and
- k) The HMC will discharge its role in accordance with its Terms of Reference, the HMC Guidance Notes contained in Annex 4 of this MoU, this MoU and with consideration of other relevant policies and plans such as the Port Marine Safety Code, PGGG, Health and Safety at Work legislation, Harbour Byelaws and any other appropriate policies, plans and legislation; and
- l) The HMC will provide an annual report to the Cabinet of the Council on how it is governing the Harbour in a manner that is consistent with relevant policies plans and legislation; and
- m) Borrowing facilities may be requested by the HMC and considered by the Council to fund revenue generating projects in the harbour where the HMC can demonstrate that such borrowing facilities are consistent with the terms of the 1933 Order and Council's policies and plans including the sustainability of the Council's budget; and
- n) The HMC shall consider and make recommendations to the Cabinet of the Council regarding an application for a Harbour Revision Order to modernise the statutory provisions applying in respect of the Harbour, in accordance with the recommendations of the PGGG and the PMSC, and to establish the HMC through statutory provisions; and
- o) The HMC will take all reasonable steps to engage appropriately with the stakeholder community. It will maintain formal links with stakeholder forum(s) as appropriate; and
- p) The HMC will set up a formal Stakeholder Advisory Group that it will consult on all matters substantially affecting the operation of the Harbour.

#### **8) Harbour Revision Order**

It is acknowledged that the 1933 Order includes protective provisions in relation to any sale of the harbour undertaking and the Harbour Revenue. Further, the Council has [endorsed] the recommendations made by the Southwold Harbour Lands Joint Committee on 6 March 2019 [and 3 February 2020], including the recommendations that:

- a) the HMC should be established to replace the Southwold Harbour Lands Joint Committee, enable short-term governance improvements and design proposals for long-term improvements, including an application for a Harbour Revision Order to update the 1933 Order;
- b) when designing these long-term improvements, by applying for a Harbour Revision Order or otherwise:

- (i) specific safeguards should, subject to legal advice and the requirements of stakeholders, be included to protect income from the Harbour and preserve the Harbour in the ownership of the Council; [and
- (ii) the Committee should consider whether any appropriate additional powers should be sought, including powers of general direction and/or to carry out or fund works to the Blyth estuary, outside the Harbour, for the protection of the Harbour.]”

**9) General**

- a) This MoU neither expands nor is in derogation of those powers and authorities vested in the participating Parties by applicable law.
- b) For the avoidance of doubt, the HMC is neither the Designated Person nor the Duty Holder under the Port Marine Safety Code. The Duty Holder is the Cabinet of the Council.

**10) Term**

- a) This MoU in this form or such amended form as agreed between the Parties shall remain effective for as long as the present governance arrangements are in place.
- b) The Parties shall review this MoU at periods of 12 months, or such earlier period as appropriate should the need arise. The Council may agree to amend this MoU if circumstances dictate.
- c) The MoU may be terminated by resolution of the Council.

**11) Data protection and information**

- a) The Parties agree to comply with the Data Protection Act 2018, the General Data Protection Regulation, the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and other statutory information regimes.

Signed for and on behalf of  
East Suffolk Council

Signed for and on behalf of  
Southwold Harbour Management Committee

.....  
Chief Executive

.....  
Chairperson of Southwold Harbour  
Management Committee

## Annex 1

### Extract from Part C PGGG – Harbour Management Committees

#### Harbour Management Committees

4.6 Some LAs have established Harbour Management Committees (HMCs) as a means of governing their harbours. These have some of the features of a trust port board or board of a private SHA and are a good example of how corporate governance best practice principles can be applied in the context of local authority harbours.

4.7 The establishment of an HMC (which would be constituted as a committee within the current LA system) can bring openness and additional accountability to port decisions, along with more expertise and experience (as a skills audit will be carried out prior to HMC members being decided upon).

4.8 LAs may wish to consider formally establishing HMCs by legislative routes. The BPA has produced guidance for LAs that have or are planning to put in place HMCs.

Key points are set out in the box below.

