

Public Document Pack

TENDRING DISTRICT COUNCIL

AGENDA

For the meeting to be held on Tuesday, 21 November 2017

Prayers

1 Summons to Council (Pages 1 - 2)

2 Apologies for Absence

The Council is asked to note any apologies for absence received from Members.

3 Minutes of the Last Meeting of the Council (Pages 3 - 22)

The Council is asked to approve, as a correct record, the minutes of the Council Meeting held on 5 September 2017.

4 Declarations of Interest

Councillors are invited to declare any disclosable pecuniary interests, or other interest, and the nature of it, in relation to any item on the agenda.

5 Announcements by the Chairman of the Council

The Council is asked to note any announcements made by the Chairman of the Council.

6 Announcements by the Chief Executive

The Council is asked to note any announcements made by the Chief Executive.

7 Statements by the Leader of the Council

The Council is asked to note any statements made by the Leader of the Council.

Councillors may then ask questions of the Leader on his statements.

8 Statements by Members of the Cabinet

The Council is asked to note any statements made by Members of the Cabinet (Portfolio Holders).

Councillors may then ask questions of the Portfolio Holders on their statements.

9 Petitions to Council

The Council will consider any petition(s) received in accordance with the Scheme approved by the Council.

10 Questions Pursuant to Council Procedure Rule 10.1 (Pages 23 - 24)

Subject to the required notice being given, members of the public can ask questions of the Leader of the Council, Portfolio Holders or Chairmen of Committees.

The Chairman shall determine the number of questions to be tabled at a particular meeting in order to limit the time for questions and answers to half an hour.

One question has been received, on notice, from a member of the public.

11 Questions Pursuant to Council Procedure Rule 11.2 (Pages 25 - 26)

Subject to the required notice being given, Members of the Council can ask questions of the Chairman of the Council, the Leader of the Council, Portfolio Holders or Chairmen of Committees or Sub-Committees.

The time allocated for receiving and disposing of questions shall be a maximum of 45 minutes. Any question not disposed of at the end of this time shall be the subject of a written response, copied to all Members unless withdrawn by the questioner.

Four questions have been received, on notice, from Members.

12 Report of the Leader of the Council - Urgent Cabinet or Portfolio Holder Decisions

The Council will receive a report on any Cabinet decisions taken as a matter of urgency in accordance with Access to Information Procedure Rule 17.4, Budget and Policy Framework Procedure Rule 6(b) and/or Overview and Scrutiny Procedure Rule 18(i).

There is no report on this occasion.

13 Reports Submitted to the Council by an Overview and Scrutiny Committee - Reference from the Community Leadership and Partnerships Committee - A.1 - Proposed Community Governance Review regarding a Town Council for Clacton-On-Sea (Pages 27 - 28)

To enable Council to decide, whether to support Councillor Jack Parsons' motion to Council in respect of a proposed parish/town council for Clacton-on-Sea. **[Note: This item was deferred from the meeting of the Council held on 5 September 2017.]**

14 Minutes of Committees (Pages 29 - 74)

The Council will receive the minutes of the following Committees:

- (a) Audit of Thursday 21 September 2017;
- (b) Corporate Management of Monday 25 September 2017;
- (c) Standards of Wednesday 27 September 2017;
- (d) Community Leadership and Partnerships of Monday 2 October 2017;
- (e) Service Development and Delivery of Monday 9 October 2017;
- (f) Corporate Management of Monday 16 October 2017;
- (g) Human Resources of Wednesday 1 November 2017; and
- (h) Local Plan of Thursday 2 November 2017.

NOTES:

- (1) The above minutes are presented to Council **for information only**. Members can ask questions on their contents to the relevant Chairman but questions as to the accuracy of the minutes **must** be asked at the meeting of the Committee when the relevant minutes are approved as a correct record;
- (2) The recommendations to Council contained in the minutes of the Standards Committee and the Human Resources Committee will be presented for Members' consideration with a covering report to the meeting of the Council due to be held on 23 January 2018.

15 Motions to Council

The Council will consider motions, notice of which has been given pursuant to Council Procedure Rule 12.

There are none on this occasion.

16 Recommendations from the Cabinet - The Local Council Tax Support Scheme 2018/19 - Council Tax Exemptions/Discounts for 2018/2019 and the Annual Minimum Revenue Provision Policy Statement 2018/2019 (Pages 75 - 122)

The Council is asked to consider the recommendations submitted to it by the Cabinet in respect of the Local Council Tax Support Scheme 2018/19, Council Tax Exemptions for 2018/2019 and the Annual Minimum Revenue Provision Policy Statement 2018/2019.

17 Recommendations from the Cabinet - Amendments to the Council's Constitution - Financial & Procurement Matters (Pages 123 - 176)

The Council is asked to consider the recommendations submitted to it by the Cabinet in respect of the proposed changes to the Financial and Procurement Procedure Rules contained in Part 5 of the Council's Constitution.

18 Report of the Chief Executive - A.2 - Membership of Committees Etc. (Pages 177 - 178)

To inform Council of appointments to Committees that had been made since the last meeting of the Council.

19 Report of the Chief Executive - A.3 - Change in Membership of Political Groups and a Review of Membership of Committees (Pages 179 - 180)

To inform Council of a change in the membership of the Conservative and Non-Aligned political groups on Tendring District Council and also to enable Council to consider the outcome of a review of the membership of Committees conducted in accordance with Section 15(1)(e) of the Local Government and Housing Act 1989 and Regulation 17(b) of the Local Government (Committees and Political Groups) Regulations.

20 Report of the Head of Leadership Support and Community - A.4 - Parliamentary Constituencies Boundary Review (Pages 181 - 184)

Council is requested to agree a response to the Boundary Commission for England's consultation on its revised proposals for new Parliamentary Constituency Boundaries.

21 Report of the Head of Leadership Support and Community - A.5 - Community Governance Review (Pages 185 - 194)

Council is requested to agree that certain Community Governance Reviews be undertaken.

22 Report of the Head of Governance and Legal Services - A.6 - Committee Structure Review (Pages 195 - 202)

Council is requested to agree, in principle, a new committee structure.

23 Decision Notices on the outcome of the Hearings taken by the Standards Committee on 27 September 2017 in relation to allegations that Members of Tendring District Council had failed to comply with the Members' Code of Conduct (Pages 203 - 212)

The Council will formally receive for its information the Decision Notices.

24 Urgent Matters for Debate

The Council will consider any urgent matters submitted in accordance with Council Procedure Rules 3(xvi), 11.3(b) and/or 13(q).

Date of the Next Scheduled Meeting of the Council

Tuesday, 23 January 2018 at 7.30 pm - Princes Theatre, Town Hall, Clacton-on-Sea, CO15 1SE

INFORMATION FOR VISITORS

PRINCES THEATRE FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the four fire exits in the auditorium and follow the exit signs out of the building.

Please follow the instructions given by any member of staff and they will assist in leaving the building.

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

The assembly point for the Princes Theatre is in the car park to the left of the front of the building as you are facing it. Your calmness and assistance is greatly appreciated.

PUBLIC ATTENDANCE AT TENDRING DISTRICT COUNCIL MEETINGS

Welcome to this evening's meeting of Tendring District Council.

This is an open meeting which members of the public can attend to see Councillors debating and transacting the business of the Council. However, please be aware that, unless you are included on the agenda to ask a public question, members of the public are not entitled to make any comment or take part in the meeting. You are also asked to behave in a respectful manner at all times during these meetings.

Members of the public do have the right to film or record council meetings subject to the provisions set out below:-

Rights of members of the public to film and record meetings

Under The Openness of Local Government Bodies Regulations 2014, which came into effect on 6 August 2014, any person is permitted to film or record any meeting of the Council, a Committee, Sub-Committee or the Cabinet, unless the public have been excluded from the meeting for the consideration of exempt or confidential business.

Members of the public also have the right to report meetings using social media (including blogging or tweeting).

The Council will provide reasonable facilities to facilitate reporting.

Public Behaviour

Any person exercising the rights set out above must not disrupt proceedings. Examples of what will be regarded as disruptive, include, but are not limited to:

- (1) Moving outside the area designated for the public;
- (2) Making excessive noise;
- (3) Intrusive lighting/flash; or
- (4) Asking a Councillor to repeat a statement.

In addition, members of the public or the public gallery should **not** be filmed as this could infringe on an individual's right to privacy, if their prior permission had not been obtained.

Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairman of the meeting and may be asked to leave the meeting. A refusal by the member of the public concerned will lead to the Police being called to intervene.

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Agenda Item 1

TENDRING DISTRICT COUNCIL

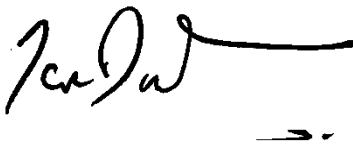
Committee Services
Town Hall
Station Road
Clacton-on-Sea
Essex
CO15 1SE

13 November 2017

Dear Councillor

I HEREBY SUMMON YOU to attend the meeting of the Tendring District Council to be held in the Princes Theatre, Town Hall, Station Road, Clacton-on-Sea at 7.30 p.m. on Tuesday 21 November 2017 when the business specified in the accompanying Agenda is proposed to be transacted.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ian Davidson', with a long horizontal flourish extending to the right.

Ian Davidson
Chief Executive

To: All members of the
Tendring District Council

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**MINUTES OF THE MEETING OF THE TENDRING DISTRICT COUNCIL,
HELD ON TUESDAY 5 SEPTEMBER 2017 AT 7.30 PM
IN THE PRINCES THEATRE, TOWN HALL, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors Platt (Chairman), Yallop (Vice-Chairman), Alexander, Amos, Baker, Bennison, Bray, Broderick, B Brown, J Brown, M Brown, Bucke, Callender, Calver, Cawthron, Chapman, Chittock, Davis, Everett, Fairley, Ferguson, Fowler, Gray, Griffiths, G V Guglielmi, V E Guglielmi, I Henderson, J Henderson, Hones, Honeywood, Khan, King, Land, Massey, McWilliams, Miles, Parsons, Poonian, Raby, Scott, M J Skeels, M J D Skeels, Steady, Stephenson, Stock OBE, Talbot, Turner, Watson, White and Winfield
In Attendance:	Ian Davidson (Chief Executive), Martyn Knappett (Corporate Director (Corporate Services)), Lisa Hastings (Head of Governance and Legal Services & Monitoring Officer), Karen Neath (Head of Leadership Support and Community), Debbie Bunce (Legal Administration & Information Officer) and Katie Sullivan (Committee Services Officer)

51. MINUTE'S SILENCE

During prayers a minute's silence was observed in memory of Anthony Pugh, Peter Brand and Ivor Markham-Lee who were all former district councillors and had recently passed away.

52. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Bush, Heaney, Newton, Nicholls, Pemberton, Porter, Watling MP and Whitmore.

Councillor Stock OBE informed Council that Councillor Cossens was on his way to the meeting but unfortunately had been delayed and Councillor Coley would not be able to attend.

53. MINUTES

RESOLVED, that the minutes of the ordinary meeting of the Council, held on Thursday 15 June 2017 be approved as a correct record and signed by the Chairman.

54. DECLARATIONS OF INTEREST

Some Members had declared an interest in regards to item A.2 on the agenda by virtue of the fact that they were Town or Parish Councillors.

The Council's Monitoring Officer informed Members that it was not necessary to declare an interest for that reason in this instance.

55. ANNOUNCEMENTS BY THE CHAIRMAN OF THE COUNCIL

The Chairman informed Members that there was an open invitation to a Macmillan Cake Morning being held at the end of September and that the event had been organised to help raise awareness and funds for those living with Cancer in the East of England.

The Chairman gave his thanks to the Pride of Tendring Awards 2017 Panel and confirmed that the Pride of Tendring Awards 2018 nomination forms would be available online as of Wednesday 6 September 2017 and that he would be creating a new panel to enable other members to serve on it.

The Chairman also shared the outcomes of recent events:-

- (i) Pier to Pier Dog Walk in aid of Guide dogs for the Blind UK had taken place in May and had raised eight hundred and thirty five pounds;
- (ii) Britannia Ball in aid of the local RNLI Stations had taken place in June and had raised three thousand five hundred pounds;
- (iii) Charity Wing Walk in aid of Prostate Cancer UK had taken place in July and had raised one thousand two hundred pounds;
- (iv) Tornado Steam Train Event in aid of St Helena Hospice had taken place in August and had raised fifteen thousand pounds.

The Chairman gave his thanks to all of those who were involved and had made the events a great success.

The Chairman also informed Members that he would be doing a parachute jump in aid of Essex Air Ambulance on Tuesday 12 September and that so far ten pounds had been raised.

56. ANNOUNCEMENTS BY THE CHIEF EXECUTIVE

There were none on this occasion.

57. STATEMENTS BY THE LEADER OF THE COUNCIL

There were no statements by the Leader of the Council on this occasion.

58. STATEMENTS BY MEMBERS OF THE CABINET

The Portfolio Holder for Leisure and Tourism (Councillor M J D Skeels) expressed his thanks to all who had helped out at the recent Clacton Air Show which had been a fantastic event for Tendring.

59. PETITIONS TO COUNCIL

In accordance with the Council's approved scheme for dealing with petitions, the Chief Executive formally reported receipt of a petition submitted by Mr Brian Green (the lead petitioner).

It was reported that the petition which had been signed by 76 local residents, objected to the Council's recent decision to alter the configuration of the Millennium Square,

Walton-on-the-Naze at a cost of £90,000 and had wished for the Council to reverse its decision.

Members were informed that in accordance with the Council's approved scheme for dealing with petitions, this matter would be investigated and a report would be prepared and presented to the Cabinet on the basis that it had contained between 30 and 249 signatures.

Members were aware that the next practicable ordinary meeting of the Cabinet was scheduled to take place on Friday 6 October 2017.

Members were informed that at that meeting, and in accordance with the Council's approved scheme, Mr Green, as the lead petitioner, would be invited to address the Cabinet, present the petition and outline the action that the petitioners wanted the Council to take. Members would then discuss the petition and decide what action, if any, should be taken. Mr Green would then be informed, in writing, of the Cabinet's decision and the decision would also be published on the Council's website.

It was moved by Councillor Stock OBE, seconded by Councillor G V Guglielmi and **AGREED** that the receipt of the Petition and the contents of the report be noted.

60. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.1

Subject to the required notice being given, members of the public can ask questions of the Leader of the Council, Portfolio Holders or Chairmen of Committees.

There were three questions on this occasion as set out below:

Question One

From Mr Dan Casey to Councillor Neil Stock OBE, Leader of the Council:

"Having been asked by the Leader of the Council to present an 1100 signature petition to him and which I presented to him myself at a Cabinet meeting regarding the closure of the Garden Road, Jaywick Sands public toilets, among others. I was both surprised and annoyed to be told that the petition would not be debated by the councillors because it was not clear who had submitted it, and as stated in the letter I received, the petition did not go through by the correct procedure as it did not say who had presented it and what the petition was for.

Will the Leader of the Council please explain why his administration is undermining its own excellent work in regenerating Jaywick Sands by ignoring the needs of the local community by denying access to public toilets by residents and visitors who wish to make use of the local beaches?

Will he further explain why his administration considered it appropriate to use a technicality within the Council's Procedure Rules to avoid discussing the stated wishes of the local community rather than deal with the situation by ensuring that Jaywick Sands beach is served by easily accessible and much needed public toilets?"

Councillor Stock OBE replied as follows:

“Let me start by clarifying for you that your petition was not refused because of any decision that I, or my administration, took. As you correctly state I offered to receive your petition at a public meeting of Cabinet even though there was no requirement for me to do so nor was there any such item on the agenda of that meeting. In other words, I did not have to accept it at all but I volunteered to do so and I made sure it was passed on to Officers immediately the meeting ended.

As I understand it you simply failed to follow the rules for submitting a petition and I am sure that with your great experience both as a former member of this council, as well as other roles that you have held, you must realise and accept that rules and procedures are vital to the good governance of any organisation.

Notwithstanding those points I do recognise that you have strong views about the closure of the Garden Road toilets. You will be aware that the Council has undertaken a review of its public convenience provision and our strategy is to replace old, difficult to maintain and underused public toilets with modern, efficient units wherever possible.

As part of the review and the strategy the Garden Road toilets were agreed to be closed because they are used for extensive anti-social behaviour, they are old structures, they have low use and there is alternative provision in the area.

To end on a positive note, it is still the case that should any local group or organisation wish to take over the running of any of our toilet blocks, including this one, then we would be very pleased to discuss the idea.”

Question Two

From Ms Bridget Tyson to Councillor Fred Nicholls, Corporate Enforcement Portfolio Holder (in the absence of Ms Bridget Tyson, the question was read out by the Chairman):

“I would like to ask the Planning Portfolio Holder a question concerning the Enforcement Notices issued to properties in Point Clear Bay.

The information delivered to homes, such as my own was totally unexpected as I have complied with a request for information which was duly returned to the Council in April of this year - no further communication was received even though I had given information - which included a point that a Flood Risk Assessment was unnecessary when I applied for Planning Permission in 2010. Can you advise why the Enforcement Notice has been issued to myself without acknowledging and responding to the points raised in my response to you in April 2017 - which has now left me with no alternative but to appeal at a substantial cost to my family and myself.”

In Councillor Nicholls' absence, Councillor Stock OBE replied on his behalf as follows:

“Ms Tyson, thank you for your question which relates to the service of Planning Enforcement Notices on properties in Point Clear Bay.

It would not be appropriate to discuss individual cases at a public meeting of the Council.

Planning Enforcement is a non-executive function of the Council with powers delegated to the Planning Committee. This means that decision making powers for planning enforcement do not rest with the Cabinet, or with individual Portfolio Holders or even with me as Leader of the Council, but nevertheless I am happy to attempt to answer your queries on this issue.

Planning Enforcement Notices take effect only if no appeal is received before the effective date, which is today. The appeal process gives an opportunity for the matters that the Council, the owners and occupiers consider to be relevant to be determined by an independent Planning Inspector. Fees only apply to appeals on specific grounds, such as that planning permission should be granted or that the condition that is alleged to have been breached should be discharged; a fee of £390 is payable in these cases. The fee is set by Government, not by this Council.

Appeals on the basis that there has been no breach of planning control or that the time allowed for compliance is too short, attract no fee. Therefore, whether a fee is payable depends upon the grounds of appeal. These and other details are explained in the guidance listed on the Enforcement Information Sheet that accompanied the enforcement notices.”

Question Three

From Mr Daniel Logan to Councillor Fred Nicholls, Corporate Enforcement Portfolio Holder:

“I would like to ask the Planning Portfolio Holder two questions concerning the Enforcement Notices issued to properties in Point Clear Bay.

The information delivered to homes, such as my own elderly Mother and Father, states that if they wish to appeal they must pay a planning fee of £390.

- (1) This sum is quite beyond my Mum and Dad and obviously I could help them, but is this very large charge, intended to stop them and others in their position from appealing – and thereby chance losing their home?*
- (2) Will Tendring District Council give help and advice to elderly residents who perhaps do not understand what is going on and risk ending up in care by their inaction?”*

In Councillor Nicholls' absence, Councillor Stock OBE replied on his behalf as follows:

“Mr Logan, thank you for your question about the planning enforcement action at Point Clear Bay.

It would not be appropriate to discuss individual cases at a public meeting of the Council.

Planning Enforcement is a non-executive function of the Council with powers delegated to the Planning Committee. This means that decision making powers for planning enforcement do not rest with the Cabinet, or with individual Portfolio Holders or even with me as Leader of the Council, but nevertheless I am happy to attempt to answer your queries on this issue.

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Appeals on the basis that there has been no breach of planning control or that the time allowed for compliance is too short, attract no fee. Therefore, whether a fee is payable depends upon the grounds of appeal. These and other details are explained in the guidance listed on the Enforcement Information Sheet that accompanied the enforcement notices.

Information about the planning enforcement process is available from the Council as well as advice about housing issues. Independent advice may also be sought and the Council has been working with Citizens Advice to ensure that they are aware and ready to respond to enquiries resulting from planning enforcement action.”

61. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 11.2

Subject to the required notice being given, Members of the Council can ask questions of the Chairman of the Council, the Leader of the Council, Portfolio Holders or Chairmen of Committees or Sub-Committees.

There were three questions on this occasion as set out below:

Question One

From Councillor Richard Everett to Councillor Zoe Fairley, Investment and Growth Portfolio Holder:

“Is the portfolio holder aware that businesses in Great Clacton are losing customers and trade as a result of the unreasonable actions of private companies operating car parks in the area. The effect on residents, and customers from further afield, is that they are being ticketed for trumped up parking charges. Planning permission is required for ANPR cameras and associated signage on the site and should be in place before any tickets are issued.

Local businesses are suffering with trade decreasing as a result of less people choosing to shop in Great Clacton, blaming the parking charges and approach of the operating companies. What should be even more concerning to this Council is that many people are questioning what is being done by the Council to regulate the companies and their actions.

What does the portfolio holder propose is done by this Council to help protect the businesses locally from the actions of predatory parking companies putting people off from doing business in Great Clacton?”

Councillor Fairley replied as follows:

“Firstly, I would like to thank Councillor Everett for his question.

The council are aware of the issue raised and I would like to assure all Members that the economic sustainability of local businesses together with the rights of our residents and visitors are of the very highest priority when considering not just a correct course of action to address an issue but also additional actions we can take to support this or any other case causing negative impact within our District.

Our approach is underpinned by our values and it is right and proper that the Council demonstrates strong and proactive community leadership within our response and I am pleased Officers have provided advice and appropriate practical assistance to Councillors giving help and support to their constituents in this case.

Cllr Everett acknowledges in his question that this is an operation which is on private land, operated by the land owner in conjunction with a private parking operator. As such, the Council has no direct role in the matter and is unable to regulate directly against the related actions of the operator.

As Cllr Everett is aware, the ANPR camera operating system supporting this parking operation is development for which planning permission is required and this is not in place. The planning department have contacted the owner to advise a retrospective planning application should be made. However, we cannot be sure this will be followed by the owner.

It is noted the cameras are modest in scale and whether through retrospective planning application or enforcement process, based on material planning considerations, it would be likely they would not be considered harmful to the area on grounds of their siting or appearance; within the Pre-enforcement Risk/Harm Assessment they fall below the level for which formal enforcement would be taken.

However, this Council recognises the importance of the car and the motorist to the economic well-being of the District, as highlighted in the Council's parking strategy and I am pleased to confirm that Officers will consider the wider social and economic impact the ANPR camera system is having, as for such a high number of parking charge notices to have been issued over the period between May to July this year, it is clear the car park operation is having an adverse impact on users and likely on businesses.

This does imply there is a fundamental issue with the operation.

So, in terms of other actions we can take to support motorists using the car park, I can advise that Officers have written directly to the car park operator, Smart Parking. This is to request they reconsider their previous decisions to refuse all appeals against the notices issued, on the grounds that their parking operation, and the terms and conditions under which it has operated, appears to be misleading and therefore unfair.

In addition, the Council has requested that the company provide details of the quantity of parking charge notices issued, together with requesting that all remaining notices are rescinded, with all previous payments to be refunded.

While waiting for a response from the company, Council Officers have also approached the British Parking Association. The BPA operating the Approved Operator Scheme and the Code of Conduct under which private parks of this type must be managed. This

is to raise concerns and seek an independent assessment of the operation of this car park.

We will continue work to keep the lines of communication open with the owner and local businesses will also be contacted to assess any down turn in trade they are suffering due to the car park operating procedures.

In finishing, I would like to offer my congratulations to Cllr Everett as I understand that with his support, several parking charges have recently been dropped by the company. I would like to reassure him, that I will continue to work with fellow Cabinet Members responsible for Planning and Corporate enforcement, to seek a positive outcome to this issue.”

Councillor Everett then responded to Councillor Fairley’s reply with a supplementary question:

“Thank you Councillor Fairley for your forthright and detailed positive response to the question.

Just so that you and members are aware, and hopefully the chairman will give me some leeway on this, I’ll give a little background before asking for your response to my supplementary question.

The motorists involved in this unfortunate situation are predominantly vulnerable and elderly. They come mainly from the Great Clacton area but I have clients in places ranging from Frinton and Kirby, to the north, St Osyth to the south and Weeley to the west. Many of them are telling me that they are extremely alarmed and distressed by the actions of these companies operating this practice.

The businesses affected by this rip-off are predominantly located around the Rasvensdale Car Park. They are telling me that the situation is threatening their very viability as businesses because customers are now choosing not to shop in Great Clacton any more as a result of this predatory action by rogue parking companies.

This is a safety issue too - people living locally are being effected, one person I know of blames a car accident she was involved in occurring because of people parking anywhere other than the car park now.

The situation is made apparently worse because these parking companies have flouted the law – not even bothering to get planning permission for the use of ANPR cameras – a situation that we in this council are meant to enforce.

I have dealt with approximately 65 appeals to POPLA the independent appeals service – so far I have not lost an appeal because the parking company involved does not even bother to defend them.

I have approximately 160 cases where elderly and vulnerable people are being harassed by a debt recovery company for alleged debts that they do not owe because the parking notices are unenforceable in law. The parking company and the debt recovery company have both been reported to the British Parking Association for the intimidation these unfortunate people are receiving but nothing is being done by them to resolve this.

Signage has been erected without permission on the footway at the entrance to the car park, Essex County Council claimed it is not erected on their land. Land registry documentation for the car park land owners title indicates it's not on their land either. I'm still waiting for Essex County Council to confirm who owns the footway.

And finally even though the Police have been asked to help against the harassment that is taking place to local vulnerable and elderly people they, presumably because of inadequate funding, are unable to enforce the Protection from Harassment Act. These people report to me that they feel threatened, that the actions of the debt recovery are menacing, that they cannot sleep at night as a result and that they feel alarmed. Victims of this persecution do not feel reassured by this police inaction.

I am however pleased to be able to report that Ian Davidson our Chief Executive Officer, has offered to arrange a meeting at a senior level with the police to discuss this and other matters relating to the case.

This council should not be alone in this fight so my supplementary question to you Councillor Fairley is this – What can we additionally do to ensure that other agencies, the very agencies that are meant to protect us, actually put in their effort to help these poor unfortunate residents, motorists and businesses against predatory parking company actions and their debt collection practices?”

Councillor Fairley responded to Councillor Everett's supplementary question as follows:

“Yes Councillor Everett, thank you for your further detail and it completely re-enforces my initial response in that it does appear to be a fundamental issue with the way in which this car park is operated. I recognise and feel your concerns for residents, motorists and businesses affected by this issue and my aim here is to help. If a meeting would be suitable between yourself and me I would be happy to do that. Clearly, you are giving residents much support.

I already stated we are contacting local businesses and also we are already in contact with the BPA and when there is a more detailed response from them, I will ensure Officers keep you informed, together with their advice for any appropriate actions we can take ourselves or push forward on, collaboratively with others, to reach a positive conclusion.”

Question Two

From Councillor Jo Henderson to Councillor Neil Stock OBE, Leader of the Council:

“As the Leader may recall, I recently asked a Portfolio Holder a question at a meeting of Council in order to obtain the required information for the residents who are angry and disgusted by the lack of progress made by TDC on dog fouling. I do not believe that the response received answered the specific question however, I am not permitted to submit the question again for 6 months in accordance with our Council Procedure Rules.

This being the case, will the Leader of the Council please instruct his Cabinet to answer the questions put to them as published in the agenda as, if they do not, it will prevent any elected member from using this legitimate vehicle for obtaining information and

totally undermine the Leader's stated intention to operate an open and transparent administration?"

Councillor Stock OBE replied as follows:

"Thank you Councillor Henderson for your question.

Cabinet members always answer questions from Members and I do not think anybody could ever accuse Councillor Talbot of not being forthcoming and fulsome in any response he makes on any topic actually.

I recall that he gave you a summary of the work of our two dog wardens, and he also explained that it was not possible to employ a warden solely for Harwich/Dovercourt and I appreciate that you may well have not liked the answer but you did get one.

I further understand that you have subsequently discussed this issue directly with Councillor Talbot and he has offered to hold a meeting with you to further explore the issues and Officers are now setting that up, so I hope that is constructive and gives you detailed responses you're looking for."

Councillor J Henderson then responded to Councillor Stock OBE's reply with a supplementary question:

"I thank you for the response, but you clearly haven't read the question that I asked the first time because it wasn't for a dog warden for Harwich and Dovercourt, it was for a specific dog warden for the Tendring District. It was clearly a short question in the agenda, it wasn't answered, I know how hard that they work in the jobs they do, but my supplementary question is:

I am now in talks with Councillor Talbot and will continue to voice residents' concerns on this issue to try and get your administration to change their ways of working, Can I please have assurance from you the Leader that this Council will start to prosecute the law breakers. I believe this will have a detrimental effect on those who flout the law."

Councillor Stock OBE responded to Councillor J Henderson's supplementary question as follows:

"Yes, absolutely, every time. Give us evidence, give us the information and we will prosecute every time.

What's really difficult is, especially dog fouling, and I completely agree with you Councillor Henderson, it's a completely disgusting crime and it is a crime, its very difficult to find witnesses who are willing to come forward. Its very difficult to bring them forward for successful prosecution but every time we get the evidence we will do it.

We discussed at Cabinet, in some detail this very issue, where the Corporate Enforcement Strategy came forward and was agreed and it was dog fouling that actually was the big issue that everyone talked about, in a great amount of detail, Chairman, and I said that I wanted to move the situation and that Corporate Enforcement Strategy being adopted by Cabinet this morning, was a start of a new way of doing things. It's not the end of the matter, we don't just write a strategy and stick in on the shelf, that's going to be the start of a different way of doing things where in an environment now as a

Council with limited resources we have less money, that means less boots on the ground but when it comes to enforcement, I want to see enforcement being done collectively, collaboratively across every department of the Council, working together and with our partners such as the Environmental Agency, such as County Council, such as the Highways England, the Police, the Fire Service, whoever.

When it comes to the issue of dog wardens, we are looking at, we discussed this this morning, whether it's possible to do it, to get all Officers or certainly for more Officers, the powers to take enforcement action when they see violations of dog fouling taking place.

It's not acceptable, it's got to stop and within the limited resources we have got, we have got to do everything we can and I would urge anyone, certainly Councillors but also members of the public, if they see someone and you have got a mobile phone on you, take a photograph, send it to your local Councillor, send it to the Council and we will do everything we can to bring about a prosecution, Thank you Chairman."

Question Three

From Councillor Michael Talbot to Councillor Fred Nicholls, Corporate Enforcement Portfolio Holder:

"To the Portfolio Holder for Planning.

A recital of the problem:

Your Department has recently issued 'Enforcement notices' for breaching conditions in contravention of a 1958/9 planning permission, to my electors occupying 36 Chalet properties in the ward.

This notice requires them to vacate their home three months after receipt of the notice, which for many is by 5th December or face likely court proceedings for not complying with the notice.

The Council will presumably offer those forced to leave their home, temporary accommodation until they can return to their home in March next year.

Their various home insurances maybe invalidated by leaving their homes empty. The local police presumably will be asked by this Council to offer greater surveillance over these empty homes.

I believe it is possible that these residents may be protected under European human rights legislation.

If they are not found homes locally their children's schooling will be interrupted and their family registration with a doctor may be lost.

The notices add as a reason for the action, that they are resident in "Flood Zone 3". This is not the Environment Agency description of where their properties are situated as the Agency 'hatch' the actual plans of this area as being 'Flood Zone 3' an "Area benefiting from flood defences", which means they have suitable protection and emergency arrangements to protect when flooding is predicted.

All this disruption now to satisfy a 58 year old planning condition, long before some residents were born!

As a Councillor for St Osyth I should like to ask the following questions:

Can the Portfolio Holder for Planning advise me:

- (a) Whether the above matters have been taken into consideration by your Department when issuing these Notices and what they propose to do on behalf of any Dispossessed Residents?*
- (b) Does he agree with me that when serving these notices on the 1st August for residents of brick built Chalet Bungalows, the Council agreed on the 4th August, 3 days later, to grant all year round use of a caravan, neighbouring these chalets in the adjacent Orchards Holiday Park, which it was claimed had been used in excess of ten years, by the issue of a lawful use certificate.*

There is an expression about 'Rubbing peoples noses in it!' - dare I say Is this what Tending is doing?"

In Councillor Nicholls' absence, Councillor Stock OBE replied on his behalf as follows:

"Cllr Talbot, thank you for raising the Council's action to resolve breaches of planning controls over the occupancy of caravans and chalets in our District.

As you know Planning Enforcement is a non-executive function of the Council with powers delegated to the Planning Committee, and as you will also know this means that decision making powers for planning enforcement do not rest with the Cabinet, or with individual Portfolio Holders or even with me as Leader of the Council, but nevertheless I am happy to attempt to answer your queries on this issue.

Members of the Council will recall that the Cabinet and the Planning Committee have considered a number of reports about this topic over the past four years (13th December 2013, 13th June 2014, 9th December 2014 and 2nd February 2016).

The reports to Cabinet and the Planning Committee have included an outline of the occupancy restrictions that apply on sites across the District, the flood risk issues impacting on this accommodation and the policy context for the occupancy restrictions. In addition, reports have considered the Human Rights and potential housing implications of taking action.

During this period officers have:

- Identified the occupancy restrictions on holiday accommodation in the District;*
- Worked with the Environment Agency to identify acceptable accommodation on a site by site basis taking into account flood risk;*
- Worked with chalet and caravan site to improve their emergency planning procedures, including evacuation plans;*
- Undertaken further analysis of relevant planning decision, case law and national policies to support policy development here;*
- Carried out further monitoring of sites and compliance with occupancy restrictions.*

On 02 February 2016 the Planning Committee resolved to support the principle of seeking voluntary compliance with planning controls relating to holiday caravan and chalet occupancy, and where this is not successful to serve Planning Enforcement Notices, giving priority to breaches at Point Clear Bay, Clear Springs and Bel Air.

Since that decision, work to achieve compliance has progressed, including the service of Planning Enforcement Notices at Clear Springs and most recently at Point Clear Bay. Appeals have been lodged and considered in relation to some properties at Clear Springs, decision are awaited. Appeals have also been received in relation to some properties at point Clear Bay.

As you point out, a planning permission dating from 1959 is relevant to Point Clear Bay properties. However, its age make the danger of flood risk no less real and in any case, more recent appeals have reviewed the permissions and in many cases re-imposed similar limitations on occupation.

Cllr Talbot, you asked me two specific questions:

- (a) Whether the above matters [whether the Council will offer residents temporary accommodation, protection under human rights legislation, the views of the Environment Agency and the age of the original planning permission] had been considered when issuing Planning Enforcement Notices and what will be done on behalf of any dispossessed residents?*

As I have already described, yes, these issues have been considered by both officers and the Planning Committee in coming to the decision to take action. The Council will consider what assistance is appropriate for residents who find themselves without a home as a result of complying with the occupancy limitations. This will depend on the personal circumstances on individuals. The Council's Housing Options team is aware of this possibility and ready to provide advice and support.

Turning to your second specific question:

- (b) Do I agree that 3 days after serving the Planning Enforcement Notices on 1st August, the Council agreed to all year round use of a caravan, neighbouring these chalets in the adjacent Orchards Holiday Park?*

I understand that the permission you refer to was not the grant of planning permission, nor does it relate to all year round use of a caravan. The Council issued a certificate of lawful use for the siting of static caravans on an area currently used for the siting of touring caravans. It is a legal determination, based on consideration of evidence that such a development is lawful and does not require the grant of planning permission. This decision in no way contradicts the Council's action to achieve compliance with existing planning controls.

Having said all that Cllr Talbot there can be no denying that this is a very complex and problematical case with in the one hand the very real risk of people drowning in their own homes as happened in 1953 and on the other hand people being potentially made homeless due to planning regulations.

I don't pretend that I have a magic wand solution but I do take this issue very seriously and I would like to propose setting up a meeting, as soon as practicable, with affected residents, the ward members and senior officers from the Council. I would be very happy to chair the meeting to see if we can come up with solutions, or at the very least provide meaningful answers to peoples' questions."

Councillor Talbot then responded to Councillor Stock OBE's reply with a supplementary question:

"I think any supplementary I might of asked Chairman has been totally overtaken by the last sentence of what the Leader has just said in answer to my question, that is, that he is prepared and I really appreciate this, he is prepared to meet the residents and other people concerned along with senior officers of department to put their difficulties to the officers and see if there some resolution of the problem. I don't know wat the meeting outcome will be but an offer of a meeting is quite magnanimous and I greatly appreciate it. Thank you very much."

62. REPORT OF THE LEADER OF THE COUNCIL - URGENT CABINET OR PORTFOLIO HOLDER DECISIONS

There was no such report on this occasion.

63. MINUTES OF COMMITTEES

It was moved by Councillor Stock, seconded by Councillor G V Guglielmi and **RESOLVED** that the minutes of the following Committees, as circulated, be received and noted:

- (a) Service Development and Delivery of Wednesday 31 May 2017;
- (b) Local Plan of Monday 12 June 2017;
- (c) Audit of Thursday 22 June 2017;
- (d) Corporate Management of Monday 26 June 2017;
- (e) Standards of Wednesday 28 June 2017
- (f) Community Leadership and Partnerships of Monday 10 July 2017;
- (g) Corporate Management of Monday 24 July 2017;
- (h) Community Leadership and Partnership of Monday 31 July 2017; and
- (i) Corporate Management of Monday 14 August 2017.

64. MOTIONS TO COUNCIL

There were no motions, notice of which had been given pursuant to Council Procedure Rule 12, on this occasion.

65. RECOMMENDATIONS FROM THE CABINET

There were no recommendations from the Cabinet on this occasion.

66. REPORT OF THE HEAD OF LEADERSHIP SUPPORT AND COMMUNITY - A.5 - ELECTORAL REVIEW OF TENDRING - FINAL RECOMMENDATIONS AND NEXT STEPS

Councillor Stock OBE informed Members of the reason why he had asked the Chairman to change the order of business.

Further to Minute 31 (09.05.17) Council had before it a report of the Head of Leadership Support and Community (A.5) which had provided details of the final recommendations from the Local Government Boundary Commission for England (LGBCE) of a review of district wards, an update on Community Governance Reviews for Town and Parish Councils and to seek approval to undertake further work to put in place arrangements for a reduced council size in 2019.

With the consent of the meeting, Councillor Stock OBE moved altered recommendations to those printed, seconded by Councillor G V Guglielmi.

Councillor Winfield then moved an amendment to Councillor Stock's recommendations, which was seconded by Councillor Broderick and Councillor Stock OBE and Councillor G V Guglielmi agreed to accept.

The Chief Executive confirmed to Council that the motion now before them, to be the subject of debate was:

- a) the final recommendations on new electoral arrangements for Tendring District Council be noted;
- b) a Community Governance Review be undertaken in relation to the land in the St Osyth District Council area but not in the St Osyth Parish area;
- c) in principle, a wider Community Governance Review of parished and unparished areas in the Tendring District be supported subject to specific terms of reference, having regard to the initial views which are currently being sought, coming to a future meeting of Council for agreement;
- d) officers are authorised to commence a review of meeting arrangements, Cabinet and committee size, frequency and make-up in preparation for the reduction to 48 Councillors in 2019; and
- e) that, at an appropriate time following the 2019 District Elections, this Council writes to the Local Government Boundary Commission for England and asks for a further Electoral Review of the Tendring District with a specific request that they look again at the decision to recommend a two member ward of St Bartholomews rather than two single member wards of St Bartholomews and Haven as requested by the Council.

Councillors Scott, Calver, Parsons, Broderick and Bucke each addressed the Council on the subject matter of this item.

NOTE: Whilst Councillor Bucke addressed the Council there was an incident in the public seating area. The Chairman announced that there would be a 15 minute break and so he adjourned the meeting.

Following on from the adjournment, when the meeting was reconvened, it was moved by Councillor Stock OBE, seconded by Councillor Bray and **RESOLVED** that:-

due to the circumstances, all of the remaining items on the agenda would be **MOVED ON BLOCK** with the exception of agenda item 16, which would be deferred until the next scheduled meeting of the Council.

It was **RESOLVED** that:-

- f) the final recommendations on new electoral arrangements for Tendring District Council be noted;
- g) a Community Governance Review be undertaken in relation to the land in the St Osyth District Council area but not in the St Osyth Parish area;
- h) in principle, a wider Community Governance Review of parished and unparished areas in the Tendring District be supported subject to specific terms of reference, having regard to the initial views which are currently being sought, coming to a future meeting of Council for agreement;
- i) officers are authorised to commence a review of meeting arrangements, Cabinet and committee size, frequency and make-up in preparation for the reduction to 48 Councillors in 2019; and
- j) that, at an appropriate time following the 2019 District Elections, this Council writes to the Local Government Boundary Commission for England and asks for a further Electoral Review of the Tendring District with a specific request that they look again at the decision to recommend a two member ward of St Bartholomews rather than two single member wards of St Bartholomews and Haven as requested by the Council.

67. REPORTS SUBMITTED TO THE COUNCIL BY AN OVERVIEW AND SCRUTINY COMMITTEE - REFERENCE FROM THE COMMUNITY LEADERSHIP AND PARTNERSHIP COMMITTEE - A.2 - PROPOSED COMMUNITY GOVERNANCE REVIEW REGARDING A TOWN COUNCIL FOR CLACTON-ON-SEA

Members had received a reference from the Community Leadership and Partnerships Committee (A.2) which had reported that, at the meeting of the Council held on 9 May 2017, the following motion was moved by Councillor Parsons and seconded by Councillor Bucke and, in accordance with Council Procedure Rule 12.4, stood referred to the Community Leadership and Partnerships Committee for consideration and report:

"This Council, in accordance with Local Government and Public Health Act 2007 (as amended) and the statutory guidance issued by DCLG in 2010, conducts a Community Governance Review following the conclusion of the LG BCE Ward Boundaries review, with the view to creating a Clacton Town Council to come into effect in 2023. During this review the Council will consult with members of the public and other stakeholders as to the creation of a Clacton Town Council which will be intended to serve the areas of

Clacton-on-Sea that are not currently being represented by a Town or a Parish Council. This will be inclusive of the following current wards:

*Golf Green
Rush Green
Bockings Elm
Peter Bruff
Alton Park
St James
Pier
St Mary's
St John's
Burrsville
St Paul's
St Bartholomews
Haven*

In addition, this Council will authorise Officers to, with regard to the aforementioned guidance and acts, draft potential boundaries within the specification above, potentially through a working party, for Full Council approval prior to public consultation."

Council had before it a reference report (A.2) from the Community Leadership and Partnerships Committee.

It was reported that at its meeting held on 10 July 2017 the Community Leadership and Partnerships Committee considered Councillor Parsons' motion. Councillor Parsons had attended that meeting and explained the motion to the Committee. Members were then given the opportunity to ask questions. The Council's Head of Governance and Legal Services (Lisa Hastings) clarified what the Committee were being asked to make a decision on and the procedure that would be followed should they recommend to Council that the motion be supported or not.

Following discussion, the Community Leadership and Partnerships Committee had resolved that it recommended that Council supports the motion as written except that the legislation referred to therein be amended to the *Local Government and Public Involvement in Health Act 2007 (as amended.)*

Having considered the report, it was **RESOLVED** that this item be deferred until the next meeting of the Council.

68. REPORT OF THE CHIEF EXECUTIVE - A.3 - MEMBERSHIP OF COMMITTEES

Members had received a report of the Chief Executive (A.3) which had informed them that, in accordance with the wishes of the Leader of the Conservative Group and the authority delegated to him, Councillor Chittock had been appointed to serve in place of Councillor Fairley on the Community Leadership and Partnerships Committee, since the last meeting of the Council.

69. **REPORT OF THE CHIEF EXECUTIVE - A.4 - CHANGE TO MEMBERSHIP OF THE CONSERVATIVE POLITICAL GROUP AND A REVIEW OF MEMBERSHIP OF COMMITTEES**

Members had received a report of the Chief Executive (A.4) which had formally reported that, pursuant to Regulation 10(b) of the Local Government (Committees and Political Groups) Regulations 1990, Councillors Roy Raby and Kevin Watson on 25 July 2017, had each served formal notice on the Council that they no longer wished to be treated as a member of the UKIP political group.

It was further formally reported that, also on 25 July 2017, Councillor Raby and Councillor Watson, pursuant to Regulation 9(b) of the Local Government (Committees and Political Groups) Regulations 1990, had each served formal notice on the Council that they wished to be treated as a member of the Conservative political group.

In accordance with Section 15(1)(e) of the Local Government and Housing Act 1989 and Regulation 17(c) of the Local Government (Committees and Political Groups) Regulations 1990 a review of the allocation of seats to political groups had been carried out.

The outcome of that review, as agreed by Group Leaders, was tabled at the meeting.

It was **RESOLVED** that the Schedule of Appointments to Committees (which had been agreed by Group Leaders), and tabled at the meeting as an Appendix to item A.4 of the Report of the Chief Executive, be approved with immediate effect.

70. **REPORT OF THE CORPORATE DIRECTOR FOR PLANNING AND REGENERATION - A.6 - LOCAL PLAN COMMITTEE TERMS OF REFERENCE AND DEVELOPMENT PLAN DOCUMENTS**

Members had received a report of the Director of Planning and Regeneration (A.6) which had sought Council's agreement to amend the terms of reference of the Local Plan Committee to provide the Committee with authority to agree both the Issues and Options and Preferred Options Draft Development Plan Documents for public consultation.

It was **RESOLVED** that:-

Council agrees to amend the terms of reference of the Local Plan Committee to approve Preferred Options Draft Development Plan Documents and associated documentation for public consultation.

71. **REPORT OF THE MONITORING OFFICER - A.7 - LOCAL GOVERNMENT OMBUDSMAN**

Members had received a report of the Monitoring Officer (A.7) which had been submitted for information only.

It was reported that the Constitution (Article 12.03(a)) required the Monitoring Officer to report to Council, or to Cabinet for executive functions, if any decision or omission had given rise to maladministration.

The report had been submitted as the Ombudsman had recently considered three cases where some fault had been found with the Council. A summary of those cases had been included within the report.

72. URGENT MATTERS FOR DEBATE

There were none on this occasion.

73. COMMITTEE SERVICES MANAGER

Council noted that Ian Ford (Committee Services Manager) should be added to those who were thanked at the previous meeting for their work on the Electoral Review. In addition, Members joined in sending Ian best wishes for a speedy recovery following his recent accident.

The Meeting was declared closed at 8.58 pm

Chairman

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Questions pursuant to Council Procedure 10.1

The following question has been received, on notice, from a member of the public:

Question

**From Mr Steven Walker, Walton-on-the-Naze to Councillor Mick Skeels Snr.,
Portfolio Holder for Leisure and Tourism:**

“The proposed closure of 10 public toilets by TDC has generated considerable public concern, anxiety and protest as evidenced by the submission of two large petitions and a third currently being promoted on the online petition site 38 degrees. There has not been a Cost-Benefit analysis or Economic Impact Assessment of the closures while the estimated cost savings have been calculated at £100,000 per annum.

Therefore, before any toilets are closed, will TDC carry out a Cost-Benefit Analysis and Economic Impact Assessment; and consult with Public Health England, Local GP surgeries and local Businesses via their local representatives, to ask what the impact of the toilet closures would be on Patient health and well-being and on Business revenue; and to bring the results of the Cost-Benefit Analysis and Economic Impact Assessment together with those consultations to a Full Council meeting, and publish the results?”

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Questions pursuant to Council Procedure 11.2

The following questions have been received, on notice, from Members:

Question One

From Councillor Garry Calver to Councillor Mick Skeels Snr., Portfolio Holder for Leisure and Tourism:

“The Labour Group supports the £355,000 restoration of Clacton’s Venetian Bridge and agrees with the Portfolio Holder for Leisure and Tourism when he described the bridge as being an iconic focal point for visitors.

Will the Portfolio Holder agree with me that the Victorian lighthouses in Dovercourt Bay, both scheduled ancient monuments, represent an even greater iconic focal point for visitors to Harwich and Dovercourt and, therefore, will he advise the Council as to what action is being taken to restore them to their former glory and how long it is likely to be before they once again offer a positive visual impact on Dovercourt Bay’s Blue Flag beach rather than a negative one?”

Question Two

From Councillor Ivan Henderson to Councillor Paul Honeywood, Portfolio Holder for Housing:

“Will the Portfolio Holder responsible for dealing with homelessness advise the Council of the annual number of people contacting TDC to declare themselves as ‘homeless’ but who fall outside of the council’s legal obligation for assistance?”

Would the Portfolio Holder further agree to introduce a location within Harwich and Dovercourt where a person requiring such assistance can present themselves as, at present, such individuals, often without the means to pay for transport, are required to get to Clacton or Colchester before they can be given support?”

Question Three

From Councillor Jack Parsons to Councillor Lynda McWilliams, Portfolio Holder for Health and Education:

“Could the Portfolio Holder for Health and Education, update this chamber on the work that has been carried out by this Council to raise awareness of, as well as the work to support, the services that deal with mental health within our District? In addition could she comment on the work that the Council has done to promote World Mental Health Day and the #helloyellow campaign?”

Question Four

From Councillor Colin Winfield to Councillor Mick Skeels Snr., Portfolio Holder for Leisure and Tourism:

“The recent cycle Tour of Britain event enthused people to take up cycling. That is until they realise that they would have to share the road with a heavy traffic emitting pollutants, stealing their health enjoyment of the sport. The existing unsatisfactory system which forces cyclists and pedestrians to share the top promenade on Clacton seafront fails to please either group and is clearly just a token gesture. Sustrans is a national cycling organisation, funded by Government, to provide designated cycling paths for towns like ours. This organisation has even allotted a token number of 150 which appears on their maps which are supposed to have cycling routes along.

I would like to ask the Portfolio Holder for Leisure and Tourism if he will do all he can to achieve safe designated cycle routes from Clacton Station and along our seafront from Holland Haven to the Town Centre.”

COUNCIL

21 NOVEMBER 2017

REFERENCE FROM COMMUNITY LEADERSHIP AND PARTNERSHIPS COMMITTEE

A.1 PROPOSED COMMUNITY GOVERNANCE REVIEW REGARDING A TOWN COUNCIL FOR CLACTON-ON-SEA

(Report prepared by Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
To enable Council to decide whether to support Councillor Jack Parsons' motion to Council in respect of a proposed parish/town council for Clacton-on-Sea.

EXECUTIVE SUMMARY
<p>This report sets out a motion submitted by Councillor Parsons to the meeting of the Council held on 9 May 2017 relating to a proposed Community Governance Review with a view to creating a town council for Clacton-on-Sea and which was referred to the Community Leadership and Partnerships Committee by the Chairman of the Council for consideration and report, in accordance with the provisions of Council Procedure Rule 12.4.</p> <p>The Community Leadership and Partnerships Committee considered Councillor Parsons' motion at its meeting held on 10 July 2017.</p> <p>Members will be aware that, due to an incident in the public gallery, consideration of this item was deferred at the meeting of the Council held on 5 September 2017.</p>
RECOMMENDATION
That Council decides whether it wishes to support Councillor Parsons' motion.

PART 2 – SUPPORTING INFORMATION

BACKGROUND
<p>At the meeting of the Council held on 9 May 2017, the following motion was moved by Councillor Parsons and seconded by Councillor Bucke and, in accordance with Council Procedure Rule 12.4, stood referred to the Community Leadership and Partnerships Committee for consideration and report:</p> <p><i>"This Council, in accordance with Local Government and Public Health Act 2007 (as amended) and the statutory guidance issued by DCLG in 2010, conducts a Community Governance Review following the conclusion of the LGBCE Ward Boundaries review, with the view to creating a Clacton Town Council to come into effect in 2023. During this review the Council will consult with members of the public and other stakeholders as to the creation of a Clacton Town Council which will be intended to serve the areas of Clacton-on-Sea that are not currently being represented by a Town or a Parish Council. This will be inclusive of the following current wards:</i></p> <p><i>Golf Green</i> <i>Rush Green</i></p>

*Bockings Elm
Peter Bruff
Alton Park
St James
Pier
St Mary's
St John's
Burrsville
St Paul's
St Bartholomews
Haven*

In addition, this Council will authorise Officers to, with regard to the aforementioned guidance and acts, draft potential boundaries within the specification above, potentially through a working party, for Full Council approval prior to public consultation."

The Community Leadership and Partnerships Committee considered Councillor Parsons' motion at its meeting held on 10 July 2017. Councillor Parsons attended that meeting and explained the motion to the Committee. Members were then given the opportunity to ask questions. The Council's Head of Governance and Legal Services (Lisa Hastings) clarified what the Committee were being asked to make a decision on and the procedure that would be followed should they recommend to Council that the motion be supported or not.

Following discussion, the Community Leadership and Partnerships Committee had **RESOLVED** that it recommended that Council supports the motion as written except that the legislation referred to therein be amended to the *Local Government and Public Involvement in Health Act 2007 (as amended.)*

BACKGROUND PAPERS FOR THE DECISION

There are no background papers.

APPENDICES

None

**MINUTES OF THE MEETING OF THE AUDIT COMMITTEE,
HELD ON THURSDAY 21 SEPTEMBER 2017 AT 7.30 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors Coley (Chairman), Poonian (Vice-Chairman), Alexander and Hones (except items 9 – 11)
In Attendance:	Richard Barrett (Head of Finance, Revenues and Benefits Services), Clare Lewis (Fraud and Risk Manager), Craig Clawson (Principal Auditor) and Katie Sullivan (Committee Services Officer)
Also In Attendance:	Kevin Sulter (Executive Director – Ernest & Young) and Chris Hewitt (Audit Manager– Ernest & Young)

9. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

Councillor Scott had emailed his apologies prior to the meeting, however, that email had not been seen until the following day.

10. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Committee held on 22 June 2017 were approved as a correct record and signed by the Chairman.

11. DECLARATIONS OF INTEREST

There were none.

12. REPORT OF THE AUDIT AND GOVERNANCE MANAGER - A.1 - REPORT ON INTERNAL AUDIT - JUNE 2017 TO AUGUST 2017

The Committee had before them a periodic report (A.1) on the Internal Audit function for the period of June 2017 to August 2017.

It was reported that action had been completed to address a number of issues which had been raised in the Quality Assurance and Improvement Programme that had been reported at the previous meeting of the Committee.

The Council's Principal Auditor (Craig Clawson) informed the Committee that six audits had been completed in the period with Substantial or Adequate Assurance being achieved in four instances. The results of the remaining two audits had been addressed by circulation of the issues to Senior Managers with guidance regarding Constitutional requirements, it had been identified that further and more detailed work was required to be undertaken before opinions could be fairly formed and that this work was due to be undertaken shortly.