#### Harbour Management Committees

The formation and membership of the committee is critical. It should be strategic and aware of the commercial and legal framework within which ports operate. Based on particular experiences the Committee should ideally comprise:

- approximately 50% LA elected members of a constituent authority. These do not all have to be LA councillors, but can be co-opted representatives who are appointed by the LA or provide specific skills in support of port management;
- the port chief executive/harbour master should have access to the HMC in an advisory role, but as an officer of the Council they cannot serve on the committee or have voting rights;
- external appointees who are stakeholder representatives or individuals with valuable skills and experiences;
- a Chair appointed on merit, skills and suitability;
- external members should be appointed by public advertisement using the guidance applicable to public appointments, in line with the advice given above.

The HMC Chair should ideally be an elected representative of the LA as this will automatically maintain reporting lines and accountability to the Council. Should the LA favour the appointment of an independent Chair, it is important that reporting lines and voting arrangements are clear and in line with LA corporate governance practice.

Before recruiting, local authorities should undertake a skills audit to assess the balance of skills required to effectively govern the port and deliver against the business plan. These skills should be considered for all committee members.

In order for the HMC to operate effectively a formal memorandum of understanding could be established between the harbour committee and the local authority. The memorandum of understanding could set out the recommended ground rules for a framework between the port and its authority.



**ANNEX 2**

**The Harbour Management Committee: Establishment Plan**

<i>Ref No.</i>	<i>Activity</i>	<i>Person Responsible</i>	<i>Agreed/Intended Action</i>	<i>Implementation Date</i>	<i>Follow up action</i>
1	Review and Finalise Schedule of Assets	[ ]	Once complete to be included in Annex 3 of the MoU and MoU to be signed off by [Chief Executive] and Chairperson of the HMC	[ ]	Review Schedule of Assets on an annual basis
2	Draw up [initial/5 year] Business Plan for Southwold Harbour	[ ]	Business Plan for Southwold Harbour to be reviewed and recommended by the HMC and then submitted to Cabinet for review and approval.	[ ]	Business plan to be implemented.  Review Business Plan on an annual basis and update 5 yearly.
3	Draw up proposed Budget for 20[ ]/[ ] for Southwold Harbour	[ ]	To submit the proposed Budget for 20[ ]/[ ] to HMC for review and recommendation; then Cabinet for review and approval	[ ]	HMC to report to Cabinet on performance against approved budget every 6 months  Prepare new budget for approval annually
4	Prepare Annual Report for Southwold Harbour	[ ]	Annual Report to be reviewed and approved by HMC and then submitted to Cabinet for review.	[ ]	Update on an annual basis

## Annex 3 – Asset Register

To be completed by the Council and then reviewed and finalised once HMC in place.

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## Annex 4 – HMC Guidance Notes

### Harbours Management Committee Guidance Notes

#### A Establishment of the HMC

1. The functions of the Council conferred under the Constitution: Functions within the definition of a Harbour Authority in Section 57(1) of the Harbours Act 1964 for Southwold Harbour and the Southwold Harbour Order 1933 and the Harbour Docks and Piers Clauses Act 1847 (as incorporated).
2. Functions arising out of any Byelaws made by the Council under the above Acts.
3. That the discharge of these functions within any policy and budget approved by the Council be delegated as set out in the Terms of Reference and Memorandum of Understanding between the HMC and the Council.
4. All Meetings of the HMC and subcommittees shall be conducted in accordance with the Council's Cabinet Procedure Rules as set out in pages 75-78 of the Council's Constitution.