The Principal Auditor also informed the Committee of the current position in relation to:

- (i) Public Sector Internal Audit Standards;
- (ii) Independence of the Internal Audit Activity;

- (iii) Internal Audit Plan Progress;
- (iv) Quality Assurance;
- (v) Outcomes of Internal Audit Work;
- (vi) Procurement – Order Process Compliance;
- (vii) Management Response to Risk; and
- (viii) Management response to Internal Audit Reports.

Following discussion and questions by Members, it was:

RESOLVED that the contents of the report be noted.

13. REPORT OF THE CORPORATE DIRECTOR (CORPORATE SERVICES) - A.2 - AUDIT RESULTS REPORT 2016/17

The Committee had before them a report (A.2) which had presented the following:

- The External Auditor's Audit Results Report for the year ending 31 March 2017, and Letter of Representation for Members' consideration and approval in order to enable a final opinion on the accounts and value for money arrangements to be formally issued by the External Auditor;
- The Statement of Accounts 2016/17 for Members' consideration and approval for publication by the end of September 2017; and
- A revised Annual Governance Statement 2016/17 for Members' approval.

Ernest and Young's Executive Director (Kevin Suter) went through various sections of the report.

The Council's Head of Finance, Revenues and Benefits Services responded to questions raised by Members.

Following discussion, it was **RESOLVED**:

1. That in respect of the Audit Results Report for the year ended 31 March 2017, the Audit Committee:
 - (a) Considers and notes the contents of the report including the adjustments to the Statement of Accounts 2016/17 as set out on page 21 of that report;
 - (b) subject to (a) above, approves the management representation letter set out as Appendix D to the External Auditors Audit Results Report 2016/17;
 - (c) subject to (b) above, authorises the Head of Finance, Revenues and Benefits and Audit Committee Chairman or Vice Chairman to sign the management representation letter for forwarding to the External Auditor;
 - (d) subject to (b) and (c) above, approves for publication the audited Statement of Accounts for 2016/17, amended for the adjusted items identified; and
 - (e) approves a delegation to the Head of Finance, Revenues and Benefits in

consultation with the Chairman or Vice Chairman of the Audit Committee to make amendments to the management representation letter for forwarding onto the External Auditor and / or Statement of Accounts 2016/17 before publication, if further changes are recommended by the External Auditor following the completion of the outstanding areas of their work.

2. That in respect of the Council's Annual Governance Statement 2016/17, the Audit Committee:

(a) approves the revised Annual Governance Statement set out in Appendix A; and

(b) authorises, subject to 2(a) above, the Chief Executive and Leader of the Council to sign the Annual Governance Statement set out in Appendix A.

14. REPORT OF THE CORPORATE DIRECTOR (CORPORATE SERVICES) - A.3 - TABLE OF OUTSTANDING ISSUES

The Committee had before them a report (A.3) which presented the progress against outstanding actions identified by the Committee.

It was reported that the Table of Outstanding Issues had been reviewed and updated since it was last considered at the previous meeting of the Committee.

It was further reported that there were no significant issues to bring to the attention of the Committee, with updates provided against individual items, as set out in Appendix A to the report, or elsewhere on the agenda where appropriate.

Updates against actions identified within the latest Annual Governance Statement were set out in Appendix B with no significant issues to highlight at the present time.

Following discussion, it was **RESOLVED** that the progress made against the outstanding issues be noted.

The meeting was declared closed at 8.15 pm

Chairman

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**MINUTES OF THE MEETING OF THE CORPORATE MANAGEMENT COMMITTEE,
HELD ON MONDAY 25 SEPTEMBER 2017 AT 7.30 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors Steady (Chairman), Baker (Vice-Chairman), Cawthron, Scott, Skeels (Jnr), Stephenson and Watson
In Attendance:	Anastasia Simpson (Head of People, Performance and Projects), Richard Barrett (Head of Finance, Revenues and Benefits Services), Andy White (Head of Property Services), Katie Wilkins (Human Resources Operations Manager) and Katie Sullivan (Committee Services Officer)

23. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Chittock (with no substitute) and the Council's Corporate Director (Corporate Services) Martyn Knappett.

24. MINUTES OF THE MEETING OF THE COMMITTEE HELD ON 14 AUGUST 2017

The Minutes of the meeting of the Committee, held on 14 August 2017, were approved as a correct record and signed by the Chairman.

Councillor Stephenson referred to minute 22 and requested that responses to questions which had been asked on the Waste Management and Recycling Performance Update / Waste and Recycling Options item be sent to the Committee by the Head of Environmental Services (John Fox).

25. DECLARATIONS OF INTEREST

There were none at this time.

Later on in the meeting, as mentioned below in minute 28, Councillor Baker declared a Non-Pecuniary Interest in item A.3, by virtue of the fact that he was a local Ward Member for Lawford and that one of the items and a question on the Performance Report was in relation to a property in Lawford.

26. REFERENCE FROM CABINET - A.1 - LONG TERM FINANCIAL SUSTAINABILITY PLAN / TEN YEAR FORECAST

The Committee had before it a Reference from Cabinet (A.1) for consideration of the Councils Long Term Financial Sustainability Plan / Ten Year Forecast.

It was reported that, at its meeting held on 5 September 2017, Cabinet had considered the Long Term Financial Sustainability Plan / Ten Year Forecast and it was resolved:

"That Cabinet:

- (a) agrees the revised long term financial sustainability approach and associated ten year forecast that is set out in this report;

- (b) subject to (a) above, requests officers to continue their work in developing an associated delivery plan, in consultation with Portfolio Holders, to support the delivery of the ten year forecast and in particular the budget for 2018/19;
- (c) consults the Corporate Management Committee on the revised approach being taken as set out in this report;
- (d) that subject to (a) above, agrees that the Local Council Tax Support Scheme grant to Town and Parish Council's be removed from the budget via the phased approach set out in the ten year forecast; and
- (e) agrees to make an additional one-off contribution of £1.200m to the Beach Recharge Reserve in 2017/18, funded by £0.202m from the Fit for Purpose budget and £0.998m from the New Homes Bonus Budget."

Members were informed that the report (A.1) and the attached copy of the report considered by Cabinet referred to above (Appendix A), provided the Committee with the opportunity to comment on the Long Term Financial Sustainability Plan / 10 Year Forecast as part of developing the budget in accordance with the Council's Budget and Policy Framework.

Members raised questions and concerns which were responded to by the Head of Finance, Revenues and Benefits Services (Richard Barrett).

The Council's Head of Finance, Revenues and Benefits Services distributed an analysis of historic cost pressures to inform the discussion around the related allowance built into the forecast.

Following discussion, it was moved by Councillor Steady, seconded by Councillor Scott and **AGREED** that the Committee **COMMENTS / RECOMMENDS TO CABINET** that:-

- (a) the Committee supports the Long Term Financial Sustainability Plan / 10 Year Forecast; and
- (b) In respect of the money set aside for the beach recharge, the Committee thinks that it is important to ensure that the best return is achieved on the £1.5 million that will be held in reserves in the interim period.

Councillor Stephenson had voted against the above and confirmed that this was fundamentally because of his concerns in regards to the beach recharge using one off money to pay for an ongoing cost.

27. REPORT OF THE CORPORATE DIRECTOR (CORPORATE SERVICES) - A.2 - CORPORATE BUDGET MONITORING FOR THE FIRST QUARTER OF 2017/18

The Committee had before it a report of the Corporate Director (Corporate Services), which presented it with an overview of the Council's actual financial position against the budget as at the end of June 2017.

The Committee was aware that, at its meeting held on 5 September 2016, Cabinet had considered the Corporate Budget Monitoring Report for the first quarter of 2017/18 and had resolved that:

- “(a) the financial position, as at the end of June 2017, be noted;
- (b) in respect of the General Fund capital programme for 2017/18, a revised capital programme that totals £17.425m as set out in Appendix D be agreed; and
- (c) the repair of the Venetian Bridge, Clacton be agreed and that the 2017/18 General Fund capital programme be increased by £0.205m to meet the cost of the necessary work, funded from the 2017/18 Fit for Purpose Budget.”

The Cabinet report referred to above was attached as Appendix A to the report A.2 for the Committee’s consideration.

Members raised questions and concerns which were responded to by the Head of Finance, Revenues and Benefits Services.

Having considered and discussed the Budget Monitoring Report, the Committee **COMMENTS / RECOMMENDS TO CABINET** that:-

- (a) the Committee notes the report; and
- (b) the Committee proposes that a review be undertaken in regards to Council owned Garages in the District to determine if the service that is currently being offered is considered cost effective.

28. REPORT OF THE CORPORATE DIRECTOR (CORPORATE SERVICES) - A.3 - PERFORMANCE REPORT FOR THE FIRST QUARTER OF 2017/18

Councillor Baker declared a Non-Pecuniary Interest in item A.3, by virtue of the fact that he was a local Ward Member for Lawford and that one of the items and a question on the Performance Report was in relation to a property in Lawford.

The Committee had before it a report of the Corporate Director (Corporate Services) which presented the Performance Report for Quarter One (April 2017 to June 2017), including the Corporate Plan and Priorities and Projects 2017/18.

Appendix A to that report contained details of the 15 indicators and projects where performance was measured. Of those, 11 (73%) were on, or above, their expected target and 4 (27%) were not currently in line with the expected performance. Three of the indicators and projects highlighted in the report were deemed ‘non-measurable’ as this Council’s role was that of influence only.

Members were informed that the Performance Report for Quarter One had been presented to Cabinet on 5 September 2017 and that report was attached as Appendix B.

The Council’s Human Resources Operations Manager (Katie Wilkins) gave the Committee an update in respect of several indicators and projects.

Prior to the meeting a question sheet had been circulated to members of the Committee which had given them the opportunity to ask any service specific questions on the

Performance Report for Quarter One (April 2017 to June 2017). This had enabled Officers to gather responses in time for the meeting. The Human Resources Operations Manager went through the questions and answers with the Committee.

Questions had been asked in regards to the following projects / targets:

- (1) Property Management;
- (2) Education;
- (3) Jaywick Community Development;
- (4) Maximising Tourism and Leisure Opportunities;
- (5) Fly Tipping;
- (6) Recycling Rate;
- (7) Handling of Planning Applications;
- (8) Five Year Housing Land Supply Approvals; and
- (9) Sickness and Authorise Covert Surveillance.

A proposal was suggested that the Education, Health and Wellbeing and Sickness indicators be removed from the Performance Report for the Corporate Management Committee due to the fact that those items were reported to the Human Resources Committee and the Community Leadership and Partnerships Committee.

It was moved by Councillor Baker, seconded by Councillor Steady and **RESOLVED** that the Education, Health and Wellbeing and Sickness indicators be removed from the Performance Report for the Corporate Management Committee.

Following discussion, it was **AGREED** that the Committee **COMMENTS / RECOMMENDS TO CABINET** that:

- (a) the Committee notes the Council's performance report for the period April to June 2017; and
- (b) the Education, Health and Wellbeing and Sickness indicators be removed from the Performance Report for the Corporate Management Committee due to the fact that those items were reported to the Human Resources Committee and the Community Leadership and Partnerships Committee.

29. TRANSFORMING TENDRING / OFFICE RATIONALISATION

The Council's Head of Property Services (Andy White) was in attendance and gave the committee a verbal update on Transforming Tendring / Office Rationalisation.

The update included information in relation to the following:

- (1) Current Position;
- (2) Business Case;
- (3) Revenue Savings;
- (4) Parking Spaces;
- (5) Bins;
- (6) Alterations;
- (7) Meeting Rooms;
- (8) The different phases of the Programme;
- (9) Predicted Time Scales; and

(10) The next steps.

Members raised questions and concerns which were then answered by the Head of Property Services.

The Chairman thanked Officers and Members for their attendance.

The meeting was declared closed at 9.30 pm

Chairman

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**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON WEDNESDAY 27 SEPTEMBER 2017 AT 10.00 AM
IN THE ESSEX HALL, TOWN HALL, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors Heaney (Chairman), Honeywood (Vice-Chairman), Bucke, Davis, Nicholls, Steady and Whitmore
Also Present:	John Wolton and Clarissa Gosling (Independent Persons)
In Attendance:	Lisa Hastings (Head of Governance and Legal Services), Linda Trembath (Senior Solicitor (Litigation and Governance)) and Debbie Bunce (Legal Administration & Information Officer)

8. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

9. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Standards Committee, held on 28 June 2017, were approved as a correct record and signed by the Chairman.

10. DECLARATIONS OF INTEREST

Councillor Heaney declared a non-pecuniary interest in that she was on the Planning Committee with Councillor Bennison.

Councillor Whitmore declared a non-pecuniary interest in that he was in the same political group as Councillor Bennison and also a friend.

Councillor Davis declared a non-pecuniary interest in that she had attended the Court Hearing in respect of Councillor Bennison but that she was present at the Standards Committee with an open mind.

11. REPORT OF THE MONITORING OFFICER - A.1 - FAILURE TO COMPLY WITH THE MEMBERS' CODE OF CONDUCT - DISTRICT COUNCILLOR

There was submitted a report (A.1) by the Council's Monitoring Officer (Lisa Hastings) in respect of a failure to comply with the Members' Code of Conduct.

It was reported that on 1 August 2017, District Councillor Jack Parsons had enquired with the Council's Monitoring Officer whether he could refer himself to the Standards Committee following his criminal conviction on 27 July 2017, which he acknowledged had brought the Council into disrepute. The Monitoring Officer had advised him that due to the seriousness of the conviction, the matter would be reported to the next meeting of the Committee in any event.

Members were informed that one complaint had been received by the Monitoring Officer under the Members' Code of Conduct and Complaints Procedure following the actions of Councillor Parsons as reported in the media. The complaint had been submitted by Mr William Hones, a member of the public. Mr Hones' complaint had made reference to the fact that it had been reported on the on-line version of the Clacton Gazette that Councillor Parsons had pleaded guilty to a charge of possession of a bladed article and

was handed a twelve month Community Order and to carry out seventy hours of unpaid work. The second part to Mr Hones' complaint had made reference to Councillor Parsons had allegedly failed to represent his residents by not belonging to a political group, in particular one of the non-aligned groups on the Council and was consequently not allocated any Committee seats. The complaint was attached to the report as Appendix 2.

Members recalled that at the Council meeting in March 2017, it had been considered whether it wished to allocate Committee seats to Councillors who were not part of a group and decided it would not do so.

Members were informed that the complaint had alleged that Councillor Parsons had breached the Tendring District Council Members' Code of Conduct. The alleged breaches had related to paragraphs 3.1 and 3.4(a) of the Code.

The Monitoring Officer confirmed that the second part of Mr Hones' complaint did not fall within the remit of the Standards Committee.

It was reported that Councillor Parsons had acknowledged that his conviction had brought the Council into disrepute and therefore, in breach of the Members' Code of Conduct and a written apology had been received and was contained within the body of the Monitoring Officer's report. Due to Councillor Parson's acceptance, an investigation into the matter had not been required. Under the Complaints Procedure once there was a finding that evidence existed of a failure to comply with the Code of Conduct, there were two options available, namely:

The first option was to consider an informal resolution (paragraph 7.1.1 of the Complaints Procedure). In this matter the Monitoring Officer did not consider that informal resolution was appropriate. It was noted that a formal apology had been given by Councillor Parsons, however, it was considered necessary and in the public interest for a referral to the Committee due to the seriousness of the conviction and upon the specific request.

The second option available (paragraph 7.1.2) was for the Monitoring Officer to report the outcome of any investigation to the Standards Committee to enable it to conduct a hearing before deciding whether the Member had failed to comply with the Code of Conduct and if so, whether to take any action in respect of the Member. In this case, Councillor Parsons had already admitted that he had failed to comply with the Code of Conduct and therefore the Standards Committee had the power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct. Accordingly, the Standards Committee could consider the sanctions set out in paragraph 8 of the Complaints Procedure.

The Committee was made aware that all parties had had the opportunity to comment on the Monitoring Officer's decision to refer the matter to the Standards Committee to determine the sanction in respect of Councillor Parsons.

In addition, the Council's Independent Persons, Clarissa Gosling and John Wolton had both been consulted.

Clarissa Gosling's comments were as follows:

“On the complaint that Councillor Parsons is not a member of any committees. I understand that it is the council’s decision that only members of a group may serve on committees, and I cannot comment on that. I do not believe that a councillor should be forced to join a group which he feels does not reflect his values or the values of those who elected him.

All things being equal, I imagine a councillor would prefer to be on a committee, which comes with influence and a financial allowance, though does have a time commitment. I believe a councillor should be allowed to follow his conscience in whether or not to join a group, and that this part of the complaint is not justified.

Councillor Parsons has admitted that his actions, resulting in a conviction, have brought the council into disrepute and I do not believe that there is any doubt about this.

However, having made this appalling mistake it appears that he is making every possible effort to address the situation. His apology acknowledges the offence very openly and shows he has understood and deeply regrets his actions – it does not appear to be not just formal words. It takes courage to do that. He has received a sentence and will have to serve his punishment. He has taken steps to address his medical problems and is undertaking ongoing therapy.

If he carries out these actions fully, and is able to rehabilitate himself, then I think that that would be an example to others that it is possible, and the council would no longer be in disrepute.

I do not read the newspaper reports, not living locally, nor do I know the personalities of councillors. I came to these views having read the papers provided.”

John Wolton’s comments were as follows:

“it is unfortunate that Councillor Parsons created the situation he finds himself in, however it is acknowledged that in his response he is fairly remorseful for his actions and receiving professional advice and treatment. The residents choose Councillor Parsons to be the elected member for their ward and assume would stand by their selection.

We have to accept the Magistrates’ Court decision and the sentence he has received, but Councillor Parsons should also be reminded of his obligations to Tendring District Council and the Code of Conduct. I trust that Councillor Parsons will stick to his treatment and prove himself to be a good councillor. I am aware that the Committee is unable to remove Councillor Parsons from any committees, as he does not sit on any and he must not be prevented from undertaking ward work as an elected member.”

In summary the Monitoring Officer’s conclusions were as follows:

“Councillor Parsons is not just an individual, he has been elected to represent the residents of St. Paul’s Ward and sit on Tendring District Council. This is not the standard of behaviour an elected member should be exhibiting to the general public, and knife crime is very serious and under no circumstances, was this acceptable. It is abundantly clear that Councillor Parsons’ actions have breached the Code of Conduct which Councillors sign up to upon their election as members of Tendring District Council. The

Code exists to ensure Councillors fulfil the statutory duty to promote and maintain high standards of conduct in public life.

The Leadership Principle of Public Life requires holders of public office to exhibit the other principles in their own behaviour and actively promote and robustly support the principles.

Although not referred to in the complaint, Councillor Parsons has also failed to comply with the law and consequently, has contravened paragraph 3.7(a) of the Code of Conduct.

It is necessary for the Standards Committee to determine the breach as against the Principles of Public Life and Code of Conduct and their power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct.”

The Committee, then retired to deliberate and reach its decision. The Monitoring Officer also accompanied them to advise on any legal points raised and to record the decision. The Independent Persons also accompanied the Committee during its retirement to comment upon any sanctions being considered by the Committee.

Following such deliberations the meeting resumed.

It was moved by Councillor Davis, seconded by Councillor Nicholls and:

RESOLVED that the Committee:

- (a) notes that Councillor Parsons has received a criminal conviction for possession of a bladed article, namely a Carving knife, contrary to section 139(1) and (6) of the Criminal Justice Act 1988;
- (b) notes in addition to the Monitoring Officer reporting this matter to the Standards Committee, a formal complaint concerning the conduct of Councillor Parsons has also been received;
- (c) welcomes the acknowledgement by Councillor Parsons that he has breached the Code of Conduct;
- (d) notes Councillor Parsons written apology sent to the Monitoring Officer;
- (e) notes the comments of both Independent Persons;
- (f) endorses the referral to the Committee to consider the sanctions; and
- (g)
 - (i) acknowledges that Councillor Parsons is suffering from personal health problems;
 - (ii) encourages Councillor Parsons to review his position as an elected Member due to the circumstances surrounding his conviction and whether he is able to effectively represent his Ward and residents;

- (iii) strongly encourages Councillor Parsons to continue with the professional advice and medical treatment he now has access to and that;
- (iv) requests the Monitoring Officer to publish the findings in respect of the Councillor Parsons conduct be published on the Council's website and the Committee's findings be reported to Council for information.

12. REPORT OF THE MONITORING OFFICER - A.2 - OUTCOME OF CODE OF CONDUCT INVESTIGATION - COMPLAINT AGAINST A DISTRICT COUNCILLOR

Councillor Heaney had earlier declared a non-pecuniary interest in that she was on the Planning Committee with Councillor Bennison.

Councillor Whitmore had earlier declared a non-pecuniary interest in that he was in the same political group as Councillor Bennison and also a friend.

Councillor Davis had earlier declared a non-pecuniary interest in that she had attended the Court hearing in respect of Councillor Bennison but that she was present at the Standards Committee with an open mind.

There was submitted a report (A.2) by the Council's Monitoring Officer that, in accordance with the District Council's Complaints Procedure, the outcome of an investigation was being reported to the Committee following on from a Members' Code of Conduct investigation.

The Monitoring Officer reported that two separate complaints had been received from Mr Anthony Chandler and Mr William Hones, who were members of the public. Their complaints had been received by the Monitoring Officer under the Members' Code of Conduct and Complaints Procedure alleging that the behaviour of District Councillor Lis Bennison had breached the Members' Code of Conduct.

The alleged breaches related to:

- (i) Paragraph 3.1: The Leadership Principle of Public Life;
- (ii) Paragraphs 3.2: In fulfilling the Duties and Responsibilities, a Councillor must not:
 - (b) disrespect others; and
 - (c) bully or harass any person.
- (iii) Paragraph 3.4(a): A Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute; and
- (iv) Paragraph 3.7(a): A Councillor must comply and observe the law.

Members were informed that the Complaint Form that had been completed by Mr Chandler had referred to initial contact that had been made with the Monitoring Officer in 2016, regarding the alleged assault by Councillor Bennison, however, no further action could be taken at that time, under the Members' Code of Conduct, whilst criminal proceedings against Councillor Bennison were being considered by Essex Police. The incident had occurred at the Clacton Airshow in August 2016, whereby Councillor Bennison whilst acting as a steward on behalf of the District Council had assaulted Mr Chandler, a member of the public.

Members were further informed that Mr Chandler had contacted the Council's Monitoring Officer and had confirmed that Councillor Bennison had been convicted of assault at Southend Magistrates Court on 13 July 2017. Subsequently, a Complaint Form was completed and received on 19 July 2017. A second Complaint Form concerning the same incident was received from Mr William Hones on 25 July 2017.

The Monitoring Officer confirmed that on 23 August 2017, all parties were notified of her decision, that due to the criminal conviction it was not appropriate to take 'no further action' or seek informal resolution or mediation. However, it was not considered that a detailed investigation would be required as the conviction was the outcome of criminal proceedings before the Magistrates Court. Therefore, a light touch investigation had been undertaken and referred to the Standards Committee. To carry out a detailed investigation would have been an unnecessary use of resources, in both cost and time and prolong determination of this matter.

Members were informed that through the light touch investigation, a written apology had been received from Councillor Bennison, which is contained within the report, the apology did not accept that the Code of Conduct had been breached.

It was reported that in accordance with paragraph 5.5 of the Council's Complaints Procedure, at the end of the investigation, the Investigating Officer (in this case the Monitoring Officer) would produce a draft report ("the Investigation Report") and would, in all cases, send copies of that draft report, in confidence, to the Complainants and to the Member concerned, to give all parties an opportunity to identify any matters in that draft report which they may disagree with or which they considered required more consideration.

It was further reported that having received and taken account of any comments on the draft Investigation Report, the report would be finalised. The Investigation Report was attached as Appendix 2 and included the comments received back from both Councillor Bennison and Mr Chandler, nothing further had been received from Mr Hones.

Members were informed that Section 9 of the Report had contained the conclusions on each allegation of the complaints received. This included a recommendation that evidence existed of Paragraphs 3.4(a) and 3.7(a) and the Leadership principle being compromised and in breach of the Code of Conduct. Therefore, the matter was referred to the Standards Committee to decide upon the sanctions.

One of the Council's Independent Persons, Clarissa Gosling, had been consulted and her comments were as follows:

"Thank you for sending the details about this case which you had told me earlier might arise. I would like to make the point that living near Bury St Edmunds I had not seen any newspaper reports in your local paper that are referred to.

There is a great deal of detail involved and justifications given for actions by both sides, but I have tried to boil it down to the actual action complained of: that Councillor Bennison slapped Mr Chandler in the face when he swore at her.

She describes this as 'my hand accidentally touched his face' and her statement blurs over whether he hit her first. He states that 'she slapped me over the right side of my

face'. The Magistrate's summing-up said that she slapped him and this was seen by two of the staff. Because of this she received the conviction.

It is my view, acting as an Independent Person, that initiating any violent action is not justified unless it is to prevent imminent harm to another. It appears from the papers I read that Councillor Bennison's action in slapping Mr Chandler was not the only way to prevent driving that endangered the public, but happened because she was angered by being sworn at.

Councillor Bennison requested that the judge's comments be included, but I have not commented on Mr Chandler's actions in general. I do not believe my sympathies on either side on the driving and general behaviour issues are relevant, as in every circumstance adults should have the self-control to keep dispute verbal not resort to the physical. This should be demonstrated particularly by leaders in the public eye setting an example of dignity and restraint.

Councillor Bennison was clearly acting in her official capacity, wearing a badge and t-shirt, there seems to be no dispute about this, this would have been plain to Mr Chandler and members of the public who witnessed these events. It does not appear however that Mr Chandler was intimidated by her official position. Thus though she did initiate a violent action by slapping him, 'bully or harass' would imply an attack on a weaker from the stronger, and this does not seem to be the case either physically or emotionally.

When acting in an official capacity, Councillor Bennison used physical aggressive action in response to verbal abuse, this is not edifying and in my view does bring her and the Council she represents into disrepute. The force of the action is not important it is a precedent no one would wish followed privately or publically.

The fact that this led to a criminal conviction has drawn more public attention to the unfortunate event, confirming the facts. I am not sure that a criminal conviction per se brings a councillor into disrepute: though 'a councillor must comply and observe the law' seems to imply that. There are many laws on the statute book and motives for breaking them and the public might consider some more reputable than others.

From the papers I have read, I do not believe it was necessary to use physical violent action in response to the bad language and 'dangerous driving behaviour' Councillor Bennison reported. I am sorry that her apology did not acknowledge this crucial point, even in retrospect, and in my view this lack regret about her actions reflects badly upon her."

The Committee, then retired to deliberate and reach its decision. As the Monitoring Officer had undertaken the investigation in this matter, she did not accompany the Committee until they had reached their verdict, initially the Senior Solicitor was in support to advise on any legal points. The Monitoring Officer was requested to join the Committee to advise on the wording of the decision. Then Clarissa Gosling the Independent Person who had been consulted in this case, also accompanied the Committee during its retirement to comment upon any sanctions being considered by the Committee.

Following such deliberations the meeting resumed.

It was moved by Councillor Heaney, seconded by Councillor Nicholls and:

RESOLVED that the Committee:

- (a) Notes the outcome of the investigation undertaken by the Monitoring Officer in respect of Councillor Lis Bennison;
- (b) Agrees with the findings of the Monitoring Officer that evidence exists that there has been a breach of the Members' Code of Conduct;
- (c) Notes the written apology contained within the body of the Report;
- (d) Notes the comments of both Independent Persons;
- (e) Endorses the referral to the Committee to consider the sanctions; and
- (f) Upon finding that Councillor Bennison had breached the Code of Conduct resolves that:-
 - (i) its findings are published on the Council's website;
 - (ii) its findings are reported to Council for information;
 - (iii) the Group Leader acknowledges that Councillor Bennison has breached the Code of Conduct and in response it is suggested that Councillor Bennison is removed from any Committees and Sub-Committees of the Council for one month;
 - (iv) it is disappointed that Councillor Bennison failed to acknowledge that the Code of Conduct was breached and would request that training with the Monitoring Officer is organised for Councillor Bennison on the Code of Conduct.

13. REPORT OF THE MONITORING OFFICER - A.3 - REVIEW OF THE MEMBERS' CODE OF CONDUCT (TO REPORT TO FULL COUNCIL)

There was submitted a report (A.3) by the Council's Monitoring Officer which had requested the Committee to complete the review of the Members' Code of Conduct and consider the proposed changes made following the suggested revisions made at its meeting in June 2017 for recommendation to Council for adoption.

As part of its annual work programme, the Committee had commenced a review of the Members' Code of Conduct and had paid particular attention to the definitions of interests.

The Committee recalled that, at its meeting on 29 June 2016, the Monitoring Officer had informed Members that there would be some merit in undertaking a light touch review of the Code of Conduct and to consider removing the distinction between "Other and Non Pecuniary Interests" by joining them together and reviewing the definitions. The Monitoring Officer had also informed Members that the three different types of interest had caused confusion with Members and the public and could be made simpler. In addition, it had been raised whether the provisions on declarations of interests had gone far enough and questions had been asked whether the Council should be retaining a register of interests. Matters such as membership of various groups or organisations had caused concerns with elected Members and the public that those were not

registered, and whilst this was not required on a statutory basis, provisions could be included within the local Code. Members had discussed the advantages of a register of interests, beyond the statutory minimum which was required by the legislation and had welcomed further exploration in this area.

At that meeting the Monitoring Officer had informed Members that, nationally, a number of Councils had reviewed their codes since adoption, some in response to feedback on definitions or areas which were missing, or due to the lack of sanctions available if the obligations were compromised. New ideas such as a voluntary acceptance of suspension and a recall scheme were emerging and information on those could be presented to the Committee for information through the review of the Code.

The Committee recalled that, at its meeting in September 2016, potential changes and additions to the Code had been discussed in order to provide clarity in relation to:

- Separating the Rules of Conduct and General Obligations from the introduction and interpretation part of the Code;
- Merge Other Pecuniary Interests with Non-Pecuniary Interests; and
- Effect of Other or Non-Pecuniary Interests on participation.

At that meeting it had been agreed that the Monitoring Officer would produce a revised draft Code of Conduct for further discussion to take place at the next meeting so that the Committee could work towards recommending minor changes to the Members' Code of Conduct to full Council.

The Committee recalled that, at its meeting in June 2017 the Monitoring Officer had produced a revised draft Code of Conduct showing tracked changes and went through it stage by stage. A clean copy had also been provided for further consideration by the Committee.

At that meeting the Monitoring Officer had confirmed that she would action the amendments suggested by the Committee and provide a further amended version of the Members' Code of Conduct at its next meeting before going to full Council.

Members now had before them a revised draft Members' Code of Conduct showing changes in Appendix A for their consideration.

Members raised questions which were responded to by the Monitoring Officer.

The Independent Persons (John Wolton and Clarissa Gosling) were given the opportunity to make comments and ask questions.

Having discussed the revised draft Code of Conduct, it was moved by Councillor Heaney, seconded by Councillor Nicholls and **RESOLVED:-**

that the revised draft Members' Code of Conduct be recommended for adoption to Council with a commencement date of April 2018, to allow training to be undertaken by all Councillors between adoption and implementation.

14. DISCUSSION TOPICS AND/OR UPDATES FROM THE MONITORING OFFICER

Quarterly Complaints Update

The Monitoring Officer circulated to the Committee the quarterly schedule, which gave general details of a complaint received, without providing any names, and went through it with the Committee. The Monitoring Officer also highlighted a number of other matters which included:

Two Local Authorities have considered motions to lobby the Government on the lack of sanctions which Councils have been left with since the introduction of the Localism Act 2011. A consultation has also been launched on extending the list of criminal convictions which would restrict an individual standing as a Councillor.

The Monitoring Officer at the Committee's request agreed to bring this item back to the next meeting of the Committee for further consideration.

The meeting was declared closed at 1.23 pm

Chairman

**MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP AND
PARTNERSHIPS COMMITTEE, HELD ON MONDAY 2 OCTOBER 2017 AT 7.00 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors Land (Chairman), Baker (Vice-Chairman), Amos, Broderick (except minutes 19 - 22), Chittock, I Henderson, Newton (except minutes 19 - 22), Pemberton, Poonian and Yallop
Also Present:	Councillor McWilliams (Health and Education Portfolio Holder)
In Attendance:	Karen Neath (Head of Leadership Support and Community), Anastasia Simpson (Head of People, Performance and Projects), Mark Westall (Head of Customer and Commercial Services) (except minutes 24 - 25), Rebecca Morton (Executive Projects Manager) and Katie Sullivan (Committee Services Officer)
Also In Attendance:	Joanne Adams (North Senior Youth and Community Commissioner – ECC) and Nikki Daniel (District Based Youth and Community Commissioner – ECC)

19. APPOINTMENT OF A CHAIRMAN

In light of the fact that Councillor Fairley (former Chairman of the Committee) had recently been appointed to the Cabinet and was therefore no longer eligible to be a member of the Committee, Members were required to appoint a new Chairman.

It was moved by Councillor Baker (Vice-Chairman), seconded by Councillor Amos and unanimously **RESOLVED** that Councillor Land be appointed as Chairman of the Committee.

20. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

21. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on Monday 31 July 2017, were approved as a correct record and signed by the Chairman.

22. DECLARATIONS OF INTEREST

There were none at this time.

Later on in the meeting, as mentioned below in minute 24, Councillor I Henderson declared a Non-Pecuniary Interest by virtue of the fact that he was an Essex County Councillor.

**23. REPORT OF THE CORPORATE DIRECTOR (OPERATIONAL SERVICES) - A.1 -
PROPOSED LAUNCH OF ONLINE TENDRING LOTTERY**

The Committee had before it a report of the Corporate Director (Operational Services) which presented it with information on a potential initiative to launch an online Tendring

lottery, using an external lottery manager, to help fund discretionary support to local voluntary and community sector and to enable good causes to raise funds directly.

The Council's Head of Customer and Commercial Services (Mark Westall) was in attendance and gave the Committee an overview of the potential initiative to launch an online Tendring lottery.

It was reported that as budget pressures had continued to grow on all aspects of the Council's work, there would inevitably be an impact on the funding available for good causes.

It was further reported that a Tendring Lottery had the potential to help organisations address any future funding pressures and also would move the Council into the position of enabler, helping communities to use their capacity to become more resilient and to self-help.

Members were informed that the report had addressed those issues and had provided a model for the implementation of an online Tendring lottery.

The Council's Head of Customer and Commercial Services informed the Committee that they were being consulted to gain their views on the proposed initiative in order for the Health and Education Portfolio Holder to take into account before progressing with the project and gaining the relevant authority and permissions.

Members raised questions and concerns which were responded to by Officers.

Councillor McWilliams (Health and Education Portfolio Holder) was in attendance and gave her view on the proposed initiative.

The Chairman summarised the key points raised during discussion.

It was **AGREED** that the Committee **COMMENTS TO CABINET** that:-

- (a) the Committee supports the Health and Education Portfolio Holder's proposal to introduce an online District Lottery as outlined in this report and provides the following observations to be considered before the initiative is progressed and the necessary approvals and permissions are sought;
 - i. the proceeds to be retained by the Council for allocation to good causes should be managed and allocated by the Big Society Fund Panel subject to a review being conducted on how the Big Society Fund works to ensure that fair shares are distributed across the District.
 - ii. a consultation with local charities should take place, facilitated by TCVS, to enable their feedback to be considered and to ensure that smaller scale charities are not missed out;
 - iii. the Committee retains some concerns around the ethics of a lottery and accessibility given that the lottery would be internet based and not all residents have access to the necessary IT.

**24. REPORT OF THE CORPORATE DIRECTOR (CORPORATE SERVICES) - A.2 -
TENDRING CHILDREN AND YOUNG PEOPLE STRATEGY 2017 - 2020**

The Committee had before it a report of the Corporate Director (Corporate Services) which presented it with information on the updated Tendring Children & Young People's (C&YP) Strategy 2017 – 2020, including the C&YP Partnership Delivery Plan 2017/2018.

It was reported that Tendring District Council's Corporate Plan 2016-2020 had put Community Leadership at the heart of everything it did and within this context, the children and young people living within its District, their education, safety, health and wellbeing, and raising aspirations had continued to be a priority.

The Council's Executive Projects Manager (Rebecca Morton) was in attendance and informed the Committee that the Tendring Children & Young People Partnership Delivery Plan 2015/2016 was reviewed at the end of December 2016, and an update had been provided at the Community Leadership and Partnership Committee in January 2017. Further work had now been undertaken to research, consult and develop an updated Strategy and Partnership Delivery Plan to reflect the changing priorities and needs within the District.

Members were informed that the consultation had included members of the North East Essex Children's Partnership, Tendring Youth Strategy Group, Tendring Community Safety Partnership, Tendring Public Health Officer, as well as consideration of feedback from young people and their views on needs and priorities – Essex Youth Service Young People Consultation 2016.

Members were further informed that the revised and updated C&YP Strategy had focused on four priority areas, working in partnership to influence and support the delivery of tangible outcomes for the children and young people of Tendring. The four priority areas were:-

- (1) Start Well – to continue to support schools in improving and maintaining attainment levels, promoting school readiness, and a positive experience and opportunities through school to allow each child to achieve their full potential;
- (2) Stay Safe – children and young people feeling safe in their community;
- (3) Mental Health & Emotional Wellbeing – enjoying good mental health and Wellbeing; and
- (4) Positive Futures - working together with partners to enable families to lift themselves out of poverty, enhance aspirations and provide opportunities for life long wellbeing.

The Executive Projects Manager gave an overview of the strategic vision for the Children & Young People Strategy 2017-2020 which was attached to the report A.2.

Members raised questions and concerns which were responded to by Officers.

Councillor I Henderson declared a Non-Pecuniary Interest by virtue of the fact that he was an Essex County Councillor.

The Council's Head of People, Performance and Projects (Anastasia Simpson) reminded the Committee that the overall responsibility and accountability for meeting the needs of children and young people in the area had rested with Essex County Council as the lead authority, however, Tendring District Council had an influencing role and could also provide support bringing agencies together.

The Chairman summarised the key points raised during discussion.

It was **AGREED** that the Committee **COMMENTS TO CABINET** that:-

- (a) the Committee supports the draft Tendring Children & Young People Strategy 2017 –2020 at Appendix A;
- (b) the Committee supports the draft C&YP Partnership Delivery Plan 2017/2018 at Appendix B in support of the Corporate Plan priorities;
- (c) the Tendring Children & Young People Partnership Delivery Plan will be reviewed annually and updates provided to the Community Leadership & Partnerships Committee;
- (d) the Committee would like to express that it has very strong concerns about child poverty in the District and the lack of resources available to support early intervention; and
- (e) the Committee considers that a more in depth and better understanding of the true levels and causes of child poverty in the District is needed. To this end it was agreed to invite the Essex County Council Child Poverty Officer to a future meeting of the Committee together with representatives from other groups addressing child poverty.

25. YOUTH AND COMMUNITY

Essex County Council's North Senior Youth and Community Commissioner (Joanne Adams) and District Based Youth and Community Commissioner (Nikki Daniel) were in attendance and gave the Committee an overview on Youth and Community which covered the following:

- (1) Update on Youth Service;
- (2) Volunteers;
- (3) Workshops;
- (4) Training;
- (5) Projects;
- (6) Health and Safety;
- (7) Youth Clubs;
- (8) National Citizen Service Programme;
- (9) Relationship Building;
- (10) Intervention Teams;
- (11) North East Commissioning Team Young Peoples Consultation 2016;

- (12) Strategy Group's Priorities 2016-19; and
- (13) Fund Raising Projects and Events to support local organisations.

Following on from the overview provided, Members were given the opportunity to ask questions which were responded to by Joanne Adams and Nikki Daniel.

The meeting was declared closed at 8.45 pm

Chairman

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**MINUTES OF THE MEETING OF THE SERVICE DEVELOPMENT AND DELIVERY
COMMITTEE, HELD ON MONDAY 9 OCTOBER 2017 AT 7.30 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors Griffiths (Chairman), V E Guglielmi (Vice-Chairman), Amos, Chapman, Fowler, Pemberton and Poonian
Also Present:	Councillors Alexander, M J D Skeels (except minutes 12-13) and Talbot
In Attendance:	Mark Westall (Head of Customer and Commercial Services), Michael Carran (Head of Sport and Leisure) (except minutes 12-13), John Fox (Head of Environmental Services), Jonathan Hamlet (Street Scene Officer) and Katie Sullivan (Committee Services Officer)

7. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology was received from Councillor Miles (with Councillor Poonian substituting).

Councillor Gray was absent.

8. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on Wednesday 31 May 2017, were approved as a correct record and signed by the Chairman.

9. DECLARATIONS OF INTEREST

There were none.

10. REVIEW OF BESIDE THE SEASIDE FESTIVAL 2017

The Council's Head of Sport and Leisure (Mike Carran) was in attendance and gave the Committee a presentation on Beside the Seaside Festival 2017. The presentation covered the following:

(1) Objectives -

- Maximise Tourist Opportunities through Events;
- "Book-end" the summer season with Clacton Airshow; and
- Raise the profile of Blue Flag Beach in Dovercourt Bay.

(2) The Event –

- Traditional Seaside Entertainment;
- Live Music / Entertainment;
- "Have a go" Activities;
- Water Sports (Dovercourt); and
- Engagement with Community Groups.

(3) The Big Issues –

- Commissioned the Management (recycling money);
- Attendance;

- Cost of the Event;
- Economic Impact; and
- Weather.

(4) Learning Points for 2018 –

- Hone the Event;
- Trade Stands / Portaloos;
- Work towards financial sustainability; and
- Possibility of linking in with other events.

Members were given the opportunity to ask questions which were responded to by Officers.

The Chairman thanked Mike Carran for his presentation.

11. **REVIEW OF CLACTON AIR SHOW 2017**

The Leisure and Tourism Portfolio Holder (Councillor M J D Skeels) was in attendance and gave the Committee a positive review on Clacton Air Show 2017.

The Council's Head of Sport and Leisure (Mike Carran) gave the Committee a presentation on Clacton Air Show 2017. The presentation covered the following:

(1) Objectives –

- Maximise Tourist Opportunities through Events.

(2) This Year's Key Challenges –

- Managing a large event in 2017;
- Managing Visitor safety;
- Spring Tide; and
- Rising Costs.

(3) This Year's Success Stories –

- Partnership Working;
- Night Flights; and
- Managing Visitor Numbers.

(4) The Big Issues –

- Spectator Numbers;
- Income;
- Staffing; and
- Economic Benefit.

(5) What was said? –

- Social Media Highlights -

(6) Learning Points for 2018 –

- Security;
- Develop opportunities from pause in flying displays; and
- Reinforcing the message about sustainability.

Members were given the opportunity to ask questions which were responded to by Officers.

Following discussion, it was **AGREED** that the Committee **COMMENTS / RECOMMENDS TO CABINET** that:-

- (a) the Committee recognise and commend the enthusiasm and hard work of the Council's Tourism, Marketing and Events Manager (Sarah Daniells) and Events Officer (Jo Needham) and would also like to thank all Council staff that continue to support the Airshow;
- (b) the Committee would like consideration to be given:
 - i. as to how Airshow programmes may be delivered and sold in other towns around the District;
 - ii. for the provision of extra toilet facilities along the seafront during the Airshow;
 - iii. to improve the disabled access signage by the hospitality tent; and
 - iv. to the types of trade stalls that are allocated to Christmas Tree Island and the potential of adding additional trade stalls to the East of Clacton pier.

12. LITTER FROM FAST FOOD OUTLETS AROUND THE DISTRICT AND ON THE A120

The Environment Portfolio Holder (Councillor Talbot) was in attendance and gave the Committee an overview on this item.

The Council's Head of Environmental Services (John Fox) and Street Scene Officer (Jonathan Hamlet) were in attendance to discuss the issue of litter from fast food outlets around the District and on the A120.

The discussion covered the following:

- (1) Drive through Restaurants in the District;
- (2) Where the litter is coming from;
- (3) Cleaner Essex Group;
- (4) Advertising;
- (5) Eliminating litter;
- (6) Litter bins;
- (7) Community litter picks;
- (8) Educating customers;
- (9) Prosecutions; and
- (10) Moving forward.

Members were given the opportunity to ask questions which were responded to by Officers and the Environment Portfolio Holder.

Following discussion, it was **AGREED** that the Committee **COMMENTS / RECOMMENDS TO CABINET** that consideration be given in regards to:-

- (a) promoting community litter-picks in association with fast-food outlets;
- (b) promoting recycling with schools and youth groups; and
- (c) trialling a small number of litter bins on the A120.

13. WORK PROGRAMME 2017/18 - PROPOSED ADDITIONAL ITEM

The Chairman informed the Committee that a request had been made to add an additional item onto its Work Programme. The item in question was 'Impact of the Public Convenience Strategy and Delivery Plan'. The Committee was required to decide whether to add the item onto its Work Programme.

Following discussion, it was **AGREED** that the 'Impact of the Public Convenience Strategy and Delivery Plan' be added as an item onto its Work Programme for the meeting scheduled for 15 January 2018.

The Council's Head of Customer and Commercial Services (Mark Westall) confirmed that he would discuss the item with the relevant Officers and would provide the exact wording at the next meeting of the Committee.

The meeting was declared closed at 9.25 pm

Chairman

**MINUTES OF THE MEETING OF THE CORPORATE MANAGEMENT COMMITTEE,
HELD ON MONDAY 16 OCTOBER 2017 AT 7.30 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors Steady (Chairman), Baker (Vice-Chairman), Alexander, Cawthron, Chittock, Scott, Skeels (Jnr) and Stephenson
In Attendance:	Anastasia Simpson (Head of People, Performance and Projects), Andy White (Head of Property Services) and Katie Sullivan (Committee Services Officer)

30. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Watson (with Councillor Alexander substituting).

31. MINUTES OF THE LAST MEETING

The Minutes of the meeting of the Committee, held on 25 September 2017, were approved as a correct record and signed by the Chairman.

32. DECLARATIONS OF INTEREST

There were none at this time.

Later on in the meeting as mentioned below in minute 34, during discussion, Councillor Baker declared a Non-Pecuniary Interest by virtue of the fact that he was a local Ward Member for Lawford.

33. UPDATE

The Council's Head of People, Performance and Projects (Anastasia Simpson) gave the Committee a progress update in regards to questions that had been asked at the last meeting of the Committee.

A request had also been made that responses to questions which had been asked on the Waste Management and Recycling Performance Update / Waste and Recycling Options item (minute 22 referred) at the meeting held on 14 August 2017 be sent to the Committee by the Head of Environmental Services (John Fox). It was confirmed that this would be followed up.

34. ASSETS UPDATE

The Council's Head of Property Services (Andy White) was in attendance and gave the Committee a presentation on Asset Management. The presentation covered the following:

- (1) The Asset Management Team and what they do;
- (2) Properties;
- (3) Policies;
- (4) Where to find information;
- (5) Our Mission: Generate and Increase Revenue – With a Conscience;
- (6) How to do it;

- (7) Projects;
- (8) Acquisitions;
- (9) Disposals;
- (10) Other;
- (11) The Big Issue;
- (12) Forecast Changes over 10 years; and
- (13) Contributions.

Members were given the opportunity to make suggestions and ask questions which were responded to by Andy White.

During discussion, Councillor Baker declared a Non-Pecuniary Interest, by virtue of the fact that he was a local Ward Member for Lawford.

Following discussion, it was **AGREED** that the Committee **COMMENTS / RECOMMENDS TO CABINET** that:

- (a) smaller disposals are given the same priority, as larger land and property disposals;
- (b) Officer time is being taken up sorting and photocopying documents , rather than being solely focused on land disposals;
- (c) timescales of moving projects forward , appear to be due to internal Council processes;
- (d) CAROS – approaches should be made to users to purchase freeholds or relocate users so that assets can be rationalised;
- (e) Parish Councils or neighbouring landowners should be encouraged to purchase or take over the maintenance of small slivers of land;
- (f) wherever possible, maximise the use of grants; and
- (g) the Committee recognises the hard work of Officers within the Assets team.

35. WORK PROGRAMME 2017/18

It was **AGREED** that the following item be removed from the agenda for the next scheduled meeting of the Committee:

- Planning Update (including Enforcement).

The meeting was declared closed at 9.05 pm

Chairman

**MINUTES OF THE MEETING OF THE HUMAN RESOURCES COMMITTEE,
HELD ON WEDNESDAY, 1ST NOVEMBER, 2017 AT 7.30 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors Callender (Chairman), Chapman (Vice-Chairman), Amos, B E Brown, Bush, Calver, Cossens, Ferguson, Nicholls, Porter, Raby and M Skeels(Snr)
Also Present:	None
In Attendance:	Martyn Knappett (Corporate Director (Corporate Services)), Anastasia Simpson (Head of People, Performance and Projects), Debiannne Messenger (Work Based Learning Manager), Katie Wilkins (Human Resources Operations Manager), Carol Magnus (Organisational Development Manager) and Lisa Hastings (Head of Governance and Legal Services).

26. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor King (with no substitute).

27. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Committee, held on 14 March 2017, were approved as a correct record and signed by the Chairman.

28. DECLARATIONS OF INTEREST

There were none.

29. APPRENTICESHIPS AND CAREER TRACK UPDATE

The Council's Work Based Learning Manager (Debiannne Messenger) provided the Committee with a presentation on Apprenticeships and Career Track within the Council.

The main points covered included:

- (1) What is an Apprenticeship, the Frameworks & Standards;
- (2) Tending statistics including within the District Council, external employers and vacancies;
- (3) Apprentice Reform and the Levy

With no questions being asked by Members, the Chairman thanked the Work Based Learning Manager for her attendance.

30. **REPORT OF THE CORPORATE DIRECTOR (CORPORATE SERVICES) - A.1 - STAFF STATISTICS REPORT**

There was submitted a report by the Corporate Director (Corporate Services) presented by Human Resources Operations Manager (Katie Wilkins), which provided the Committee with updated and current staffing statistics including:

- (1) Number of Staff Employed – Full-Time and Part-Time;
- (2) Gender Profile;
- (3) Age Profile;
- (4) Disability Profile;
- (5) Ethnicity Profile; and
- (6) Sickness Absence (information was included on the management procedures and preventative action taken).

Following discussion it was **RESOLVED** that the contents of the report be noted.

31. **REPORT OF THE CORPORATE DIRECTOR (CORPORATE SERVICES) - A.2 - UPDATE ON WORKFORCE HEALTH AND WELLBEING**

There was submitted a report by the Corporate Director (Corporate Services) presented to the Committee by Human Resources Operations Manager (Katie Wilkins) providing an update on Workforce Health and Wellbeing.

It was reported that “Wellbeing” was defined by the Chartered Institute of Personnel and Development (CIPD) as:

“Creating an environment to promote a state of contentment which allows staff to flourish and achieve their full potential for the benefit of both themselves and the organisation.”

It was further reported that as an employer and ‘community leader’, Tendring District Council considered the health and wellbeing of its staff a priority. With more than 90% of Council staff living in the District, further development of the good practice already in place, both supported the Corporate Plan priorities 2016 – 2020 and the following work streams:-

- Maintaining the Investors in People (IIP) Gold standard – which placed a focus on leadership, continuous improvement and staff engagement.
- The Council’s values and behaviours in respect of working collaboratively and in partnership.

The Committee was informed that building on the good practice to date, the work to increase the number of livewell champions and involve them in the ongoing planning and implementation of a livewell/workwell programme would engage staff and ensure, along with the staff livewell survey that, where possible, agreed actions and activities focused on staff needs and interests.

The Committee was further informed that there was significant evidence to demonstrate that looking after the mental health of employees made clear business sense because it

both enhanced morale and productivity amongst the work force. Evidence also had suggested that encouraging staff to be open about their mental health could make a substantial difference to staff wellbeing and retention and sickness absence rates. It also meant that staff were more likely to seek support, and at an earlier stage. As part of that agenda, over the coming months, Officers in Human Resources would be working towards attaining the Employer Time to Change Pledge.

It was reported that the work for achieving the Employer Time to Change Pledge would include the development of an action plan around mental wellbeing, raising awareness and understanding of mental health issues, including training identified staff as Mental Health First Aiders and general awareness training for line managers and staff. If successful in obtaining the "Pledge", the Council would be sent a Pledge board, that a Senior Officer could sign in front of employees and Members to mark the Council's commitment to this important issue.

It was moved by Councillor Ferguson, seconded by Councillor Chapman and **RESOLVED:**

- (a) that the content of the report be noted; and
- (b) that as part of its planned work, Human Resources Committee supports the proposal to sign the Time to Change Employer Pledge, demonstrating the Council's commitment to further supporting staff and their mental wellbeing.

32. REPORT OF THE CORPORATE DIRECTOR (CORPORATE SERVICES) - A.3 - PAY POLICY STATEMENT 2018/19

There was submitted a report by the Corporate Director (Corporate Services) presented to the Committee by the Head of People, Performance and Projects (Anastasia Simpson) on the proposed Pay Policy Statement for 2018/2019.

The Committee was reminded that Section 38(1) of the Localism Act 2011 required local authorities to produce a Pay Policy Statement and that those matters which were required to be included in the statutory Pay Policy Statement were as follows:

- A local authority's policy on the level and elements of remuneration for each Chief Officer;
- A local authority's policy on the remuneration of its lowest-paid employees (together with its definition of "lowest-paid employees" and its reasons for adopting that definition);
- A local authority's policy on the relationship between the remuneration of its Chief Officers and other Officers; and
- A local authority's policy on other aspects of Chief Officers' remuneration: remuneration on recruitment increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.

It was reported that the Pay Policy Statement 2018/19 had been designed to give an overview of the Council's framework regarding pay and rewards for staff within the Council. The framework was based on the principle of fairness and that rewards should

be proportional to the weight of each role and each individual's performance. The framework aimed to ensure the ability of the Council to recruit talented individuals whilst reassuring the citizens of Tendring that their money was being used efficiently.

Members were reminded that in 2015, the Government had introduced a National Living Wage and with effect from 1 April 2017, employees over the age of 25, would receive £7.50 per hour. Employees under that age would receive £7.05 per hour, or £5.60 per hour if aged between 18 to 20.

The Committee was advised that, although it was recognised that the National Living Wage should be the benchmark for the lowest salaries within the Authority, it was proposed that the Council continued to pay staff SCP 8, which would continue to be £7.90 per hour with effect from 1 April 2018 (which equated to £15,246 per annum).

It was reported that at the current time the NJC Pay Award 2018/19 was yet to be determined as negotiations between the national employers and unions were on-going.

The Committee was informed that other changes relating to pay during 2018 had included the introduction of mandatory gender pay reporting, following the introduction of The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 and the design of a new allowances scheme for standby, callout and overtime. The proposed changes to allowances were currently going through the Council's consultation processes including both individual employees and UNISON, the Council's recognised union.