#### B Membership of the HMC

1. The HMC shall consist of nine (9) members, five (5) Members of the Cabinet of the Council and four (4) Co-opted Members. Each Co-opted Member, as far as it is achievable, will be appointed on a 'fit for purpose basis' through assessment of each nominee's skills, knowledge, experience and commitment on matters identified from time to time by a skills audit as being the main skills requirements for the HMC. It is considered that at least one Co-opted Member should be a member of Southwold Town Council.
2. All Members of the HMC, including any Co-opted Members, will be bound by the Suffolk Local Code of Conduct as set out in the Council's Constitution and will be required to sign the declaration of acceptance of office as required by law in any event within 14 days of their appointment. A Co-opted Member is under the same obligations as Members of the Council that appoints the Co-opted Member, and that member must observe the Council's Constitution and most importantly comply with the statutory rules relating to conduct and the disclosure of interests.
3. No Co-opted Member shall act as a Member until that person has made the declaration of acceptance of office; and a Co-opted Member shall cease to be a Member of the HMC if that person fails to make that declaration within three months of his / her appointment.
4. The Chairperson and Vice Chairperson of the HMC shall be elected in accordance with the Council's Constitution. Only Cabinet Members shall be the Chairperson and Vice Chairperson of the HMC.
5. Voting rights – by virtue of the Local Government (Committees and Political Groups) Regulations 1990 (as amended) Regulation 4, a Co-opted Member is entitled to vote on a committee established exclusively for the discharge of the Council's functions as a Harbour Authority. All Co-opted Members shall have full voting rights on all matters before the HMC. The power to co-opt rests with the Cabinet of the Council and not with committees although the selection of persons to serve as co-opted is usually (but not always) left to the committee, such decisions to be taken in accordance with any relevant skills audit and application procedure and ratified by the Cabinet of the Council.
6. Voting at any Meeting of the HMC shall be in accordance with paragraph 8 on pages 5-6 of the Constitution;
7. In the event that an HMC Member other than Council Member does not attend any meetings of the HMC for a period of six months from the date of his or her last attendance, that Member ceases to be

an HMC Member, unless within the period of absence the Council gives approval for this absence. This shall not apply to Council Members whose attendance is regulated by Statute.

8.(i) All HMC Members will attend relevant training to be determined by the Chairperson on the basis of appropriate advice, which shall be founded on best practice.

(ii) All HMC Members will be required to attend Code of Conduct Training.

### C Appointments Process

APPOINTED BY

The HMC shall consist of 9 members, 5 Members ~~of~~ the Cabinet of the Council, and 4 Co-opted members. Each Co-opted Member, as far as it is achievable, will be appointed on a 'fit for purpose basis' through assessment of each nominee's skills, knowledge, experience and commitment on matters but not limited to the following:

- management of harbours;
- shipping and other forms of transport;
- local industrial, commercial, financial or legal matters;
- management of marine leisure activities;
- safety or personnel management;
- community issues;
- environmental matters;
- knowledge of port/maritime or other nautical experience;
- any other skills and abilities considered from time to time by the Appointments Panel to be relevant to the discharge by the HMC of its functions;

As stated above, it is considered that it is appropriate that at least one Co-opted Member who is deemed fit for purpose is appointed from Southwold Town Council.

1. Council Members shall be appointed to the HMC by the Cabinet and a Council Member's term shall expire on the fourth day after the date of the next regular election or from the date of their resignation. Council Members' appointments will be governed by the Council's Constitution.

2. The Council shall secure, so far as reasonably practicable, that the Council Members appointed by them will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by the HMC of its functions.

3. A Co-opted Member's term of appointment shall be three years from the date of appointment unless the Member shall die, resign or be disqualified;

4. Co-opted HMC Members shall be appointed by the Council for up to 2 full terms, and exceptionally 3 full terms.

5. In order to stagger the appointments process to maintain some continuity of the HMC for Co-opted Membership, the first term shall be as follows:

- 1 Co-opted Member will sit for only 1 year
- 2 Co-opted Members ~~will be nominated by Southwold Town Council and will~~ <sup>WILL</sup> sit for only 2 years
- 1 Co-opted Member ~~will be nominated by Southwold Town Council and~~ will sit for a full term of 3 years

Co-opted Members who sit for only one or two years in their first term may be appointed for one or two subsequent three-year terms without further competition being required. Following this transition period, terms for Co-opted Members will remain at three years from appointment.