It was also confirmed that the changes to Off-Payroll working in the public sector (IR35) had been completed during 2017. The changes had appeared to have had little impact on the Council in relation to resourcing specialist skills.

Members raised questions which were responded to by Officers.

It was moved by Councillor Bush, seconded by Councillor Ferguson and unanimously **RECOMMENDED TO COUNCIL** that:

- (a) the Pay Policy Statement 2018/19 as set out at Appendix A be adopted;
- (b) the Council notes that the costs of applying salary payments from SCP8 (£7.90 per hour) on the National Joint Council (NJC) pay spine will be met from existing salary/vacancy provision within budgets.

33. REPORT OF THE CORPORATE DIRECTOR (CORPORATE SERVICES) - A.4 - DISCIPLINARY POLICY RULES AND PROCEDURE UPDATE

There was submitted a report by the Corporate Director (Corporate Services) & presented to the Committee by the Organisational Development Manager (Carol Magnus) on the updated Council's Disciplinary Policy Rules and Procedure.

The Committee's agreement was sought to make some minor amendments to the Council's Disciplinary Policy Rules & Procedure in line with identified best practice and the Council's Constitution and the delegated powers within.

The Committee was informed that the purpose of the update to the Council's Disciplinary Policy Rules and Procedure was principally to reflect changes of procedure in accordance with the ACAS Code of Practice, employment legislation and the Council's Constitution (regarding delegated powers) including some minor changes to terminology.

Following discussion, it was It was moved by Councillor Ferguson, seconded by Councillor Chapman and **RESOLVED** that the updated Policy be approved and adopted.

The meeting was declared closed at 8.05 p.m.

Chairman

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**MINUTES OF THE MEETING OF THE LOCAL PLAN COMMITTEE,
HELD ON THURSDAY 2 NOVEMBER 2017 AT 6.00 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors Stock OBE (Chairman), Turner (Vice-Chairman), Bray, Broderick, Bush, Ferguson, G V Guglielmi, I Henderson, Newton, Nicholls, Porter, Raby, Skeels (Jnr), Skeels (Snr) and Yallop
Also Present:	Councillors J A Brown, Cawthron, Everett and White
In Attendance:	Martyn Knappett (Corporate Director (Corporate Services)), Ewan Green (Corporate Director (Planning and Regeneration)), Cath Bicknell (Head of Planning), Gary Guiver (Planning Manager) and Katie Sullivan (Committee Services Officer)

8. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Land (with Councillor Skeels (Jnr) substituting) and Councillor Platt (with Councillor Ferguson substituting).

9. MINUTES OF THE LAST MEETING

It was moved by Councillor Turner, seconded by Councillor G V Guglielmi and **RESOLVED** that the minutes of the last meeting of the Committee, held on 12 June 2017, be approved as a correct record and signed by the Chairman.

10. DECLARATIONS OF INTEREST

Councillor Stock OBE declared an interest by virtue of the fact that he was a Director of the North Essex Garden Communities Ltd.

Councillor G V Guglielmi also declared an interest by virtue of the fact that he was a Director of the North Essex Garden Communities Ltd.

Councillor I Henderson declared an interest by virtue of the fact that he was a member of the Regulation and Development Committee at Essex County Council.

Councillor G V Guglielmi also declared an interest by virtue of the fact that he was a member of the Regulation and Development Committee at Essex County Council.

11. PUBLIC SPEAKING

Councillor Everett made a statement relating to item A.2 of the Report of the Head of Planning in which he informed the Committee that he did not agree with the suggestion in the report that the Council could no longer demonstrate a five-year housing land supply and that he thought the method of calculation of the supply was flawed, by not including, and not limited to, Local Plan allocations in the supply.

John Smith-Daye, a resident of Little Clacton, made a statement relating to item A.2 of the Report of the Head of Planning in which he praised the Council for challenging the Planning Inspector's decision on the Centenary Way, Clacton-on-Sea planning appeal and expressed a hope that the Council would also challenge the Planning Inspector's decision on the Sladburys Lane, Clacton-on-Sea planning appeal. Mr Smith-Daye also

expressed his view that the central Government's desire to increase housing delivery was pressuring Planning Inspectors into approving planning applications at appeal which had hindered local authorities into setting the Objectively Assessed Need calculation at a lower level in their Local Plans.

Carol Bannister made a statement relating to item A.6 of the Report of the Head of Planning in which she informed the Committee that it was not clear if the letter that she had submitted during the consultation on the Publication Draft Local Plan had been submitted in full to the Independent Planning Inspector.

The Chairman informed Carol Bannister that he would arrange for an Officer to write to her with a response.

12. REPORT OF THE HEAD OF PLANNING SERVICES - A.1 - TENDRING COLCHESTER BORDERS GARDEN COMMUNITY ISSUES AND OPTIONS DEVELOPMENT PLAN DOCUMENT

The Committee had before it a report of the Head of Planning Services (A.1), which sought its agreement for public consultation on the Tendring Colchester Borders Garden Community Issues and Options Development Plan Document (TCBGC I&O DPD) and the associated sustainability appraisal and strategic environmental assessment.

Members were aware that the Council was preparing a new Local Plan in order to guide future development in the Tendring area between now and 2033. Section 1 of the Local Plan, jointly prepared with Colchester Borough Council and Braintree District Council, had dealt with strategic issues and had included proposals for three garden communities in north Essex, one of which straddled the Tendring Colchester administrative boundary.

It was reported that those policies were high level and had set out broad principles for the garden community developments and referenced production of Development Plan Documents to set out principles of design, development and phasing for the garden communities.

Members were informed that an Issues and Options Development Plan Document had been produced which had reflected the North Essex Garden Communities Charter principles and the Concept Framework which had been published as part of the Local Plan evidence base. This had set out key attributes of the proposed garden community that would be refined through the stages of development of the Development Plan Document. Those attributes included the fact that the garden communities were being overseen by a strategic planning partnership agreed between Braintree, Colchester, Essex and Tendring Councils as well as the North Essex Garden Communities Ltd (NEGC). NEGC was jointly owned by the four councils in order to drive the delivery of the three garden communities and secure investment in enabling infrastructure across the wider area. Through NEGC, the Councils would act as the 'lead developer' and so would have more control over the type of development, the design and the rate of delivery and also the ability to commit to an 'infrastructure first' approach. Such an approach would ensure that transport improvements (including new roads), schools, health and leisure facilities were developed ahead of, or alongside new housing, to adequately serve the needs of the new community and to minimise any adverse impacts on existing communities. It would also help ensure effective future stewardship of those community facilities. Similarly, this innovative delivery approach would also give the

Councils a key role in attracting investment and businesses to assist in the creation of vibrant, thriving and sustainable communities.

Members were further informed that it was proposed to undertake an eight week period of consultation on the TCBGCI&O DPD and the accompanying Strategic Environmental Appraisal/Sustainability Appraisal. The consultation material would be available via the Council's website as well as at Council offices and libraries. Local exhibitions would also be held in Elmstead Market, Greenstead and Wivenhoe.

Attached to the report for the Committee's information was 'Tendring Colchester Borders Garden Community Development Plan Document Issues and Options Report' (Appendix 1) and 'Tendring Colchester Borders Garden Community Issues and Options Development Plan Document Strategic Environmental Assessment/Sustainability Appraisal' (Appendix 2).

Having discussed the information provided, it was moved by Councillor Turner, seconded by Councillor G V Guglielmi and **RESOLVED** that the Local Plan Committee:

1. agrees that the Tendring Colchester Borders Garden Community Issues and Options Development Plan Document consultation draft be published for consultation;
2. agrees that the associated Sustainability Appraisal and Strategic Environmental Assessment be also published for consultation; and
3. delegates authority to the Head of Planning to make minor revisions to the document prior to publication, subject to the agreement of the Chairman of the Local Plan Committee.

13. REPORT OF THE HEAD OF PLANNING SERVICES - A.2 - REVISED HOUSING LAND SUPPLY POSITION

The Council's Corporate Director (Planning and Regeneration Services) (Ewan Green) apologised to the Committee for the lack of early and clear briefing in relation to Housing Land Supply. Mr Green informed the Committee that since the publication of the report (A.2), new statistical data had been received and advice from Counsel relating to other appeals, and that there might be a significant change to the Council's Housing Supply position. Mr Green suggested that an updated report be provided to Members at a further meeting of the Committee.

Following on from the information provided, Councillor Stock OBE moved altered recommendations to those printed in the report and read them out to the Committee. Those altered recommendations were then seconded by Councillor Bray.

It was thereupon **RESOLVED** that the Committee:

- (a) confirms that the Tendring District Council Methodology for calculating the Housing Land Supply as agreed by Members in January 2017 remains sound and should be relied upon and continue to be used by Officers;
- (b) confirms its strong support for the Council's challenge to the decision relating to Centenary Way, Clacton-on-Sea;

- (c) notes that Counsel's opinion is awaited regarding the decision relating to Sladbury's Lane, Clacton-on-Sea;
- (d) notes that there may be a significant change to the Council's Housing Supply position arising from new statistical data and from advice received today from Counsel relating to other appeals; and therefore
- (e) instructs Officers to prepare a revised report, having regard to each of the above, to be considered at a further meeting of the Committee to be arranged as soon as practicable; and
- (f) that the Leader of the Council & Chairman of the Committee writes to the Secretary of State for Housing regarding the concerns of the Committee on this issue and that both local MPs are copied in to that letter.

14. REPORT OF THE HEAD OF PLANNING SERVICES - A.3 - GOVERNMENT CONSULTATION: 'PLANNING FOR THE RIGHT HOMES IN THE RIGHT PLACES'

The Committee had before it a report of the Head of Planning Services (A.3), which sought its agreement to the Council's response to the Government's consultation paper entitled 'Planning for the right homes in the right places'.

It was reported that the Government had published draft proposals (attached as Appendix 1 to the above report) which had aimed at reforming the planning system in order to increase the supply of new homes and increase local authority capacity to manage growth. The proposals included:

- a standard method for calculating local authorities' housing needs;
- how neighbourhood planning groups could have greater certainty on the level of housing need to plan for;
- a statement of common ground to improve how local authorities worked together to meet housing and other needs across boundaries;
- making the use of viability assessments simpler, quicker and more transparent; and
- increased planning application fees in those areas where local planning authorities were delivering the homes their communities need.

It was further reported that the Government had proposed to publish a revised version of the National Planning Policy Framework (NPPF) in 2018 to include some of the following proposals:

Standard method for calculating housing needs: The paper proposed a standard method for calculating housing needs to help save on costs and delays. For Tendring, it would mean a target of 749 new homes a year – a significant increase upon the figures included in the Local Plan.

Neighbourhood planning: The paper suggested that Local Plans should specify the amount of housing to be provided in different parts of the District to assist communities in knowing how much growth to put in their neighbourhood plans. It had also suggested a proportionate 'percentage based' formula for working out the best distribution between towns and villages in areas where the Local Plan was not up to date.

Statement of common ground: The paper suggested that Councils should enter into 'statements of common ground' with other authorities and relevant bodies to help demonstrate how they had complied with the legal duty to cooperate.

Viability assessments: The paper suggested that if the policies in a Local Plan were properly tested for their viability as part of the plan making process, there should be no reason for individual planning applications to be tested when developers claimed that they were unable to comply with Local Plan policies for viability reasons – thus saving time and money.

Increasing planning fees: The Government proposed that to help planning departments with resources, a 20% increase in planning fees could apply – but only where Councils were succeeding in delivering their housing numbers.

Members were informed that Officers had produced a draft response to all of the questions contained within the consultation paper (attached as Appendix 2 to the report) for the Committee to consider, suggest any changes and agree as the Council's formal response.

Having discussed the information provided, it was moved by Councillor Turner, seconded by Councillor G V Guglielmi and **RESOLVED:**

- (a) that the contents of the report be noted;
- (b) that an informal meeting of the Committee be arranged to enable Members to consider further the Council's response to the Government's consultation paper "Planning for the right homes in the right places";
- (c) that the informal meeting be chaired by the Vice-Chairman of the Committee (Councillor Turner) and attended by the Council's Planning Manager (Gary Guiver) to give advice to Members;
- (d) that any members of the Committee who wish to feed in comments by email rather than, or as well as, attending the informal meeting should do so via the Planning Manager;
- (e) that the aim of the informal meeting be to agree a final draft response which will be put to the Chairman of the Committee (Councillor Stock OBE) for his agreement; and
- (f) that the Head of Planning Services submit the Council's formal response (as approved by the Chairman of the Committee) to the Department for Communities and Local Government by its deadline of 9 November 2017.

15. REPORT OF THE HEAD OF PLANNING SERVICES - A.4 - LOCAL DEVELOPMENT SCHEME 2017 - 2020

The Committee had before it a report of the Head of Planning Services (A.4), which sought its agreement to publish a new Local Development Scheme (LDS) to update the proposed timetable for preparing the new Tendring District Local Plan and other planning documents.

It was reported that the LDS was designed to set out the process for producing the Local Plan. It included the anticipated timetable of consultation periods, examinations and expected dates of adoption. Publishing the LDS also ensured that stakeholders, including members of the public, Town and Parish Councils, landowners and developers, partner organisations and the Planning Inspectorate were kept aware of the timetable the Council was working to and could therefore organise their time and resources accordingly.

It was further reported that the updated LDS retained the timetable for the Local Plan and the Community Infrastructure Levy and had introduced an additional stage (Issues and Options) of consultation in the preparation of a Development Plan Document for the proposed Tendring/Colchester Borders Garden Community in the west of Tendring District (as considered under minute 12 above).

Having discussed the information provided, it was moved by Councillor Stock OBE, seconded by Councillor G V Guglielmi and **RESOLVED:**

that the Local Plan Committee approves the Local Development Scheme 2017-2020 (attached as Appendix 1 to item A.4 of the Report of the Head of Planning) to have immediate effect and agrees to its publication on the Council's website.

16. REPORT OF THE HEAD OF PLANNING SERVICES - A.5 - PROPOSED AMENDMENT TO THE STATEMENT OF COMMUNITY INVOLVEMENT

The Committee had before it a report of the Head of Planning Services (A.5), which sought its approval to the proposed amendment to the Statement of Community Involvement (SCI) in order to include details of the consultation arrangements for the preparation of the Development Plan Documents.

Members were reminded that on 21 October 2014, the Local Plan Committee had formally adopted the SCI after a six week consultation period.

Members were informed that since that time, the planning landscape had changed and the Council, together with its partners had decided to adopt a Development Plan Document (DPD) as part of its ongoing work with the Tendring/Colchester Borders Garden Community project (as contained under minute 12 above).

Members were further informed that the adopted SCI gave no guidance as to how the Council would involve its community during the preparation of a DPD, therefore it was proposed that a new section be included within the SCI detailing how the Council would engage with its community. The remainder of the adopted SCI would remain in place at this time.

The Committee was made aware that the inclusion of a new section was a significant amendment to the SCI and that therefore, the proposal must be consulted upon. The consultation process that had been identified followed a similar approach to the Local Plan preparation, which had already been subject to public consultation. Delegated authority was therefore being sought for the Head of Planning Services, in consultation with the Chairman of the Local Plan Committee to adopt the revised SCI following a public consultation exercise, subject to no significant objections being received. The amended SCI would be published on the Council's website and used for the purposes of promoting effective community involvement in planning matters.

Having discussed the information provided, it was moved by Councillor Stock OBE, seconded by Councillor Bray and **RESOLVED** that the Local Plan Committee:

- (a) approves the proposed amendment to the Statement of Community Involvement to include details of the consultation arrangements for the preparation of the Development Plan Documents;
- (b) agrees that the amended Statement of Community Involvement be subject to a public consultation for a period of no less than 6 weeks; and
- (c) delegates authority to the Head of Planning Services, in consultation with the Chairman of the Local Plan Committee, to make minor amendments to the Statement of Community Involvement following that public consultation, and subject to no significant objections being received, is also authorised to adopt the final document for publication on the Council's website.

17. REPORT OF THE HEAD OF PLANNING SERVICES - A.6 - RESPONSES TO PUBLIC CONSULTATION OF PUBLICATION DRAFT LOCAL PLAN

The Committee had before it a report of the Head of Planning Services (A.6), which provided an update on the representations that had been made during the consultation on the Publication Draft Local Plan which had run from 16 June 2017 to 28 July 2017.

The Council had received 620 comments from technical stakeholders; community representatives; businesses; landowners; developers; and members of the public. The report provided details of the key points raised during public consultation.

The Committee was asked to note those comments as any decision on them would be taken by the Planning Inspector at the Examination-in-Public.

Having discussed the information provided, it was moved by Councillor Stock OBE, seconded by Councillor G V Guglielmi and **RESOLVED** that the Local Plan Committee notes the overview of the results of the Local Plan Publication Draft consultation as outlined in the report.

18. REPORT OF THE HEAD OF PLANNING SERVICES - A.7 - COMMENTS ON COLCHESTER BOROUGH COUNCIL'S PUBLICATION DRAFT LOCAL PLAN CONSULTATION DOCUMENTS

The Committee had before it a report of the Head of Planning Services (A.7), which sought its endorsement of the Officers' responses to Colchester Borough Council's Publication Draft Local Plan.

It was reported that Colchester and Tendring Councils had jointly agreed the content of Section 1 of their Local Plans and had individually agreed Section 2 of each Local Plan. The consultations on the Local Plans had been carried out between 16 June and 11 August 2017. In accordance with the standard practice, Officers had therefore provided comments to Colchester Borough Council (CBC) in consultation with the Chairman of the Committee. Officers had made those comments subject to the endorsement of the Committee.

Members were informed that Officers were generally supportive of the proposals contained within CBC's emerging plan. Concerns had been raised over transport within the Tendring/Colchester Borders Garden Community and opportunities were also identified for a rapid transport system. The provision of a rapid transport system, sports facilities and the protection of designated sites were all welcomed.

The full Officer response was attached to the report as Appendix 1.

Members were further informed that operationally, it would be beneficial to both the Council and its stakeholders, if approved consultation responses could be provided by Officers relating to Local Plan and Planning Policy matters. This delegation would be exercised on the principle that any matters requiring wider debate and attracting public interest would be reported to the Local Plan Committee.

Having discussed the information provided, it was moved by Councillor Stock OBE, seconded by Councillor G V Guglielmi and **RESOLVED** that the Local Plan Committee:

- (a) endorses the response provided by Officers in regards to Colchester Borough Council's Publication Draft Local Plan consultation documents, as set out in Part 3 and Appendix 1 of the report; and
- (b) authorises the Head of Planning to formally respond to stakeholder consultations in connection with local plan and planning policy matters.

The meeting was declared closed at 7.30 pm

Chairman

107. THE LOCAL COUNCIL TAX SUPPORT SCHEME, COUNCIL TAX EXEMPTIONS / DISCOUNTS FOR 2018/19 AND ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT 2018/19 (Report A.15)

There was submitted a report by the Portfolio Holder for Housing (Report A.15), which sought Cabinet's agreement to recommend to full Council the following:

- Local Council Tax Support Scheme 2018/19 (including associated exceptional hardship policy);
- Council Tax Exemptions and Discounts 2018/19; and
- Annual Minimum Revenue Policy Statement for 2018/19.

Accordingly and in order to allow these matters to progress to Council it was moved by Councillor Honeywood, seconded by Councillor G V Guglielmi and:

RECOMMENDED TO COUNCIL that

(a) the Local Council Tax Support Scheme (LCTS) remains the same as the current year, as set out as Appendix A to item A.15 of the Report of the Housing Portfolio Holder and that therefore:

- i) the LCTS be approved with the maximum LCTS award being 80% for working age claimants; and**
- ii) delegation be given to the Corporate Director (Corporate Services), in consultation with the Housing Portfolio Holder, to undertake the necessary steps and actions to implement the LCTS scheme from 1 April 2018.**

(b) the Council Tax Exceptional Hardship Policy, as set out in Appendix B to the aforesaid report, be approved.

(c) the proposed Council Tax exemptions and discounts (which remain unchanged), as set out in Appendix C to the aforementioned report, be approved and that delegation is given to the Corporate Director (Corporate Services), in consultation with the Housing Portfolio Holder, to undertake the necessary steps and actions to implement the Council Tax exemptions and discounts from 1 April 2018.

(d) the Annual Minimum Revenue Provision Policy Statement for 2018/19, as set out in Appendix D to the above report, be approved.

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Key Decision Required:	Yes	In the Forward Plan:	Yes
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CABINET

10 NOVEMBER 2017

REPORT OF THE HOUSING PORTFOLIO HOLDER

A.15 THE LOCAL COUNCIL TAX SUPPORT SCHEME, COUNCIL TAX EXEMPTIONS / DISCOUNTS FOR 2018/19 AND ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT 2018/19

(Report prepared by Richard Barrett)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable Cabinet to consider and agree for recommending to full council the following:

- Local Council Tax Support Scheme 2018/19 (including associated exceptional hardship policy)
- Council Tax Exemptions and Discounts 2018/19
- Annual MRP Policy Statement for 2018/19

EXECUTIVE SUMMARY

- This report outlines the proposed Local Council Tax Support (LCTS) scheme and Council Tax exemptions and discounts for 2018/19.
- Given the on-going impact on residents from welfare reforms, including universal credit, it is proposed to provide some financial stability to Tendring claimants by keeping the LCTS scheme for 2018/19 the same as this year, which was approved by Full Council in November 2016. The current scheme provides for a maximum discount of 80% for working age claimants.
- The associated exceptional hardship policy has also been reviewed for 2018/19 and it is not proposed to make any changes from the scheme operating this year, which saw an increase to the eligibility criteria compared to the 2016/17 scheme.
- In respect of council tax discounts and exemptions for 2018/19, it is proposed to continue with the same level of discounts as agreed for 2017/18 that were approved by Full Council in November 2016.
- The Annual Revenue Provision Policy Statement has also been reviewed for 2018/19 with no changes proposed although attention is drawn to the fact that this may need to be reviewed at some point in the future in light of the Garden Communities project that is currently developing.
- If it is agreed that no changes are necessary to the proposed LCTS scheme, there will be no need for public consultation. However, if any amendments are proposed and approved at Full Council on 21 November 2017, then public consultation will be required before the final scheme can be agreed and adopted. Consequently, if consultation is

required, this Council will have to notify the precepting authorities that the final Council Tax base will be delayed and not available until late in the budget cycle.

- The Corporate Management Committee would ordinarily consider the proposed scheme prior to Cabinet considering the report. Given the recommendation to continue with the existing LTCS scheme, the report will be circulated to CMC Members for information and comment. Any comments received will be made available to Cabinet in advance of the meeting.

RECOMMENDATION

It is recommended:

- a) **That Cabinet agrees that the LCTS scheme will remain the same as the current year, as set out as Appendix A and recommends to full Council:**
 - i) **that the LCTS set out as Appendix A be approved with the maximum LCTS award being 80% for working age claimants.**
 - ii) **that subject to a)i) above, delegation be given to the Corporate Director (Corporate Services) in consultation with the Housing Portfolio Holder to undertake the necessary steps to implement the LCTS scheme from 1 April 2018;**
- b) **that Cabinet agrees the Council Tax Exceptional Hardship Policy as set out in Appendix B;**
- c) **that Cabinet agrees that the Council Tax exemptions and discounts remain unchanged in 2018/19, which are set out in Appendix C, and recommends the same to full Council for approval:**
 - i) **that subject to c) above, delegation is given to the Corporate Director (Corporate Services) in consultation with the Housing Portfolio Holder to undertake the necessary steps to implement the Council Tax exemptions and discounts from 1 April 2018; and**
- d) **that Cabinet recommends to Council that the Annual Minimum Revenue Provision (MRP) Policy Statement for 2018/19 as set out in Appendix D be approved.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

In developing a local scheme the Council must be mindful of their duties to vulnerable groups, and Council Tax payers set against the Council's overall financial position.

FINANCE, OTHER RESOURCES AND RISK

LCTS scheme for 2018/19

LCTS is treated as a discount within the council tax calculations which means that the Council's taxbase is reduced (as will the taxbase for County, Fire, Police and Parishes).

Although the link to funding coming from the Government via the Revenue Support Grant has weakened over time as that grant continues to be phased out by 2019/20, the cost of the LCTS

scheme needs to be considered in the context of the Council's overall budget position like any other area of the Councils expenditure / income.

There is some logic in arguing that the same level of reductions in revenue support grant year on year should be 'passported' across to the LCTS scheme and therefore reduce the support available in line with those reductions. However as has been the case in previous years, for 2018/19 it is proposed to protect the current position with the scheme proposed remaining unchanged from 2017/18 where a maximum discount of 80% can be awarded to working age claimants, the cost of which can be accommodated within the Council's overall budget position.

Similarly to last year, it is not proposed to remove the family premium element from the LCTS scheme which is covered in more detail further on in this report. The cost to the Council of maintaining the family premium in 2018/19 is approximately **£20,000**.

As at the end of September, the total estimated annual 'cost' of the LCTS scheme in 2017/18 is **£11.495m**, with approximately 10% of this amount (**£1.150m**) falling to TDC with the remainder being met by the major preceptors. It is also worth highlighting that for every 5% decrease / increase in the discount the council would gain / lose approximately **£50,000** per year.

For information, the following sets out the total cost of the LCTS scheme over recent years, which shows a trend of year on year reductions in the overall cost of the scheme:

2015/16 - **£11.725m**
2016/17 - **£11.577m**
2017/18 - **£11.495m** (forecast)

Council Tax Hardship Scheme

The Council has operated a council tax exceptional hardship policy since the inception of the LCTS scheme with the total cost of the scheme over recent years as follows:

Year	Applications Rec'd	Amount Awarded
2014-2015	46	£12,838.84
2015-2016	24	£5,201.73
2016-2017	27	£15,572.85

The policy was reviewed for 2017/18 with eligibility criteria extended and as at the end of September 2017, the total amount of hardship relief awarded was **£8,534.04**.

As highlighted during the review of the policy last year, as with any exceptional hardship scheme, it is difficult to define exceptional hardship or descriptive criteria that will apply as there may be a number of variables to consider when an application is made. However the policy sets out broad guidelines, which promotes transparency and openness in the Council's decision making processes. The policy also has a focus on 'reasonable' expenditure and affordability for the claimant and is based on evidence that they are also being proactive themselves in managing the situation. This mirrors the same approach being applied to discretionary housing payments where in consultation with the Department for Works and Pensions, support is focused on those claimants who are seeking employment for example.

The policy also highlights that a senior officer will review all decisions to demonstrate fairness and consistency to the application process.

The cost of the exceptional hardship scheme is met by contributions from TDC and the major preceptors based on their respective proportion of the overall Council Tax bill. Therefore TDC is required to meet approximately 10% of the cost of any award up to an annual aggregate total of **£24,374**. For any awards over and above this annual amount, 100% of the cost is met by TDC in accordance with the wider council tax sharing agreement with the major preceptors.

As no changes are proposed to the policy in 2018/19, no additional costs over above those included within existing budgets are expected

Council Tax exemptions and discounts for 2018/19

It is proposed to keep the level of exemptions and discounts at the same level as 2017/18 which are as follows:

Class A – Unoccupied and furnished dwellings with a planning restriction preventing occupation for at least 28 days.

- **0% discount** (on the days when the property cannot be used due to a planning restriction an exemption is allowed under Class G).

Class B – Unoccupied and furnished dwellings without a planning restriction preventing occupation for at least 28 days.

- **0% discount**

Class C – Unoccupied and substantially unfurnished dwellings.

- **0% discount**

Class D – Unoccupied and unfurnished requiring major repairs or alterations.

- **100% discount**

By leaving the current level of discounts / exemptions unchanged it supports the Council Tax base which is one of the Council's core income streams especially as the revenue support grant decreases year on year. It is worth highlighting that for every 10% increase in any one class of discount, the Council's would lose up to approximately **£25,000** per year income.

Council tax Income raised from the above locally determined discounts also has the additional benefit of increasing the contribution receivable from the major preceptors under the current council tax sharing agreement which is based on total council tax income collectable.

As highlighted in previous years, the Council does receive feedback from residents such as owners of empty and furnished properties and those who occupy caravans and chalets on caravan parks.

A number of owners of empty and furnished properties consider it to be unfair that they are charged 100% for a property that demands little from local services while a single occupant of the property receives a 25% discount. However, this approach supports this Council's ambition to reduce the number of empty properties and therefore does not necessarily directly link the amount paid for the services received.

During the past year, a number of owners / occupiers of caravans / chalets within caravan

parks in Tendring have raised an issue regarding periods that they cannot occupy their properties due to lease restriction imposed by the private owners of the sites. They have suggested that it is unfair to have to pay council tax for these periods. However this needs to be considered against the periods that they cannot occupy their properties due to planning restrictions which already attract a discount equivalent to the period that they cannot use their properties for. Although the position across Tendring will differ between caravan sites, the specific issue that has been raised to date relates to where the period restricted by the private landlord of the site is longer than the period restricted via the planning process. It could therefore be argued that the issue is between the owner/occupiers and their landlord rather than the Council being asked to consider a local discretionary discount. The scale of the issue across Tendring is difficult to determine, as such restrictions could apply to other properties and not just caravans / chalets. Although there is sympathy for the issue faced by affected owners / occupiers, it is considered a matter for them to resolve with their landlord.

Minimum Revenue Provision Policy Statement (MRP)

In respect of the annual MRP policy statement, this sets out how the Council will make provision for the repayment of loans taken out to finance capital investment. For the General Fund, the MRP is a direct charge on the revenue budget. At present no MRP over and above the amount of principal being repaid is calculated for the Housing Revenue Account capital investment, although future provision will be considered within the business planning process in future years.

Other Financial Considerations

Although changes to the New Homes Bonus (NHB) were introduced by the Government in 2017/18, a factor in the calculation of any NHB due to the Council is the number of empty properties. The more empty properties there are will therefore have an impact on the NHB receivable.

In terms of the Council's overall collection fund performance to date, at the present time it is forecast that the overall amount of council tax collected for the year will be in line with the budgeted amount.

Risk

The LCTS affects low income working age families, and therefore a key risk is their ability to pay if the level of support awarded reduced which would have a knock on impact on the overall collection rate. This is potentially compounded by the Government's ongoing welfare reforms such as benefit 'capping' and the ongoing roll out of universal credit.

The annual review process therefore seeks to balance such issues along with the Council's overall financial position and as highlighted, it is not proposed to make any changes to the LCTS scheme in 2018/19 to support the financial stability of residents especially during the continuing roll-out of the Government's welfare reforms.

LEGAL

The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (SI 2012/2885).

The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 (SI 2013/501).

In respect of the Council Tax Exceptional Hardship Policy, S13a of the Local Government Finance Act 1992 allows Councils to reduce the amount of Council Tax payable.

The Local Government Finance Act 1992. Schedule 1A of the 1992 Act states that if a LCTS is revised or replaced, full consultation is required. As the recommendation is to continue with the current scheme for 2016/17, consultation is not required. However, should Council make any amendments to the scheme, consultation will be necessary before the scheme can be approved and adopted.

The Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2008 set out the requirements of a Minimum Revenue Provision (MRP) Policy Statement which must be approved by Council each year.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

The LCTS scheme set out in the body of the report will not disproportionately impact on the following groups in that the relevant income will continue to be disregarded in calculating entitlement to support:-

- Families in receipt of child benefit; The Child Poverty Act 2010
- Disabled in receipt of Disability Living Allowance (DLA) / Employment and Support Allowance (ESA)/Personal Independence Payment(PIP); The Equality Act 2010
- War widows/disabled. The Armed Forces Covenant 2011

The recommendations on discounts apply a 0% (zero percentage) discount to all second homes and a 0% discount on empty properties, across the entire district. The implications will apply to all property owners and it is considered that there are no equality and diversity issues specific to this issue

Empty properties can attract vandalism and increase the potential for crime. The approach taken to the amount of council tax charged on empty properties aims to encourage their return to occupation.

PROPOSED LCTS SCHEME 2018/19

A level of funding is received from the Government via the RSG to support the cost of the scheme. Given the significant reductions in RSG over recent years and the phasing out of this funding by 2019/20, any LCTS funding rolled into this grant is significantly lower than the 90% commitment originally made by the Government. The cost of the scheme is therefore no different to any other expenditure item within the Council's budget which is subject to review each year as part of the annual budget cycle.

There are two parts to the LCTS scheme;

- one for pension age claimants where 100% support is provided
- one for working age claimants.

The Pension Age Scheme is set in accordance with rules laid down by the Government whereas the Working Age Scheme rules are decided locally by each local authority (billing authority).

The Government removed the family premium element for housing benefit applications for new claims in 2017/18. This change effectively reduces the amount of money claimants can earn before they lose benefit by way of a taper. However this Council determined as part of agreeing

the scheme for 2017/18 in November last year that it would not follow this approach locally within the LCTS scheme and instead retain this element, which increases the support available to claimants. This therefore remains within the proposed scheme for 2018/19.

The support provided to the pensioner age group under the Council's LCTS scheme remains unchanged.

Authorities must adopt a scheme on an annual basis which must be agreed by 31 January each year for the subsequent year's scheme. A summary of the proposed scheme for 2018/19 is set out as **Appendix A**, which remains unchanged from 2017/18.

The LCTS scheme proposed includes the following elements :-

- All child minders income
- All household income (i.e. remove deductions for non-dependents)
- no backdating of claims
- no underlying entitlement
- no second adult rebate
- further 25% reduction in support for those who have been in receipt of Job Seekers Allowance (JSA) for more than 3 years
- blanket charge of 20% on all "non-pensioner" Council Tax liability

For information, statistics relating to the LCTS scheme in 2017/18 are set out below:

As at the end of September 2017:

There are currently 14,066 households receiving LCTS at a cost (forgone income due to the discount awarded) of approximately **£11.495m**

The total working age households receiving support is 6,703

The total pensioner households receiving support is 7,363

The collection performance for those accounts where LCTS has been awarded is 47.6% (total overall council tax collection performance is 56.29%)

PROPOSED COUNCIL TAX DISCOUNTS AND EXEMPTIONS 2017/18

The discounts proposed for 2018/19 remain the same as those agreed for 2017/18 by Full Council in November 2016.

Full details of the proposed discounts are set out in **Appendix C**, which remain based on the underlying principle of encouraging property to be maintained in use or brought back into use.

No changes are proposed to be made to the discounts awarded due to the lease restriction issue highlighted within the financial section of this report.

Annual Minimum Revenue Provision Policy Statement (AMRP)

Attached as **Appendix D** is the proposed Annual MRP policy statement for 2018/19 that sets out how assets funded by borrowing are accounted for, which is required to be approved by Full Council each year.

The policy sets out how the Council will make provision for the eventual repayment of any borrowing undertaken to finance capital expenditure. The policy, which is unchanged from 2017/18, proposes that where new borrowing is undertaken in accordance with the prudential code, and is therefore not supported by Central Government via the formula or specific grant, the provision is calculated on a straight line method over the initial life expectancy of the asset.

Although there are no expectations of supported borrowing within the General Fund, for completeness the policy in respect of any potential future supported borrowing has also been set out and is based on a rate of 4% pa.

The timing of approval of the MRP is to enable it to be taken into account when setting the budget for 2018/19 over the coming months.

It is recognised that the Council's MRP Statement may need to be reviewed in the context of the Garden Communities project as it continues to develop. If any changes are required then they will be presented to members as part of the Garden Communities decision making processes and/or as part of this annual review process in future years.

BACKGROUND PAPERS

None

APPENDICES

Appendix A Proposed Local Council Tax Support Scheme (summary) 2018/19

Appendix B Council Tax Exceptional Hardship Policy

Appendix C Council Tax Discounts and Exemptions 2018/19

Appendix D Annual Minimum Revenue Provision Policy Statement 2018/19



Local Council Tax Support Scheme (LCTS) 2018/2019

**A summary of the scheme for Working Age persons and
the Government scheme for Pension Age claimants**

DRAFT

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Introduction

As part of the major changes to the Welfare Benefits system, from 1st April 2013 Council Tax Benefit ended and was replaced by a new scheme called Localised Support for Council Tax or Local Council Tax Support (LCTS). Both systems are means tested which means that they compare your income and capital against an assessment of your needs.

The new scheme is decided by each Council rather than nationally by Central Government. The monies available to each Council have been reduced and if you are of working age the amount of help you receive will be less than under the previous national scheme (Council Tax Benefit).

Central Government has decided to protect pensioners (persons who are of an age where they can claim pension credit) therefore if you are a pensioner, then the amount of help you receive under the new LCTS scheme will be broadly the same and operate in a similar way to the previous Council Tax Benefit system

To assist certain vulnerable groups, the Council has also decided that there will be additional protection given. More details are given later within this document.

The rules of the LCTS scheme divide the persons who can claim support into various classes. The classes or groups are set by Central Government for pensioners and the classes or groups for working age applicants are set by the Council.

The LCTS scheme for working age persons

The Council has decided that there will be two classes and the Council will decide which class each applicant is in. The class will determine the level of LCTS that can be provided:

Any reference to "income" in the working age scheme refers to household income (i.e. including Non-Dependants income)

Class A

To obtain support the individual must:

- a. have not attained the qualifying age for state pension credit; or
- b. has attained the qualifying age for state pension credit if he, and his partner, is a person on income support, on an income-based jobseeker's allowance, on maximum Universal Credit or income-related employment and support allowance.
- c. be liable to pay council tax in respect of a dwelling in which he is solely or mainly resident;
- d. not have capital savings above the capital limit set by the Council
- e. be a person who's *income* is **less** than their living allowances (*applicable amount*) or the claimant or partner is in receipt of Income Support, Jobseekers allowance (income based), on maximum Universal Credit or Employment and Support Allowance (income related); and
- f. have made a valid claim for support.

Class B

To obtain support the individual must:

- a. have not attained the qualifying age for state pension credit; or
- b. has attained the qualifying age for state pension credit if he, and his partner, is a person on income support, on an income-based jobseeker's allowance, on maximum Universal Credit or on an income-related employment and support allowance.
- c. be liable to pay Council Tax in respect of a dwelling in which they are solely or mainly resident
- d. be somebody in respect of whom a maximum LCTS amount can be calculated

- e. not have capital savings above the capital limit set by the Council
- f. be a person who's *income* is **more** than their living allowances (*applicable amount*)
- g. have made a valid claim for support

What LCTS will be payable to working age person?

If a person matches the criteria in Class A, including that their *income* is less than their *applicable amounts*, that person qualifies for a reduction on their council tax liability. The Council has decided that for 2018/19, the maximum council tax liability used in the calculation of LCTS, will be a Council agreed percentage of council tax the person is liable to pay.

If a person matches the criteria in Class B, it will mean the person's *income* is greater than their *applicable amount*. Twenty per cent of the difference between the two will be subtracted from the maximum council tax liability allowed. The Council has decided that for 2018/19, the maximum council tax liability used in the calculation of LCTS, will be a Council agreed percentage of council tax the person is liable to pay.

Protection for certain working age persons

Relevant income disregards in the calculation of Local Council Tax Support will be applied to the following groups:-

- Families in receipt of child benefit;
- Disabled in receipt of Disability Living Allowance (DLA) / Employment and Support Allowance (ESA) / Personal Independence Payment (PIP)
- War widows.

The LCTS scheme for Pensioners (persons who have reached the age at which pension credit can be claimed)

The Government has created three classes and the Council will decide which class each applicant is in. The class will determine the level of LCTS that can be provided:

Class A

To obtain support the person must:

- a. have attained the qualifying age for state pension credit;
- b. not be somebody with a partner of working age in receipt of income support, income-based jobseeker's allowance, on maximum Universal Credit or income-based employment and support allowance;
- c. be liable to pay council tax in respect of a dwelling in which they are resident;
- d. not have capital savings above £16,000;
- e. must have their assessed income less than or equal to the set living allowances (applicable amounts) set by Central Government; and
- f. have made a valid application for the support

The class also includes persons who have successfully claimed Pension Credit Guarantee.

Class B

To obtain support the person must:

- a. have attained the qualifying age for state pension credit;
- b. not be somebody with a partner of working age in receipt of income support, income-based jobseeker's allowance, on maximum Universal Credit or income-based employment and support allowance;
- c. be liable to pay council tax in respect of a dwelling in which they are resident;
- d. not have capital savings above £16,000;
- e. have made a valid claim for the scheme; and
- f. have assessed income above the set living allowances (applicable amounts) set by Central Government

Class C

To obtain support the person must:

- a. have attained the qualifying age for state pension credit;
- b. not be somebody with a partner of working age in receipt of income support, income-based jobseeker's allowance, on maximum Universal Credit or income-based employment and support allowance;
- c. be liable to pay council tax in respect of a dwelling in which they are resident;
- d. made a valid claim for the scheme;
- e. be somebody who has at least one second adult living with them who is not his/ her partner, not somebody who pays rent, and who is on a prescribed low wage and/or prescribed benefit, as set out by Central Government.

What LCTS will be payable to Pension Age persons?

If a person matches the criteria in Class A, including that their *income* is less than their *living allowances (applicable amounts)* that person qualifies for 100% reduction on their council tax liability. This also applies if a person is in receipt of state pension credit guarantee credit from the Department for Work and Pensions (Pensions Service).

If a person matches the criteria in Class B, it will mean the person's *income* is greater than their *applicable amount (living allowances)*. Twenty per cent of the difference between the two will be subtracted from this individual's council tax liability.

LCTS for a person in Class C may be awarded in respect of a second adult sharing the household who would normally be expected to contribute towards the council tax bill, but who cannot afford to do so, based on their low income or on prescribed benefits. This reduction will equate to the *second adult rebate* available under the Council Tax Benefit scheme and may be awarded at 100%, 25%, 15% or 7.5% of the council tax liability, depending on individual circumstances

How LCTS works

Who can claim?

If you have to pay Council Tax, you may be able to get LCTS

You can only get support if you have a right to reside and are habitually resident in the United Kingdom (UK). If you have entered the UK within the 2 years before your claim for benefit, the council will ask you about this.

People given refugee status, humanitarian protection or exceptional leave to remain in the UK will be eligible for support.

Most full-time students are not entitled to LCTS.

How much LCTS can I get?

Maximum LCTS depends on:

- Whether you are in the Pension Age scheme (attained the qualifying age for state pension credit) or are in the Working Age scheme;
- How much council tax you have to pay; and
- Who you live with.

How is maximum LCTS calculated for the Working Age Scheme

For the Working Age the maximum LCTS is set by the Council as a percentage of the council tax you are liable to pay.

For the Working Age in receipt of income-based jobseeker's allowance (JSA IB) for a period of 3 or more years the maximum council tax liability used in the calculation of LCTS may be subject to a further reduction as decided by the council.

How is maximum LCTS calculated for the Pension Age Scheme

For the Pension Age Scheme the maximum LCTS is set by the Government as up to 100% of the council tax you are liable to pay less any non-dependant deductions (see non-dependant deductions later in this document). If you are already getting or have claimed Pension Credit Guarantee the Council will grant maximum LCTS

Extended Payments

This is if your Income Support, income-based Jobseeker's Allowance or income-related Employment & Support Allowance or Incapacity Benefit, Severe Disablement Allowance or contributory Employment & Support Allowance stops because of work.

Extended Payments of LCTS are available and the payment is an extra four weeks of support to help pay towards your Council Tax when certain other benefits stop because you are going back to work, working more hours or earning more money.

You do not have to claim an Extended Payment if you or your partner/civil partner (and they remain a partner throughout the claim) have stopped getting one of the benefits mentioned below because one of you is expected to do one of the following for five weeks or more:

- Return to work full time
- Work more hours
- Earn more money

And you have been getting one of the following benefits:

- Jobseeker's Allowance, Income Support, or income-related Employment & Support Allowance or a combination of these benefits continuously for at least 26 weeks
- Incapacity Benefit, Severe Disablement Allowance or contributory Employment & Support Allowance continuously for at least 26 weeks

and

- you have not been getting Income Support, income-based Jobseeker's Allowance or income-related Employment & Support Allowance with your Incapacity Benefit, Severe Disablement Allowance or contributory Employment & Support Allowance when it ceased.

Normally you will get the same amount of LCTS as you did before your income-based Jobseeker's Allowance, Income Support, income-related Employment & Support Allowance, Incapacity Benefit, Severe Disablement Allowance or contributory Employment & Support Allowance stopped.

It is paid by the Council directly to your Council Tax account. The Council will decide whether or not you're entitled to an Extended Payment. The Council will also consider whether you are entitled to in-work LCTS. Once your extended payment period has ended, you can move onto in-work LCTS (provided you are entitled to it) without having to make a new claim.

If you do not get Pension Credit Guarantee, Income Support, income-based Jobseeker's Allowance or income related Employment and Support Allowance

Even if you do not get Pension Credit Guarantee, Income Support, income-based JSA or income-related Employment & Support Allowance you may still get some help with paying your council tax.

This is worked out by comparing the maximum LCTS you could get with:

- your needs (called your living allowances or applicable amounts); and
- your income and capital resources

Capital

Savings and investments (capital) may have an effect on the assessment of your income. Capital will only affect your income if you have more than the capital limit set by the Council and are of working age or £10000 if you are of pension age. If you have more than £16,000, you will not normally be able to get LCTS (unless you are aged 60 or over and receive the Pension Credit Guarantee, in which case there is no limit to the amount of capital you can have).

Absences from home

There are some special situations in which you may continue to get LCTS and these are explained below.

Going away

You should normally let the council know if you are temporarily absent, for example if you go away on holiday. However the Council may not need to know if you will be absent for only a short time (for example less than 4 weeks) and your circumstances remain unchanged. If in doubt, please ask us.

- If you are temporarily absent you can normally get LCTS for a maximum of 13 weeks as long as you intend to return home; and
- in your absence you will not let or sub-let the part of your home where you normally live; and
- you will not be away for longer than 13 weeks.

In certain circumstances, you may be able to get LCTS for up to 52 weeks, for example if you are in hospital, or are held in custody on remand, provided that:

- you intend to return home; and
- in your absence you will not let or sub-let the part of your home where you normally live; and
- you will not be away for longer than 52 weeks.

How to claim

Claims for LCTS can be made in writing, by telephone and electronically. Contact the Council on the Helpline 01255 686811 for details.

All claims will need to be supported by evidence of your circumstances and this will need to be provided to the Council. If you are claiming Housing Benefit as well as LCTS, the Council will

provide you with a joint claim form.

If you are married and your husband or wife normally lives with you, or if you live with someone as though you are a married couple, only one of you can make the claim for LCTS. You may choose who is to make the claim, or if you cannot agree who is to claim, the Council will nominate one of you to be the claimant.

Appointees

An appointee, for the purposes for LCTS, is someone over 18 appointed by the Council, to manage the LCTS claim of someone who is incapable of doing so themselves (mainly because of mental incapacity).

If you are already an appointee for other benefits and wish to be the appointee for LCTS, you should write to be appointed by the Council. The role and responsibilities are the same. If you wish to become an appointee you should get in touch with the Council; they will explain the process and your responsibilities. The Council can end the appointment at any time. It is ended automatically if one of the people listed below is appointed. As an appointee you can resign at any time. An appointee cannot be made where there is already someone acting for the customer's financial affairs in any of the following capacities:

- a receiver appointed by the Court of Protection
- under Scottish law, a tutor, curator or other guardian, a continuing attorney or welfare attorney
- someone appointed to have the power of attorney.

Information and evidence

The Council may need more information or supporting evidence so that they can calculate your LCTS. If all the information they need is not on the claim form, or they need to clarify something or want some more verification of your circumstances the Council will write to you. If you do not reply within one month a decision will be made on your claim based on the evidence you have provided.

How long will it take to decide your claim for LCTS

The Council will deal with your claim for LCTS as soon as possible after receiving all the information from you that they need to work out your entitlement

Date of claim

The date of claim will be the date of first contact, typically by phone, provided that the claim form is returned to an office of the Council within one month of the claim form being issued.

If you change your address

If you move to a different area, you must make a new claim for LCTS at your new Council. If you move within the same area, you must still tell the Council.

Backdating a claim (Pension Age Scheme only)

If you have reached the qualifying age for state pension credit your LCTS may be paid for up to 3 months before the date you made your claim. You do not have to ask for this and you do not have to show "good cause" for not having claimed earlier.

Start of LCTS

If you become liable for the Council Tax for the first time, for example if you move to a new address or reach the age of 18 or stop being a registered student, you should claim either in advance (you may claim up to 13 weeks before you expect to become liable), or in the week that your liability starts. You then get support from the day you start being liable for Council Tax. If you

claim later than this, your support starts on the Monday after the day you claim

If you are already paying Council Tax and become entitled to support because you have less money or your applicable amount changes, you also start getting support on the Monday after you claim.

Start of LCTS where a claimant acquires a partner

If you acquire a partner, you and your partner will be jointly and severally liable for Council Tax.

If you notify the Council of the change, either before, or in, the week that your partner becomes jointly and severally liable, support for you and your partner, as a couple, can be paid from the day that joint liability for Council Tax begins.

If you notify the Council of the change after the week in which your partner becomes jointly liable for Council Tax, support for you and your partner, as a couple, can only be paid from the Monday following the day you told the Council about the change. In this case, the Council will re-assess your support entitlement from the Monday following the day you and your partner become a couple, and they will take any income and capital your partner has into account and will look at your joint needs.

End of LCTS

If you stop being liable for the Council Tax, for example if you move away from an address or become exempt or start being a registered student, your LCTS stops on the day you stop being liable. If you no longer qualify for LCTS because, for example, your income increases or your applicable amount changes, your LCTS will be stopped from the beginning of the next support week.

End of Pension Credit Guarantee, Income Support, income-based Jobseeker's Allowance or income related Employment and Support Allowance entitlement

If you stop getting Pension Credit Guarantee, Income Support, income-based Jobseeker's Allowance, on maximum Universal Credit or income related Employment and Support Allowance, you must tell the Council and they will have to stop your LCTS. At the same time they will ask you to explain your new circumstances, because you may still be able to get some help with your Council Tax.

People who live with you - non-dependants

People who normally share your accommodation but are not dependent on you for financial support are known as non-dependants. Others who live with you as a family and any children you have fostered do not count as non-dependants.

Non-dependants for Pension Age Scheme

Any non-dependants who normally share your accommodation could affect the amount of LCTS you get whether or not you are also getting Income Support, income-based Jobseeker's Allowance, on maximum Universal Credit, income related Employment and Support Allowance or Pension Credit Guarantee

The following people do not count as non-dependants, whether they share accommodation or not:

- carers employed by a charity that charges for the service;
- joint tenants;
- subtenants;
- boarders;
- tenants of owner occupiers; and

- Landlords and their partners.

They do not count as part of your household.

Non-dependants are people like grown-up sons or daughters and elderly relatives. If you have non-dependants living with you, your LCTS may be affected by Non-Dependant deductions for the Pension Age Scheme, or inclusion of their income in the LCTS calculation for the Working Age Scheme.

Non-dependant deductions from LCTS for Pension Age Scheme

Deductions will be made from your LCTS for non-dependants aged over 18 who normally live with you. There are four levels of deduction. If the non-dependant is working less than 16 hours a week, the lowest deduction will apply. If the non-dependant is doing paid work for 16 hours or more a week, the level of deduction will depend on the non-dependant's gross income.

A deduction will not be made from your LCTS if:

- the non-dependants' normal home is somewhere else; or
- you, or your partner, are registered blind or treated as blind; or
- you, or your partner, are receiving the care component of Disability Living Allowance or Attendance Allowance in respect of yourself or your partner; or
- the non-dependant is receiving Pension Credit Guarantee, Income Support or income-based JSA or income-related Employment & Support Allowance; or
- the non-dependant is a prisoner; or
- the non-dependant is severely mentally impaired; or
- the non-dependant is over 18 but Child Benefit is still payable for them; or
- the non-dependant is a student nurse or apprentice or on Youth Training; or
- the non-dependant has been a patient in hospital for 52 weeks or more; or
- the non-dependant is living in a residential care or nursing home; or
- the non-dependant is a care worker; or
- the non-dependant is a resident of a hostel or night shelter for the homeless; or
- the non-dependant is a full-time student (even if they work full-time in the summer vacation).

A deduction may be delayed for 26 weeks if you or your partner is aged 65 or more and a non-dependant moves into your home, or the non-dependant's circumstances change to increase the deduction.

Working out the amount of LCTS

The maximum amount of LCTS depends on:

- Whether you are in the Pension Age scheme (attained the qualifying age for state pension credit) or are in the Working Age scheme;
- How much Council Tax you have to pay; and
- Who you live with.

How is maximum LCTS calculated for the Working Age Scheme

For the Working Age the maximum LCTS is set by the Council as a percentage of the Council Tax you are liable to pay.

For the Working Age in receipt of income-based jobseeker's allowance (JSA IB) for a period of 3 or more years the maximum council tax liability used in the calculation of LCTS may be subject to a further reduction as decided by the council.



How is maximum LCTS calculated for the Pension Age Scheme

For the Pension Age Scheme the maximum LCTS is set by the Government as up to 100% of the council tax you are liable to pay less any non-dependant deductions (see non-dependant deductions later in this document). If you are already getting or have claimed Pension Credit Guarantee the Council will grant maximum LCTS

What if I do not receive Pension Credit Guarantee, Income Support, income-based Jobseeker’s Allowance, maximum Universal Credit or income related Employment and Support Allowance?

If you do not get Pension Credit Guarantee, income Support, income-based JSA, maximum Universal Credit or income related Employment and Support Allowance, the council has to work out if you can get LCTS and if so, how much you can get.

To do this, the Council works out your maximum LCTS, and then compares your needs – called the living allowances or applicable amount – with your resources (your income and capital).

For customers receiving the Savings Credit of Pension Credit, the Council will use a statement supplied by The Pension Service to assess your resources (income and capital).

Second Adult Discount (SAD) for Pension Age Scheme

Apart from LCTS for yourself, you may also be able to get LCTS if you share your home with one or more adults. This is separate form of LCTS for you and is called Second Adult Discount (SAD). Second Adult Discounts are intended to assist you with Council Tax if you share your home with someone who is on a low income. Second Adult Discounts may be awarded in the following circumstances:

- if you are treated as living on your own for benefit purposes, and share your home on a non-commercial basis with a person who is on a low income and who is not liable to pay the council tax;
- the second adult is aged 18 or over; and
- no other person is paying rent to you for living in your home.

In order to be classed as a second adult, they must not be:

- liable for the council tax;
- a joint owner or tenant with you;
- your married or unmarried partner;
- someone who is disregarded for the purposes of a discount; or
- living with more than one liable person.

You will need to make a claim for SAD unless you have already claimed LCTS for yourself. The gross income of the second adult will be taken into account when assessing entitlement to SAD.

Gross income includes earnings from employment, as well as other income such as social security benefits and occupational pensions and actual income from the second adult’s capital. Any Attendance Allowance or Disability Living Allowance paid to a second adult is completely disregarded. You may apply for SAD even if your own capital exceeds £16,000.