6. A Co-opted Member may be appointed to a second three-year term without recourse to open competition, subject to the agreement of both the Chairperson and the Member, and the HMC's assessment that the Member has performed satisfactorily during the first term (all Membership of the HMC is subject to ratification by the Council);

7. Re-appointment of a Co-opted Member for a third term shall involve competition with other candidates;

8. Appointments will usually be made by an Appointments Panel consisting of the Chairperson of the HMC, a Co-opted Member of the HMC, and an independent external technical advisor with a thorough understanding of harbour/port governance issues. **THE FIRST APPOINTMENT PANEL SHALL CONSIST OF: ONE MEMBER OF THE COUNCIL, ONE MEMBER OF**

9. The Appointments Panel shall secure, so far as reasonably practicable, that the Co-opted Members appointed by them will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by the HMC of its functions. The decisions of the Appointments Panel are subject to ratification by the Council. **SOUTHWOLD TOWN COUNCIL AND AN INDEPENDENT EXTERNAL TECHNICAL ADVISOR WITH A THOROUGH UNDERSTANDING OF HARBOUR / PORT GOVERNANCE ISSUES.**

#### D Resignation of Members

1. An HMC member, including the Chairperson, may resign his or her office at any time by Notice in writing given to the Council's Monitoring Officer.

#### E Meetings

1. The HMC shall meet at least 6 times a year and be governed by the Cabinet Procedure Rules as set out in the Council's Constitution;

2. The quorum for meetings of the HMC shall be 5 save that at no time shall there be less than 3 Council Members present at the Meeting.

3. The HMC shall consider the following business:

- i. Approval of the Minutes of the previous meeting;
- ii. Declarations of Interest, if any;
- iii. Report and feedback from Stakeholder Forums;
- iv. The business otherwise set out on the Agenda for the meeting;

4. Agendas

(i) a copy of the agenda including the item, or a copy of the item, shall be open to inspection by members of the public at least 5 clear working days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; unless

(ii) by reason of special circumstance, which shall be specified in the Minutes, the Chairperson of the meeting is of the opinion that the item should be considered as a matter of urgency.

5. Annual Meeting

An Annual Meeting of the HMC will take place during the year. This will be an informal meeting and include invitation to all members of Stakeholder Forums.

#### F Declaration of Interests

1. A Co-opted Member shall be under the same obligations as Members of the Council that appoint that person and that person must observe the Council's Standing Orders and comply with the statutory rules relating to the disclosure of interests.

2. All HMC members will be governed by the Suffolk Local Code of Conduct which details interests which need to be declared.

3. The Council maintains and regularly updates a register of interests declared by Members, and shall make the register available for inspection by members of the public at all times during usual office hours.

## **G Payments to Members**

1. [The Chairperson of the HMC shall receive a Special Responsibility Allowance in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended).]
2. The HMC may pay to Co-opted Members such expenses for travelling, subsistence [and attendance] allowances on the same basis as Members of the Council.

## **H Stakeholder Forums**

1. To ensure that the HMC has strong and direct links with both harbour users, local communities and other external organisations with an interest in the HMC area, a formal consultation mechanism will be established. This will enable Stakeholder Forums to formally make representations to the HMC;
2. No Member of the HMC will have a position on the Stakeholder Forums. The Harbour Master (or authorised deputy) and an HMC Member may attend as observers.
3. The HMC may choose to appoint other Stakeholder Forums at its discretion.
4. The HMC will establish a formal stakeholder Advisory Group that it will consult on all matters substantially affecting the Harbour.

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Schedule 1 : Declaration of Acceptance of Office – Co-opted Members East Suffolk Council