SAD is awarded on the basis of your Council Tax bill, after any reductions that you may be entitled to, are deducted. The amount of SAD that can be awarded is as follows;

Second Adult	Alternative Maximum LCTS
(a) Where the second adult or all	25 per cent of the Council Tax

<p>second adults are in receipt of income support, maximum Universal Credit, an income-related employment, and support allowance or state pension credit or are persons on an income-based jobseeker's allowance;</p>	<p>due in respect of that day;</p>
<p>(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support, maximum Universal Credit an income-related employment and support allowance, state pension credit or an income-based jobseeker's allowance—</p>	<p>Gross Income is less than £187.00 per week; 15 per cent of the Council Tax due in respect of that day;</p> <p>Gross Income is not less than £187.00 per week but less than £243.00 per week; 7.5 per cent of the Council Tax due in respect of that day;</p>
<p>(c) If the dwelling is occupied by a second adult/adults on state pension-credit, income-related jobseeker's allowance, maximum Universal Credit income-related employment and support allowance or income support, living with a full-time student(s).</p>	<p>100 % of the Council Tax due in respect of that day.</p>

Income less than applicable amount (see “Living Allowances or Applicable Amounts” below)

In this case you get maximum LCTS (depending on whether you are of Pension Age or Working Age this may vary in amount).

You will also get maximum LCTS as allowed under the scheme if your income is the same as your applicable amount.

Income greater than applicable amount (see “Living Allowances or Applicable Amounts” below)

In this case you will get an amount less than your maximum LCTS. The amount by which your LCTS is reduced is based on the difference between your income and your needs.

A percentage of this difference – called a taper – is taken away from your maximum LCTS

Calculating your needs

Your needs are known as your living allowance or applicable amount and this is an amount that is set each year. For the Pension Age scheme this is set and approved by Parliament. For the Working Age scheme this is set by the Council. Your applicable amount takes into account the size of your family, your age and extra needs you may have. It is made up of personal allowances and premiums. Premiums are included if you have a family, or disability, or a disabled child.

Living Allowances or Applicable Amounts

The living allowances or applicable amount represents the needs of you and your family if you have one. The larger your family then the larger your applicable amount. The applicable amount is made up of three parts:

- a personal allowance; and
- personal allowances for children in your family; and
- premiums.

Personal allowance

Your applicable amount always includes a personal allowance. Different amounts apply according to your age and whether you have a partner.

Personal allowances for children

If you are looking after children (other than foster children) then you get an allowance for each child included in your applicable amount according to his or her age. This allowance is included until that child leaves school or reaches their 20th birthday.

A special rule applies if the child has left school and started work before Child Benefit stops.

Premiums for your family

Once personal allowances and allowances for children have been worked out, premiums can be added – if they apply – to make up your applicable amount.

Your children

A family premium will be included if you have any dependent children in your household. No matter how many children you have, you can only get one family premium.

Premiums or components for disabilities

These premiums are included in your applicable amount for people in your family with disabilities. There are three premiums and two components in this group:

- disabled child premium (for each disabled child in your household);
- disability premium (if you or your partner gets one of the benefits listed below or you have been off sick for more than 52 weeks);
- severe disability premium (if you are disabled and live in special circumstances);
- work related activity component; and
- support component.

Disabled child premium

The disabled child premium is a flat-rate premium, which may be awarded for each disabled child in your household and can be included with any other premiums. Your child is considered disabled if they are:

- registered blind
- or receiving Disability Living Allowance / Personal Independence Payment

Disability premium

Disability premium will be included in your applicable amount if you and your partner are aged less than pension credit age and:

- either of you is registered blind; or
- either of you gets one of the qualifying benefits listed below; or

- has been off sick for 52 weeks or more.

Qualifying benefits

You will get the disability premium if you or your partner gets any of the following benefits:

- Disability Living Allowance ;or
- Personal Independence Payment
- Working Tax Credit Disability Element; or
- Constant Attendance Allowance; or
- War pensioners' mobility supplement; or
- Severe Disablement Allowance; or
- Incapacity Benefit – long term rate or short-term higher rate paid at the long term rate.

Severe disability premium

This premium cannot be included on its own. You must first qualify for the disability premium.

If you are single or a lone parent - The severe disability premium may be included in your applicable amount if you:

- receive the care component of Disability Living Allowance at the highest or middle rate, Personal Independence Payment, Attendance Allowance or Constant Attendance Allowance; and
- live alone (but if others live with you, see below); and
- no one receives Carer's Allowance for looking after you.

If you have a partner

You may get the severe disability premium if you both:

- receive the care component of Disability Living Allowance (DLA) at the highest or middle rate, Personal Independence Payment, Attendance Allowance (AA) or Constant Attendance Allowance; or
- your partner is blind and you receive the care component of DLA at the highest or middle rate, Personal Independence Payment, Attendance Allowance (AA) or Constant Attendance Allowance; and
- no one lives with you; and
- no one receives Carers Allowance for looking after either one or both of you.

For the purposes of severe disability premium your LCTS is not affected if other people living with you are:

- Children; or
- aged 16-17; or
- a person who is registered blind; or
- receiving the care component of Disability Living Allowance (DLA) at the highest or middle rate, Personal Independence Payment, or Attendance Allowance (AA); or
- people caring for you who are employed by a charity that makes a charge for this service

Enhanced Disability Premium

- Enhanced Disability Premium is awarded where you, or a member of your family, who is aged under 60 receives the highest rate of Disabled Living Allowance (DLA), Enhanced

component of Personal Independence Payment or where the claimant is in receipt of Employment and Support Allowance Support Component. This premium will remain in payment if the DLA/PIP is suspended during hospitalisation. This premium is awarded at three different rates. They are:

- a rate for each dependent child/young person in your household who receives the highest rate of DLA/ Enhanced component of Personal Independence Payment;
- a rate for a single person who receives the highest rate of DLA/ Enhanced component of Personal Independence Payment;
- a rate for couples where at least one member of the couple receives the highest rate of DLA/ Enhanced component of Personal Independence Payment.

Work Related Activity Component

This is awarded where you or your partner receives main phase Employment and Support Allowance and receives a similar component within that benefit

Support Component

This is awarded where you or your partner receives main phase Employment and Support Allowance and receives a similar component within that benefit

Carer Premium

The Carer Premium is awarded if either you or your partner is looking after a disabled person and:

- receive Carer's Allowance; or
- made a claim for Carer's Allowance and would be entitled but for an overlapping benefit.

If both you and your partner satisfy the qualifying conditions two premiums can be awarded.

The carer premium continues for eight weeks after caring ceases.

Calculating your resources

Your resources are made up of your income and your capital. These are worked out as a weekly amount of income.

Income

Income is all the money that you have coming in from earnings, social security benefits, maintenance payments and other sources. Depending on the type of income, it may be completely or partially ignored in the calculation of your LCTS (the disregards), or taken fully into account.

For the Working Age Scheme your resources and those of your partner are taken together along with any Non-Dependants income when your household income and capital are worked out.

For the Pension Age Scheme your resources and those of your partner are taken together when your income and capital are worked out.

Income from employment

This explains what counts as your income from work you do, as an employee, when you are employed by someone else. If you are a company director or any other officeholder in a company you are classed as an employee of that company.

Earnings from employment mean any money you are paid when you work for someone else. This includes the following types of payments:

- bonuses or commission (including tips);
- money you get instead of your normal pay (for example, a liquidator may give you money when your employer stops trading and you are owed some pay);
- money you get in place of notice to end your employment, or money you get to make up for losing your job;
- money you get for holidays you did not take (holiday pay) – but not holiday pay owed to you more than four weeks after you stopped work;
- money you get if you are kept on while doing no work (for example, a retainer paid to school cooks during school holidays);
- expenses you are given to cover your travel to and from work;
- expenses you are given to cover the costs of looking after someone in your family
- any expenses you are given that are not essential for you to carry out your work;
- money you get, under the Employment Protection (Consolidation) Act 1978, when you are not given work because of bad weather, or money you get because of unfair dismissal;
- money that an industrial tribunal orders your employer to give you if the period of notice or redundancy that is required by law has not been given;
- money you get from your former employer's redundancy funds if the business goes into liquidation;
- Statutory Sick Pay or Statutory Maternity Pay;
- Statutory Paternity Pay and Statutory Adoption Pay;
- Employer's sick pay or employer's maternity pay
- earnings from permitted work, that is, work while you are getting an incapacity benefit which your doctor thinks would benefit your health.

Earnings from employment do not include:

- payment in kind (where no money is involved)
- expenses you are given that are essential for you to carry out work
- any occupational pension.

Net earnings

Once your gross earnings have been worked out, your council will take away:

- your income tax payments (allowing for personal relief); and
- your National Insurance (NI) contributions; and
- half of any contributions you make to an occupational or personal pension scheme (any amounts paid to a pension scheme by your employer do not count).

This gives your net earnings, which are used to work out your LCTS

Self-employed earnings

If you are self-employed, all the money you earn when you are not employed by someone else is known as your earnings from self-employment. You may have self-employed earnings even if you are also working for someone else, or if you are a franchise holder.

When working out your earnings the Council will want to know how much you earn when you are self-employed, and you will be asked to provide evidence, if possible, of how much you earn.

There are three stages in working out your self-employed earnings. The first is calculating the gross profit of your business. In the second stage, deductions – which are called allowable expenses – are taken away from the gross profit to give the net profit of the business. In the third stage, tax, NI, and pension payments are taken away from your net profit to give your net earnings.

The Council will apply a minimum income floor calculation in such cases where the declared income is less than an amount determined as appropriate for the type of business.

Child-minders

If you are a child-minder only one third of your earnings from child-minding will be taken into account when the council works out your LCTS for the Pension Age Scheme.

For the Working Age Scheme all of your earnings from child-minding will be taken into account.

Earnings and earnings disregards

After working out your net earnings, any amount that is not counted in the calculation of your LCTS is known as a disregard.

The amount of your earnings that is not counted depends on which premium is included in your applicable amount. There is more information on the applicable amount and premiums.

When £5 is not counted - If you are single and you cannot get a greater disregard by any of the means explained below, up to £5 of your weekly earnings will not be counted (the £5 disregard).

When £10 is not counted - If you have a partner and you cannot get the £20 disregard by any of the means explained below, up to £10 of your joint weekly earnings will not be counted (the £10 disregard).

When £20 is not counted - £20 per week of your earnings will not be counted if your applicable amount includes:

- the disability premium; or
- the severe disability premium; or
- the carer premium (where the carer is working).

If both you and your partner are carers, the total disregard cannot be more than £20. The carer premium and this earnings disregard can continue for a further eight weeks after caring ceases.

If you have a partner, your earnings are added together when your LCTS is worked out.

If you cannot get the £20 disregard under the above categories, you may still be able to get it if you are:

- a part-time fire-fighter; or
- an auxiliary coastguard; or
- a part-time member of a crew launching or manning a lifeboat; or
- a member of the Territorial Army or the Reserve Forces.

Additional disregard

If you work on average 30 hours a week or more you will usually be able to get an extra earnings disregard. In certain circumstances you can also qualify for the higher earnings disregard if you work 16 hours or more e.g. if you are a lone parent or disabled. This is the same amount as the 30-hour tax credit in your Working Tax Credit (WTC)

Childcare charges

In certain circumstances, average childcare charges of up to £175 (for one child) or up to £350 for 2 or more children per week per family can be offset against your earnings. This disregard, which is in addition to the other earnings disregards, is available to:

- lone parents who are working 16 hours or more per week;
- couples where both are working 16 hours or more per week;
- couples where one member is working 16 hours or more per week and, generally, the disability premium, or, in certain circumstances, the higher pensioner premium, is included in the applicable amount on account of the other member's incapacity or the other member is in hospital or in prison.

It applies where formal childcare is provided by, for example, registered child-minders or day nurseries for children until the first Monday in September following their 15th birthday (or the 16th birthday for children who are entitled to Disability Living Allowance or who are registered blind).

In certain circumstances, help with childcare costs can be given while you are on maternity leave or paternity or adoption leave or you are sick. The authority will be able to give you more details.

In some other cases explained here, different amounts of your earnings are not counted.

If you are in receipt of Pension Credit Guarantee, Income Support, income-based Jobseeker's Allowance or income related Employment and Support Allowance then any earnings you get will not be counted again in working out LCTS.

Notional Earnings

If you have done some work and you seem to have been paid very little for it, then the Council will estimate what that work is worth. If you have a good reason for the pay being so low – for example, if you worked for someone who had very little money – then you should let the Council know. If necessary, the Council may check your statement of earnings by asking your employer.

Other income

Other income is all the other money you have coming in apart from earnings from employment or self-employment. It is sometimes called unearned income. In some cases none of your unearned income is counted. Sometimes part of it is counted, and in other cases it is all counted.

State benefits

The following benefits are counted in full as income for LCTS:

- Contribution-based Jobseeker's Allowance
- Contribution-based Employment and Support Allowance
- Universal Credit
- State Pension
- Incapacity Benefit
- Severe Disablement Allowance
- Carer's Allowance
- Industrial Injuries Disablement Benefit
- Industrial Death Benefit
- Working Tax Credit
- Child Tax Credit (ignored if you or your partner are pension age)
- Savings Credit of Pension Credit
- Bereavement Benefits (ignored if you or your partner are pension age).

Unearned income that is not counted

The following types of income are not counted by the Council when it works out your LCTS:

- any income you get if you are getting the Guarantee Credit of Pension Credit, Income Support, income related Employment and Support Allowance (ESAIR) or income-based Jobseeker's Allowance (JSA);
- Disability Living Allowance (DLA)/ Personal Independence Payment (PIP);
- Attendance Allowance (AA) or Constant Attendance Allowance (CAA);
- Attendance allowances paid as part of a War Disablement Pension or Industrial Injuries Disablement Benefit;
- Child Benefit;
- Child Maintenance;
- money you get which takes the place of DLA, AA, CAA, or Income Support;
- war pensioners' mobility supplement;
- any money you get from the Social Fund;
- Guardian's Allowance;
- money you get as a holder of the Victoria Cross, the George Cross, or any comparable award;
- any grants or allowances you get from your local education authority if you have a dependent child who continues in education after school leaving age;
- any training premium and any refunded travelling expenses or living away from home allowances when you are on a Department for Education and Employment Training Scheme training course or at an employment rehabilitation centre;
- any money such as interest or dividends from savings or investments;
- any expenses you get from an employer that you need to carry out your work;
- any expenses you get from a charity so that you can carry out unpaid work;
- any income in kind (where you are given something other than money);
- any income you have which has been held back outside this country, as long as it remains held back, and it is not within your control;
- any money you get for fostering a child;
- any money you get for looking after an elderly or disabled person temporarily (community boarding out schemes);
- any money you get from a local Social Services Department to help keep a child at home instead of putting them into care;
- any Council Tax Benefit you have received;
- special payments made with your War Widow's Pension if you have been designated as a pre-1973 war widow;
- any charitable or voluntary payments which are made regularly;
- payments made under the Employment Department's 'Access to Work' scheme for disabled people; or
- War Disablement Pension or a War Widow's/Widower's Pension, or any similar payment from another country (Local Scheme)

Some types of income may be counted as capital.

Unearned income that is counted in part

The following are the types of unearned income that are only partly counted.

- the first £15 of Widowed Mother's Allowance or Widowed Parent's Allowance;
- the first £20 of any money from sub-tenants; or
- the first £20 then 50% of the excess of money you receive from a boarder is ignored. The balance is treated as income.

Notional income

The council may think that there is income, which you could get, but you are not claiming it. This is known as notional income because you do not actually receive that income. The Council may take this into account for LCTS purposes

Parental contributions to students

If you are making a parental contribution to a student then part of your income is not counted to take account of this.

Capital

Your capital includes savings and investments held by yourself in any form (for example, bank and building society accounts, investment trusts, and shares) from any source (for example, inheritance, redundancy payments, and irregular payments from a charitable or voluntary source). It will normally also include the net sale value of land and housing that you do not occupy, after deducting 10% for expenses of sale.

If you have a partner, capital belonging to your partner is treated as yours for the purposes of LCTS

Capital outside the United Kingdom

If you have capital – in the form of liquid or fixed assets – outside this country, the Council will need to know how soon it can be transferred and how much it is worth. If the capital cannot be brought into this country, enquiries will be made about how easily it can be sold, and whether a willing buyer can be found. If no willing buyer can be found, it may not be counted.

Capital for Working Age

The first £6,000 of capital is not counted. Capital over £6,000 up to £16,000 will be taken into account at £1 a week for each £250 (or part of £250) of capital over £6,000. Actual interest payments or dividends are not counted as income but as capital.

Capital for Pension Age

The first £10,000 of capital is not counted. Capital over £10,000 up to £16,000 will be taken into account at £1 a week for each £500 (or part of £500) of capital over £10,000. Actual interest payments or dividends are not counted as income but as capital.

For customers who receive the Guarantee Credit of Pension Credit there is no upper limit on the capital you can have.

For the Pension Age scheme if you have capital over £16,000, you may still be entitled to Second Adult Discount, as your income and savings are not taken into account. However, the actual income received from the second adult's capital will be taken into account.

Personal possessions

Personal possessions – for example, a car, furniture and fittings in your house, and family belongings – are usually not included in the calculation of capital. However, this may not be the case where the Council has good reason to believe that something has been bought to reduce your capital in order to gain or increase entitlement to benefit. If the Council decides that you deliberately disposed of capital just so that you can get LCTS, it may assume that you have notional capital to the value of the capital you disposed of.

If you own your home

The value of your property (including the house, garage and outbuildings) is not counted unless any part of the property could reasonably be sold off separately. Loans raised on the property will be counted as capital.

Property you own but do not occupy

The value of this property is counted as capital but you may be able to get LCTS even if the value of the property means that your savings are more than £16,000. This is because the value of the property may be ignored when your savings are worked out, in certain circumstances.

If the property is occupied by an elderly or disabled relative as their home, its value is not taken into account for as long as it is so occupied.

If you have recently acquired the property and you intend to occupy it as your home, its value may not be counted for 26 weeks, or for a longer period if reasonable, from the date you acquired it.

If you are trying to sell the property, its value may not be counted for the first 26 weeks after you start doing this. It may not be counted for longer than this if you are finding it difficult to sell the property.

If you are carrying out essential repairs or alterations so that you can live in the property, its value may not be counted for a period of 26 weeks from the date you first arranged for repairs to be carried out. It may not be counted for longer than this if you are finding it difficult to finish the work.

If you are taking legal action so that you can live in the property, its value may not be counted for the first 26 weeks after you start doing this. It may not be counted for longer than this if legal action is continuing and you cannot live in the property.

If you have left the property after the breakdown of a relationship, and it is occupied by your former partner, its value may not be counted for the first 26 weeks after you left. If the property is occupied by your former partner and they are a lone parent, the property will not be counted for as long as it continues to be so occupied.

Deposits on your accommodation

Sums that have to be deposited with a housing association as a condition of your tenancy are not counted.

Earmarked capital

If capital from the sale of a house is kept for a house purchase, it is not counted for up to six months, or longer if:

- major repairs or adaptations are needed for you to occupy your home; or
- the completion of the purchase of your new home is unavoidably delayed.

Compensation received for a burglary or for damage to or loss of a house is also not counted for six months, as long as it is to be used for repair or replacement

Valuation of property

Property will be valued at the price it would be expected to fetch on the open market, less any outstanding mortgage or legal charges on the property. Ten per cent of the current market value will also be deducted to take into account the cost of the sale.

If you have property outside Great Britain and there is no restriction on transferring money to this country, your property will be valued at its local sale value. If there is a restriction, its notional value will be the value of a sale to someone in the UK. In both cases, any outstanding mortgage or legal charges will be deducted, together with 10% of the total to cover the cost of the sale.

National Savings Certificates

National Savings Certificates of the current issue are valued at purchase price. Certificates of a previous issue are valued as if they were purchased on the last day of that issue.

Life assurance policies

The surrender value of life assurance policies is not taken into account when assessing LCTS.

Arrears of benefits

Any arrears of Disability Living Allowance, Attendance Allowance, Pension Credit, Income Support, income-based Jobseeker's Allowance, Personal Independence Payment, Universal Credit, Working Tax Credit and Child Tax Credit that you get are not counted for up to 12 months.

Lump sum payment of deferred State Pension

The gross amount of lump sum, or an interim payment made on account of a final lump sum, paid at the end of the period of deferring State Pension will be disregarded as capital for the life of the recipient.

Compensation payments

For LCTS purposes, compensation payments will normally be counted in full as capital. Capital will not be counted if it is held in trust or by the 'Court of Protection' as a result of a personal injury payment – for example, a criminal injury payment or a vaccine damage payment. For persons of Pension Age compensation payments made as a result of personal injury are ignored whether or not placed in a trust.

Business assets

Business assets of a self-employed earner are not counted while engaged in that business. Nor are they counted in certain other circumstances, but any shares owned will be treated as capital.

Notional Capital

The council may think that there is capital which you could get but which you do not have. This is known as notional capital because you do not actually possess that capital.

- Capital you have disposed of - You will be treated as having notional capital if you have disposed of capital in order to get LCTS or to get more LCTS.
- Capital you could have got - If you have the right to money held in a private trust, then that is actually your capital, and will be taken fully into account.

If the Council has decided to treat you as possessing notional capital they will reduce the amount of this capital on a regular basis by a set calculation. This calculation reduces your notional capital by the amount of support you have lost as a result of deprivation.

How LCTS is paid

If you are liable to pay the Council Tax, the Council will normally send you a Council Tax bill from which your LCTS has already been deducted. You will then have to pay only the reduced amount. This means that you will not actually receive any money, but your Council Tax bills will be reduced.

How you will be notified about your LCTS

The Council will reach a decision on your entitlement to LCTS as soon as possible after our claim and all supporting evidence is received.

How can I appeal?

If you disagree with the decision you will need to write to the Council stating the reasons. The Council has two months to reply to you. If the Council agrees with your appeal then the LCTS will be amended and you will receive another Council Tax bill showing the revised amount.

If the Council does not agree with your appeal or you do not receive a response within two months, you may appeal to the Valuation Tribunal. This is an independent tribunal who will hear your case (either in person or in writing). If the Valuation Tribunal agrees with you they will instruct the Council to amend your LCTS accordingly.

Throughout the appeal you will still be required to make payment of your Council Tax liability as determined by the Council.

Changes of circumstances

You must notify your Council immediately if there is a change in anything that might affect your right to or the amount of LCTS.

This will include:

- where you live; or
- who you live with; or
- your income, savings and investments; or if you stop getting Pension Credit, Income Support, income-based Jobseeker's Allowance, Universal Credit or Employment and Support Allowance; or
- if you get a job; or
- if you or your partner go into hospital; or
- if there is any other change in your circumstances which you might reasonably be expected to know might affect your right to LCTS

The changes must be notified in writing although in certain circumstances the Council may accept this by telephone or electronically

Most of these changes will affect your LCTS in the following support week, but changes in the amount of Council Tax payable will affect your LCTS from the day on which the change occurs.

Students

LCTS is not normally available for students. The exceptions are:

- vulnerable students, such as disabled students and lone parents;
- part-time students; and
- couples where one partner is not a student.

Students who are liable to pay the Council Tax may claim Second Adult Discount (SAD) if they are of pension age.

Loan and grant income

The grant money you get is generally paid to cover the period you are studying. If it does not cover this period the Council, or Student Awards Agency for Scotland, will tell you the period it does

cover.

If you are eligible for a loan or have been awarded a grant the Council will assume that these amounts are paid, whether they are actually paid or not.

The money you receive in your loan is your income for the period between the beginning of September and the end of June and is divided by the number of weeks in that period to give a weekly amount.

If you receive a dependant's grant this will be taken into account over the same period as your loan unless you also receive, or only receive, a grant towards your personal maintenance.

Because much of your loan is meant for essential educational items, some of the grant is ignored when working out your income for LCTS. The following elements of your loan or grant are not counted:

- tuition and examination fees;
- any disability allowance in your grant;
- the cost of term-time residential study away from your college;
- the Two Homes Grant – given when you have to maintain another home away from college;
- an allowance for books and equipment; and
- travel expenses.

Students and partners

Your grant may have been reduced to allow for your partner's income because your partner can make a contribution to your expenses. An amount – equal to that contribution – is then ignored when the Council works out your joint income for LCTS. If a student is required to contribute to his own grant income, an equivalent amount is disregarded from the income used to assess that contribution.

Other income

This will be treated in the same way as grant income if it is intended for expenditure that is needed on the course. If the income is not intended for expenditure on the course, it is treated under the normal rules for income.

Loans from the Student Loans Company

The maximum loan available to you will be taken into account regardless of whether you have borrowed up to your limit or not. The loan will be divided by the number of weeks between the beginning of September and the end of June to arrive at a weekly figure for assessment purposes. Up to £10 a week of the loan may be ignored.

Access funds

These are discretionary payments made by educational establishments to students who are facing financial hardship.

The amount of the payment to be taken into account will depend on how it is to be paid and what the payment is for. Some payments from the funds can be disregarded in full.

Information and information sharing

The Council will use information provided by the Department of Work and Pension and Her Majesty's Revenues and Customs for the purposes of LCTS, council tax liability, billing, administration and enforcement

The Council may receive and obtain information and evidence relating to claims for LCTS from–

- a. persons making claims for LCTS;
- b. other persons in connection with such claims;
- c. other local authorities; or
- d. central government departments including the DWP and HMRC

The Council may verify relevant information supplied to, or obtained for, LCTS purposes.

Counter Fraud and Compliance

In order to protect the finances of the Council and also in the interests of all Council Taxpayers, the authority will undertake such actions as allowed by law to;

- a. Prevent and detect fraudulent claims and actions in respect of LCTS;
- b. Carry out investigations fairly, professionally and in accordance with the law; and
- c. Ensure that sanctions are applied in appropriate cases.

DRAFT

Localised Support for Council Tax Exceptional Hardship Policy

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1.0 Background

1.1 An Exceptional Hardship Fund (EHF) has been set up by the Council to assist Council Tax payers who are facing 'exceptional hardship'. Although it is envisaged that the majority of recipients will be in receipt of local council tax support (LCTS), in exceptional circumstances, applications will also be considered from council tax payers who do not qualify for LCTS.

1.2 The main features of the fund are as follows:

- The operation of the Fund will be at the total discretion of the Council;
- The Fund will be operated by the Revenues and Benefits section of the Council;
- There is no statutory right to payments from the fund although the Council will consider all applications received;
- Exceptional Hardship Fund payments are not payments of Council Tax Support (as defined within S13a of the Local Government Finance Act 1992);
- Exceptional Hardship Fund payments will only be available from 1st April 2013 and **will not be available for any other debt other than outstanding Council Tax**;
- Where an Exceptional Hardship Payment is requested for a previous period, Exceptional Hardship must have been proven to have existed throughout the whole of the period requested;
- Exceptional Hardship Payments are designed as a short-term help to the applicant and it is expected that payments will be made for a short term only to give applicants time to explore sustainable / alternative solutions; and
- All applicants will be expected to engage with the Council and undertake the application process.