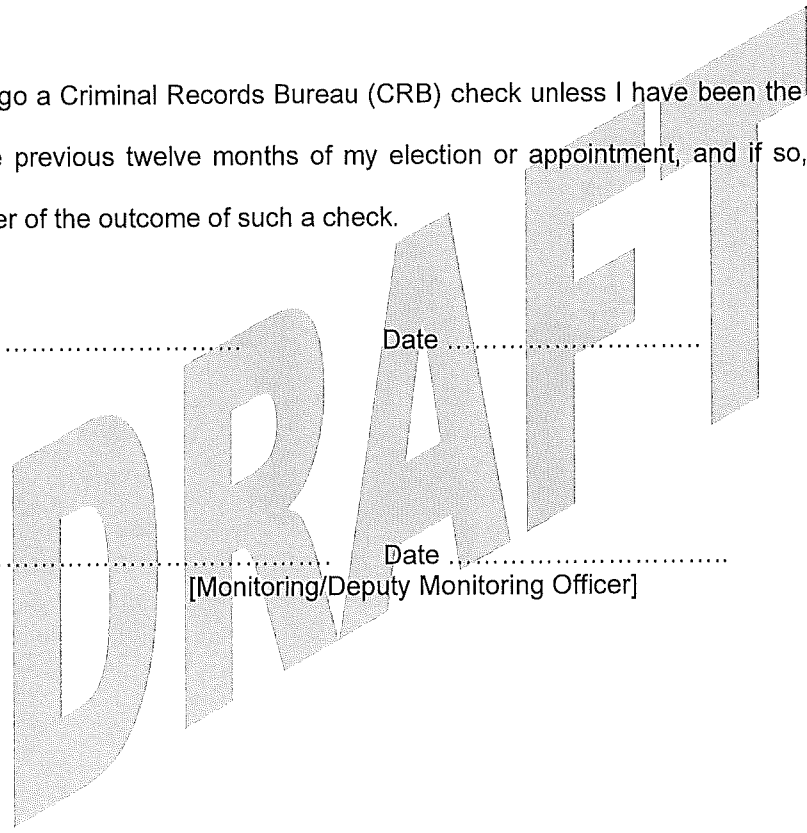
I.....being a Co-opted Member of East Suffolk Council, declare that I will duly and faithfully fulfil the requirements of this role according to the best of my judgement and ability.

I undertake to observe the Suffolk Local Code of Conduct as to the conduct which is expected of Members and Co-opted Members of East Suffolk Council.

I agree to undergo a Criminal Records Bureau (CRB) check unless I have been the subject of a CRB check within the previous twelve months of my election or appointment, and if so, I shall notify the Monitoring Officer of the outcome of such a check.

Signed ..... Date .....

Signed ..... Date .....  
[Monitoring/Deputy Monitoring Officer]



**Annex 5 – Organisational Structure**

*To be inserted*

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**STAKEHOLDER ADVISORY GROUP – Terms of Reference****1. Introduction / Purpose**

- 1.1. The Southwold Harbour Management Committee ('HMC') will establish a group, to be known as the **Southwold Harbour Stakeholder Advisory Group** ('the Advisory Group'). The HMC will regularly consult the Advisory Group on all matters substantially affecting the conservation, protection, regulation, management, maintenance and improvement of the Southwold Harbour and its navigation.

**2. Aims and Objectives**

- 2.1. The core Objective of the Advisory Group is to represent a wide range of stakeholder opinion and viewpoint and to provide feedback and advice to the HMC to assist in managing Southwold Harbour in the best interests of stakeholders including the local community.
- 2.2. The Advisory Group is entrusted with the following mission:

*“To consider matters of interest to the HMC related to conservation, protection, regulation, management, maintenance and improvement of the Southwold Harbour and its navigation. To identify matters of interest to harbour users and other stakeholders and make recommendations that they should be considered by the HMC. To provide advice and opinion to the HMC on matters under consideration.”*

**3. Form and Composition**

- 3.1. The Advisory Group shall consist of up to 18 persons appointed by the HMC (or such other number as the HMC from time to time approves). These persons shall be invited from the following organisations and stakeholder groups:
  - (a) Four Councillors shall be appointed, one nominated by Southwold Town Council, one nominated by Reydon Parish Council, one nominated by Blythburgh Parish Council and one nominated by Walberswick Parish Council;
  - (b) one appointed on the nomination of the Southwold Haven Port Stakeholders Group, one appointed on the nomination of the Blyth Estuary Partnership and one appointed on the nomination of the Southwold and River Blyth Users Association;
  - (c) two appointed on the nomination of the Southwold Caravan Owners Association;
  - (d) one appointed on the nomination of the Southwold Sailing Club to represent the interest of the Clubs using the harbour including sailing, rowing and any other leisure clubs with vessels;
  - (e) one appointed on the nomination of the RNLI;
  - (f) one appointed on the nomination of the Environment Agency;
  - (g) one appointed to represent the Commercial Fishermen using the harbour;
  - (h) one appointed to represent the Charter Boat Associations in the harbour including both dive and fishing charters;
  - (i) one appointed to represent local residents;
  - (i) ) two appointed to represent the interests of shoreside traders / businesses close to the harbour;

(j) one appointed to represent commercial passenger carrying vessels' interests in the harbour including trip boats, mackerel boats, rowing boats and pedalos (during such time as such activities are taking place within the harbour).

- 3.2. If the Council does not receive a nomination for any reason from any of the organisations mentioned in Clause 3.1 (a) to (f) above, the Council may, after consulting with such other organisations it thinks appropriate, appoint a suitable alternative or none at all. This procedure will also be followed should no appropriate appointee be found in respect of 3.1 (g) to (j), and if any of the organisations mentioned in Clause 3.1 (a) to (j) above cease to exist or the function of the organisation changes significantly.
- 3.3. The Council shall not be obliged to appoint a person who is duly nominated in accordance with any of sub-paragraphs 3.1 (a) to (f) above but may request the body or bodies who made the nomination to nominate another person.
- 3.4. The term of office of a member of the Advisory Group shall be **three years** from the date of his/her appointment and, on ceasing to hold office, (s)he shall be eligible for re-appointment for a further three year term, but he/she has no right to be reappointed. If there are suitable alternative persons available for nomination and appointment, it is anticipated that no person will serve more than two consecutive terms. Service of a term as chairperson shall not count as a term of membership under this provision.
- 3.5. A member of the Advisory Group may at any time, by notice in writing to the HMC, resign his/her office.
- 3.6. The Advisory Group shall nominate its own Chairperson, and shall conduct itself in accordance with these terms of reference.
- 3.7. A member of the Advisory Group shall not also be a member of the HMC.

#### 4. Meetings

- 4.1. The Advisory Group shall meet not less than twice a year (and may meet more often).
- 4.2. Meetings shall be convened by notice in writing to each member.
- 4.3. Minutes of all meetings will be prepared and circulated in advance of the next meeting. These minutes will be approved at the next meeting.
- 4.4. Without prejudice to paragraph (1) above, the HMC shall seek the views of the Advisory Group on:-
  - a) The Southwold Harbour Business Plan;
  - b) Proposals to vary any charges in relation to business and recreational use of the harbour and its use by any vessels;
  - c) The making of byelaws or directions;
  - d) Any harbour revision order application;
  - e) Any changes to these terms of reference or the HMC terms of reference and MoU;
  - f) Proposals to construct or license any significant works in the harbour including dredging; or
  - g) Changes to the use of the harbour.
- 4.5. The HMC shall take into consideration any matter, recommendation or representation which may from time to time be referred or made to them by the Advisory Group, whether or not it has been consulted by the HMC on the matter, recommendation or representation so referred or made.

- 4.6. Members may, on giving notice in writing to the chairperson and the HMC, nominate a substitute to attend the Advisory Group meetings: Provided that, no person may act as a substitute (whether on behalf of the same member or a different member) more than once in any three year period without the prior approval of the HMC.
- 4.7. In the absence of the Chairperson at any meeting, the Chair shall be taken by a member of the Advisory Group selected in advance by the Chairperson or, failing that, elected by a majority of those present.
- 4.8. The HMC will find a venue and provide secretarial support for the Advisory Group meetings.
- 4.9. The Southwold Harbour Master (or authorised deputy) may attend Advisory Group meetings to observe and advise but will have no voting rights.

## **5. Quorum**

- 5.1. A minimum number of 5 members are required in attendance at a meeting of the Advisory Group for it to be quorate.

## **6. Voting**

- 6.1. Each member attending any meeting, shall have one vote. Decisions will be by simple majority. In the event of a hung vote, the Chairperson, or person presiding, shall have the casting vote.