2.0 Exceptional Hardship Fund and Equalities

2.1 The creation of an Exceptional Hardship Fund facility meets the Council's obligations under the Equality Act 2010.

2.2 This policy has been created to ensure that a level of protection and support is available to those applicants most in need. It should be noted that the Exceptional Hardship Fund is intended to help in cases of **extreme** financial hardship and not to support a lifestyle or lifestyle choice. Whilst the definition 'Exceptional Hardship' is not exactly defined by this policy, it is accepted that sudden or unexpected changes to individual circumstances may cause temporary financial hardship with any support made under this policy being at the total discretion of the Council. However exceptional hardship should be considered as 'hardship beyond that which would normally be suffered'

3.0 Purpose of this policy

- 3.1 The purpose of this policy is to specify how the Council will operate the scheme, to detail the application process and indicate a number of factors, which will be considered when deciding if an Exceptional Hardship Fund payment can be made.
- 3.2 Each case will be treated on its own merits and all applicants will be treated fairly and equally in gaining accessibility to the Fund and also in respect of the decisions made on each application.

4.0 The Exceptional Hardship Fund Process

- 4.1 As part of the process of applying for additional support from the Exceptional Hardship Fund, all applicants must be willing to undertake **all** of the following:
- Make a separate application for assistance;
 - Provide full details of their income and expenditure;
 - Accept assistance from either the Council or third parties such as the CAB or similar organisations to enable them to manage their finances more effectively including the termination of non-essential expenditure;
 - Identify potential changes in payment methods and arrangements to assist the applicant;
 - Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted; and
 - Maximise their income through the application for other welfare benefits, cancellation of non-essential contracts and outgoings and identifying the most economical tariffs for the supply of utilities and services generally.
 - Where applicable, explain actions they are currently exploring to find a sustainable response to their current circumstance if it is expected that exceptional hardship may continue for a longer period of time.
- 4.2 Through the operation of this policy the Council will look to
- Support those in exceptional hardship;
 - Allow a short period of time for someone to adjust to unforeseen short-term circumstances and to enable them to “bridge the gap” during this time, whilst the applicant seeks alternative solutions;
 - Enable long term support to households in managing their finances;
 - Help applicants through personal crises and difficult events that affect their finances;
 - Help those applicants who are trying to help themselves financially; and
 - Encourage and support people to obtain and sustain employment.
- 4.3 It cannot be awarded for the following circumstances:
- Where full Council Tax liability is being met by Council Tax Support;
 - For any other reason, other than to temporarily reduce Council Tax liability;

- Where the Council considers that there are unnecessary expenses/debts etc. and that the applicant has not taken reasonable steps to reduce these;
- To pay for any overpayment of Council Tax Support caused through the failure of the applicant to notify changes in circumstances in a timely manner or where the applicant has failed to act correctly or honestly;

5.0 Awarding an Exceptional Hardship Fund Payment

5.1 The Council will decide whether or not to make an Exceptional Hardship Fund award, and how much any award might be up to a maximum of the amount of Council Tax outstanding, with each decision being reviewed by a senior manager to demonstrate fairness and consistency.

5.2 When making this decision the Council will consider:

- Whether the applicant has engaged with the Exceptional Hardship Payment process;
- All capital, income received & expenditure of the applicant, their partner and any member of their household irrespective of whether the income is included or not as household income under the Council Tax Support scheme
- How **reasonable** expenditure exceeds income;
- The difficulty experienced by the applicant that prohibits them from being able to meet their Council Tax liability, and the length of time this difficulty will last.
- The personal circumstances, age and medical circumstances (including ill health and disabilities) of the applicant, their partner any dependants and any other occupants of the applicant's home;
- Other debts outstanding for the applicant and their partner;
- The exceptional nature of the applicant and/or their family's circumstances that impact on finances;
- The length of time they have lived in the property; and
- If a Discretionary Housing Payment has already been awarded to meet a shortfall in rent;

5.3 The above list is not exhaustive and other relevant factors and special circumstances will be considered.

5.4 An award from the Exceptional Hardship Fund does not guarantee that a further award will be made at a later date, even if the applicant's circumstances have not changed.

6.0 Publicity

6.1 The Council will make a copy of this policy available for inspection and will be published on the Council's website.

7.0 Claiming an Exceptional Hardship Fund payment

- 7.1 An applicant must make a claim for an Exceptional Hardship Fund award by submitting an application to the Council, preferably via email to benefitsmail@tendringdc.gov.uk.
- 7.2 If it is not possible to make a claim via email or if any further help is required, assistance is available at the Council Tax Office, Pier Avenue, Clacton between 10am and 4pm Monday to Friday.
- 7.3 Where the Revenues and Benefits Service identify a household that is failing to clear previous years Council Tax but are paying current Council Tax with best endeavours, then their ability to pay arrears maybe considered for help through the hardship fund. This clause is not intended to cover those taxpayers who have not paid or have failed to pay until a summons has been issued.
- 7.4 In most cases the person who claims the Exceptional Hardship Fund award will be the person liable to pay Council Tax, however, a claim can be accepted from someone acting on another's behalf, such as an appointee, if it is considered reasonable.

8.0 Changes in circumstances

- 8.1 The Council may revise an award from the Exceptional Hardship Fund where the applicant's circumstances have changed.

9.0 Duties of the applicant and the applicant's household

- 9.1 A person claiming an Exceptional Hardship Fund payment is required to:
- Provide the Council with such information as it may require to make a decision;
 - Tell the Council of any changes in circumstances that may be relevant to their ongoing claim; and
 - Provide the Council with such other information as it may require in connection with their claim.

10.0 The award and duration of an Exceptional Hardship Payment

- 10.1 Both the amount and the duration of the award are determined at the discretion of the Council, and will be done so on the basis of the evidence supplied and the circumstances of the claim.
- 10.2 The start date of such a payment and the duration of any payment will be determined by the Council. In any event, the maximum length of the award will not exceed the end of the financial year in which the award is given.

11.0 Award of the Exceptional Hardship Fund payment

- 11.0 Any Exceptional Hardship Fund payment will be made direct onto the customer's Council Tax account, thereby reducing the amount of Council Tax payable.

12.0 Overpaid Exceptional Hardship Fund Payments

12.1 Overpaid Exceptional Hardship Fund payments will generally be recovered directly from the applicant's council tax account, thus increasing the amount of council tax due and payable.

13.0 Notification of an award

13.1 The Council will notify the outcome of each application for Exceptional Hardship Fund payments in writing. The notification will include the reason for the decision and advise the applicant of their appeal rights.

14.0 Appeals

14.1 Exceptional Hardship Fund payments are not part of Council Tax Support, and are therefore not subject to the statutory appeal process.

14.2 If the applicant is not satisfied with the decision in respect of an application for an Exceptional Hardship Fund payment, a decision to reduced amount of Exceptional Hardship Fund payment, a decision not to backdate an Exceptional Hardship Fund payment or a decision that there has been an overpayment of an Exceptional Hardship Fund payment, the Council will look at the decision again.

14.3 An officer, other than the original decision maker, will consider the appeal by reviewing the original application and any other additional information and/or representation made, and will make a decision within 14 days of referral or as soon as practicable. This decision will be final.

14.4 Any request for an appeal must be made within one month of the date of the notification letter confirming the original decision.

14.5 The outcome of the appeal will be set out in writing, detailing the reasons for the decision or upholding the original decision.

15.0 Fraud

15.1 The Council is committed to protect public funds and ensure funds are awarded to the people who are rightfully eligible to them.

15.2 An applicant who tries to fraudulently claim an Exceptional Hardship Fund payment by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.

15.3 Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

16.0 Complaints

16.1 The Council's 'Compliments and Complaints Procedure' (available on the Council's website) will be applied in the event of any complaint received about this policy.

17.0 Policy Review

17.1 This policy will be reviewed at least every year and updated as appropriate to ensure it remains fit for purpose. However, the review may take place sooner should there be any significant changes in legislation.

Under the Council Tax (Prescribed Classes of Dwellings) regulations the following discounts will apply for the 2018/2019 financial year:-

Class A – Unoccupied and furnished dwellings with a planning restriction preventing occupation for at least 28 days.

0% discount (on the days when the property cannot be used due to a planning restriction an exemption is allowed under Class G).

Class B – Unoccupied and furnished dwellings without a planning restriction preventing occupation for at least 28 days.

0% discount

Class C – Unoccupied and substantially unfurnished dwellings.

0% discount

Class D – Unoccupied and unfurnished requiring major repairs or alterations.

(a) which satisfies the requirement set out in the regulations unless it has been such a dwelling for a continuous period of twelve months or more ending immediately before the day in question;

(b) the requirement referred to in paragraph (a) is that the dwelling is vacant and—

(i) requires or is undergoing major repair work to render it habitable, or

(ii) is undergoing structural alteration; or

(iii) has undergone major repair work to render it habitable, if less than six months have elapsed since the date on which the alteration was substantially completed and the dwelling has continuously remained vacant since that date;

(c) For the purposes of paragraph (b) above “major repair work” includes structural repair work.

100% discount up to 12 months

ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT for 2018/19

The Council is required to have a policy on providing a prudent minimum revenue provision which must be approved by Full Council each year.

Unlike a mortgage where amounts of principal are repaid each month, the borrowing undertaken by this Council is usually repayable on maturity at an agreed future date. To reflect this, the minimum revenue provision (MRP) exists which is a concept whereby an amount is charged to revenue each year in order to have sufficient monies set aside to meet the future repayment of principal on any borrowing undertaken.

The regulations require Local Authorities to set aside as its annual MRP an amount that it considers to be “prudent”. The aim of the regulations is that the period over which an MRP is calculated closely relates to the life of the asset.

However in the case of the Housing Revenue Account (HRA) it has been the Council’s policy not to make any MRP charge to the HRA because the level of borrowing relating to the HRA is significantly less than the value of the housing stock. Following the implementation of the new self financing arrangements from April 2012, the structure of the borrowing to fund the associated HRA debt settlement was based on principal being repaid over the 30 years of the HRA business plan. Therefore this principal is in effect the amount set aside to repay debt and will therefore be treated as HRA MRP. In terms of MRP for ‘old’ HRA debt, this will be reviewed as part of future HRA business planning processes.

The options applicable in calculating MRP are as follows:

Where Capital Expenditure is financed by Government Supported Borrowing

- **Regulatory Method** – This is where borrowing is supported by the Government through the Formula Grant and Local Authorities can continue to use the existing approach as set out in the old regulations.
- **Capital Financing Method** – Similar to the above, Local Authorities can continue to set aside 4% of their General Fund capital expenditure financed by borrowing each year as MRP. The difference compared with the regulatory method is that it excludes a transitional adjustment that relates to the regulations that were applicable before the current regulations. As this adjustment does not apply to TDC, the two approaches are essentially the same.

Where Capital Expenditure is financed by Prudential Borrowing

- **Asset Life Method** – Two alternatives are provided within the guidance. The first is that MRP can be calculated by taking the amount borrowed and dividing it by the associated assets useful life – equal instalment method. The second is based on a more complicated annuity basis although based on the same principle.
- **Depreciation Method** – This requires that an MRP is made in accordance with current rules for depreciation accounting whereby an amount would be charged equal to the annual depreciation of the specific asset which could differ from the previous options given the alternatives for calculating depreciation.

A significant advantage of the asset life method over the depreciation method is that MRP does not have to start until the year the related asset becomes operational which may be different to the year in which depreciation would be charged.

It is important to note that subject to the type of asset acquired there may be a significant impact on the revenue budget, which would need to be taken into account in any future spending / borrowing decisions.

Having reviewed the position for 2018/19, no changes compared to 2017/18 are proposed. Therefore the Annual Minimum Revenue Provision Policy Statement for 2018/19 is as follows:

In accordance with the Local Authorities (Capital Finance and Accounting)(England)(Amendment) Regulations 2008, the Council's policy for the calculation of MRP for 2018/19 shall be the Capital Financing Requirement Method for supported borrowing and the Asset Life (equal instalment) Method for prudential borrowing.

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102. LEADER OF THE COUNCIL'S ITEMS - JOINT REPORT OF THE LEADER OF THE COUNCIL AND FINANCE & CORPORATE RESOURCES PORTFOLIO HOLDER – A.10 - AMENDMENTS TO THE COUNCIL'S CONSTITUTION – FINANCIAL & PROCUREMENT MATTERS

There was submitted a joint report by the Leader of the Council and the Portfolio Holder for Finance and Corporate Services (Report A.10), which sought Cabinet's approval for a delegation to the Portfolio Holder for Finance and Corporate Resources and to recommend to Council, proposed changes which had been suggested by the Monitoring Officer and the Section 151 Officer as part of an annual review of the Constitution.

It was reported that the main proposed changes related to the Financial and Procurement Procedure Rules and a delegation to the Portfolio Holder for Finance and Corporate Resources, in consultation with the Chief Finance Officer, to agree the outturn position each year. This would provide the necessary flexibility to enable the production and publication of the Council's Statement of Accounts, which must now be prepared and published one month earlier from next year. This delegation would not interfere with the statutory requirement to submit the final accounts to the Audit Committee.

Having considered the information submitted and the advice of Officers contained within the report:

It was moved by Councillor Stock, seconded by Councillor G V Guglielmi and:

RESOLVED that Cabinet –

- (a) approves that the Portfolio Holder for Finance and Corporate Resources be authorised, in consultation with the Chief Finance Officer, to agree the outturn position / report each year in order to provide the necessary flexibility to comply with the new statutory timetable for publishing the Council's Statement of Accounts;
- (b) approves that the Scheme of Delegation – Schedule 3 - Responsibility for Executive Functions Part 3.41 of the Constitution be amended to include that specific delegation; and

RECOMMENDED TO COUNCIL that

- (c) **the Council's Constitution be amended to reflect the proposed changes to the Financial and Procurement Procedure Rules as set out in the Appendix to item A.10 to the Joint Report of the Leader of the Council and the Portfolio Holder for Finance and Corporate Services.**

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Key Decision Required:	NO	In the Forward Plan:	NO
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CABINET

10 NOVEMBER 2017

JOINT REPORT OF THE LEADER OF THE COUNCIL AND FINANCE & CORPORATE RESOURCES PORTFOLIO HOLDER

A.10 AMENDMENTS TO THE COUNCIL'S CONSTITUTION – FINANCIAL & PROCUREMENT MATTERS

(Report prepared by Lisa Hastings, Monitoring Officer)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report asks Cabinet to approve a delegation to the Portfolio Holder for Finance and Corporate Resources and recommend to Council, proposed changes which have been suggested by the Monitoring and Section 151 Officers as part of an annual review of the Constitution.

The main proposals cover a number of miscellaneous amendments to Financial and Procurement matters to reflect changes required to comply with legislation and to ensure the Constitution is both effective and efficient at an operational level.

The key changes to each of these documents are highlighted within the body of this Report.

EXECUTIVE SUMMARY

Article 12 of the Constitution provides that the Council's Monitoring Officer will ensure the Constitution is up to date, this function takes into account legislative requirements and best practice.

The previous Constitution Working Party undertook a substantial review of the Constitution in 2014 however; the Monitoring Officer is under a continuing obligation to review the content and can make minor amendments under Article 15, as agreed by Council in June 2014. If the Monitoring Officer considers that any additional changes are required these proposals are reported to Cabinet, who in turn make recommendations to Council.

A summary of the changes compared to the existing Parts are provided under each heading in the Current Position section of this report and in each case, the content has been revised to provide greater clarity, ensure effectiveness and efficient work practices and checked to ensure it is in accordance with legislation, where necessary.

The main proposed changes relate to the Financial and Procurement Procedure Rules and a delegation to the Portfolio Holder for Finance and Corporate Resources in consultation with the Chief Finance Officer to agree the outturn position each year, providing the necessary flexibility to enable the production and publication of the Council's Statement of Accounts, which must now be prepared and published one month earlier from next year. This delegation does not interfere with the statutory requirement to produce the final

accounts to the Audit Committee.

RECOMMENDATION

That Cabinet:

- (a) Agrees the Portfolio Holder for Finance and Corporate Resources be authorised, in consultation with the Chief Finance Officer, to agree the outturn position / report each year to provide the necessary flexibility to comply with the new statutory timetable for publishing the Council's Statement of Accounts;**
- (b) approves that the Scheme of Delegation – Schedule 3 - Responsibility for Executive Functions Part 3.41 of the Constitution be amended to include the specific delegation; and**
- (c) recommends to Council that the Council's Constitution be amended to reflect the proposed changes to the Financial and Procurement Procedure Rules as set out in this report.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Agreeing the proposed changes will ensure that the Council demonstrates good governance and operates efficiently in pursuit of its priorities.

FINANCE, OTHER RESOURCES AND RISK

Risk

Providing clarity through clearer and consistent procedure rules contained within the Constitution prevents confusion and different interpretation and enhances the Council's governance arrangements.

LEGAL

In accordance with Section 37 of the Local Government Act 2000, as amended, a local authority operating executive arrangements must prepare and keep up to date a document which contains a copy of the authority's standing orders for the time being and such other information as the authority consider appropriate.

Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, sets out functions which must not be the responsibility of the Executive and therefore rests with Council or its committees. The power to make amendments to the standing orders and the Constitution rests with full Council.

The Leader of the Council is responsible for approving the delegation of executive functions (Constitution Reference: Article 7 – Part 2.14 and Part 3.32 – Schedule 3 Responsibility of Executive Functions).

Local Audit and Accountability Act 2014 and the Account and Audit Regulations 2015 bring forward the timetable for preparation and approval of accounts. For 2017/18, the deadline for the Section 151 Officer to prepare and sign draft financial statements (i.e. closedown the Council's accounts) is moving to 31 May (currently 30 June). The deadline for the approval and publication of financial statements with an audit opinion is moving to 31 July (currently 30 September).

These amendments to the timetable do not affect the statutory requirement for the approval of the final statement of accounts, which must be undertaken by the Council's Audit Committee, albeit the meeting will have to re-arranged for July in 2018.

Article 15 of the Council's Constitution provides that changes to the Constitution are approved by full Council after receiving a recommendation from Cabinet following consideration of a proposal from the Monitoring Officer and a recommendation via the Portfolio Holder with responsibility for corporate governance.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

There are no other implications arising from this report.

PART 3 – SUPPORTING INFORMATION

CURRENT POSITION

(a) Outturn Reporting

Each year the outturn report is presented to Cabinet in June for approval along with associated adjustments such as transfers to reserves, carry forwards and the funding of the capital programme.

However from 2018/19 the Statement of Accounts, which are 'built' on the approved outturn position have to be published, prior to audit, by the end of May, a full month earlier than has previously been the case. However, when reflecting on the time required to actually closedown the accounts and prepare the associated outturn report, it is unlikely that this will be possible within the usual Cabinet meeting cycle. Therefore a pragmatic / alternative solution is required to provide the necessary flexibility around which the necessary work can be completed.

It is therefore proposed to delegate approval of the outturn position each year to the Finance and Corporate Resources Portfolio Holder. The item will remain in the forward plan and subject to call-in, as would ordinarily be the case, but it would enable a more timely decision making process to support the new Statement of Accounts timetable.

Any further decisions that may be required following the outturn process, such as allocating money brought forward from the prior year will be reported to Cabinet at a subsequent meeting, so in effect the outturn report delegated to the Finance and Resources Portfolio Holder will primarily only place available funding that needs further allocation in reserves until such time as a formal / separate decision is presented to Cabinet.

Part 5.41 Para 8 of the Constitution will also need to be amended to reflect this change.

(b) Part 5 – Financial Procedure Rules

The Chief Financial Officer has suggested the following amendments for the reasons set out:

i. Rule 6.3.4 – the conditions for a virement are:

Part 5.38 Table (c) **General Fund Revenue and HRA (excluding employees)** – suggested amendment is to remove the text “*excluding employees*” from the heading, because employee costs do form part of these funds and should not be treated differently under any of the other circumstances.

Part 5.39 Table (f) **Between Capital and Revenue** – suggested amendment is to remove text under virement value so that it reads “*(i) Increase in an approved Capital budget*”. In the opinion of the Chief Finance Officer, the additional wording “*which is to be financed by a virement, from an existing revenue budget*” is not relevant and should be deleted. The approval section of the table sets out the two circumstances ‘when’ this increase can occur and the approval process.

ii. Rule 10.7 – the authority to write off debts is delegated by the Council as follows:

Part 5.48 First table - “*Debt due to the Council where the amount owing is a Council Tax or NNDR debt*”, should be extended to include “*Housing Benefit and Rents*” so that these debts are treated consistently. Reference to ‘*housing benefit*’ should be deleted from paragraph 3. The Authority to Write Off should remain delegated to a Corporate Director, but reflect that the recovery of debts is split across different services and therefore, the text should state “*the relevant Corporate Director*”.

Part 5.48 Second Table – amend the reference from “*Specific Debts*” to “*Specific Debtors*”. In criteria (b) replace “*Bailiffs*” with “*Recovery Enforcement Agents*” and insert at the end “*insufficient assets to satisfy the debt*”. Currently bailiffs have to seek enforcement from the same debtor multiple times for different debts, at an additional cost to the Council whereby it is evident from the first or second visit, they had insufficient funds.

Part 5.49 Second Table – increase the level so that the Chief Financial Officer can authorise the write off of individual debts not exceeding £5,000 (current level is £2,500). The actions are still recorded as Officer Decisions.

iii. Rule 13 – Banking Arrangements:

Part 5.53 - Remove Rule 13.2.3 as the Council no longer draws cheques.

iv. Rule 16 – Funding Arrangements:

Part 5.55 - Amend Rule 16.3, so that applications for external funding are approved by Management Team following consultation with the Chief Financial Officer, this is to reflect that approval should be sought to ensure external funding applied for is in accordance with the Council’s priorities and not an additional impact on resources. Such approval will be recorded with an Officer Decision.

(c) Part 5 – Procurement Procedure Rules:

- i. Section 4.2.2 – Procurement over £10,000, but not expected to exceed £50,000:
Part 5.67 – replace the current wording at (v) with *“unless an exemption is obtained from the Head of Finance, Revenues and Benefits or the Head of Governance and Legal Services, the Council Standard Contract for Services must be used when seeking quotations. When seeking an exemption, the relevant department will identify why any additional or replacement terms and conditions are necessary for the service being sought”*. This is to ensure that there is a consistency of terms and conditions being entered into across the Council, providing value for money and fairness.
- ii. Section 4.3.5 – Going out to Tender – General Rules:
Part 5.69 - replace the current wording at (x) with *“unless an exemption is obtained from the Head of Finance, Revenues and Benefits or the Head of Governance and Legal Services, the Council’s Standard Contract for Services must be used. The draft contract must be supplied as part of the tender exercise. When seeking an exemption, the relevant department will identify why an alternative model contract is required or any additional or replacement terms and conditions are necessary for the service being sought”*. This is to ensure that the Council fulfils its requirements under the Public Contract Regulations 2015; there is a consistency of terms and conditions being entered into across the Council; achieving value for money and fairness.
- iii. Section 4.3.7 – Opening of Tenders:
Part 5.70 – remove the requirement for an elected member to be present at the time tenders are opened. Since the Council has been using electronic tendering, the system has a number of security measures in place with access to the electronic tender box only being supplied upon the deadline being reached after being supplied with a passcode. The process, undertaken by either the Committee Services Manager or Officer in connection with IT, is witnessed by a Procurement Officer and representative of the service area. It is suggested that it is not an effective use of the Portfolio Holders time to require their attendance to view an email and this could be delegated to the Corporate Director or Head of Service.
- iv. Section 4.3.9 - Tender Evaluation Panel:
Part 5.71 & 5.72 – amend reference from a *“Panel”* to *“Consultation”*, as it is not always necessary and convenient to convene a Panel, when consultation can be undertaken electronically between the relevant officers. The relevant Corporate Director will nominate the Head of Service to lead on the consultation and record the decision to award as a formal Officers Decision. The decision will take into account those matters identified by the consultees.
- v. Section 5.1 – Contract clauses:
Part 5.72 – it is suggested that this section is replaced with reference to the contractual guidance issued by the Monitoring Officer, the Council’s standard draft contract being used unless an exemption has been sought and enforcing the legislative requirement to send draft contracts with the tender documentation. This will ensure that the guidance and draft documentation is kept up to date and is amended to reflect legislation changes, best practice and operational matters.

BACKGROUND PAPERS

There are no background papers (as defined by the Local Government Act 2000) arising

from this report.

APPENDICES

A.1 – Appendix A: Part 5 – tracked changes to Financial and Procurement Procedure Rules

FINANCIAL PROCEDURE RULES

1. INTRODUCTION

- 1.1 Subject to meeting any requirements contained in the Key Decision Rules and the Decision Making Rules, the Council will conduct its financial affairs based upon its Budget and Policy Framework Procedure Rules, together with these Financial Procedure Rules and the Procurement Procedure Rules. These Financial Procedure rules set out the responsibilities and management arrangements that will be followed to ensure that the Council, Members and its officers exercise due probity and accountability for the public monies for which they have responsibility. These rules and the Procurement Procedure Rules apply to all financial transactions of the Council either for itself or where it is acting as the Accountable Body or Agent.

- 1.2 The Chief Financial Officer shall keep under review these Financial Procedure Rules and the Procurement Procedure Rules and ensure that they are appropriate to the running of the Council. Any proposed changes must be recommended by the Cabinet and subsequently agreed by the Council.

The Financial Procedure rules are set out as follows.

SECTION	TOPIC COVERED
2.	Definitions
3.	Responsibilities
4.	Financial Planning and Budget approval
5.	Authority to Incur Expenditure
6.	Changes to budgets after approval by Council
7.	Financial management of budgets during the year
8.	Final accounts, out-turn and Statement of Accounts
9.	Financial administration
10.	Write-Offs of Sums due to the Council
11.	Insurances
12.	Inventories stocks and stores
13.	Banking Arrangements
14.	Investments, Loans and Borrowing
15.	Land and Property transactions
16.	External Funding
17.	Proceeds of Crime Act 2002 (anti-money laundering)
18.	State Aid

2. DEFINITIONS

For the purpose of these regulations the following definitions will apply:

TERM	DEFINITION
Head of Department	The term Head of Department refers to the officer to whom responsibility for a department, function or action has been delegated in accordance with the Council's Scheme of Delegation.
Service	Service shall be those services as set out in the Council's published budget book or where subsequent amendments have been approved.
Estimate	Each line of budget included within each service, or each project line included in the Capital Programme, in the Council's published budget book or where subsequent approval has been given.
Forecast	An estimate of the likely budget for the years following the financial year for which an estimate has been approved.
Expenditure	All direct expenditure as detailed in the Council's published budget book or where subsequent approval has been given.
Income	All direct income as detailed in the Council's published budget book or where subsequent approval has been given.
Virement	A virement is the transfer of a sum from one estimate to another and may include an increase in expenditure provided it is financed by additional income not already provided in the approved budgets.
Supplementary Estimate	This is an increase in the budget approved by Council and can be in respect of either capital or revenue. A transfer from reserves would finance the additional expenditure.
Negative Supplementary estimate	A Negative Supplementary Estimate is the reverse of a Supplementary Estimate and has the effect of reducing an otherwise available budget with the specific purpose of reducing the Council's net expenditure. A transfer to reserves would arise as a result of reducing expenditure.
Section 106 agreement	Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991)

3. RESPONSIBILITIES

- 3.1 The Leader, each Portfolio Holder and Head of Department shall consult with the Chief Financial Officer, in advance, in respect of any report/proposal which seeks provisional or final approval to any proposed revenue or capital expenditure or service investment or income which is not included in the Council's approved budgets (without reservation). The Chief Financial Officer will bring all such matters to the immediate attention of Management Team.

(Cream)

- 3.2 The Chief Financial Officer shall be responsible, under the general direction of the Cabinet and Management Team for the financial administration of the Council's activities.
- 3.3 The Chief Financial Officer is responsible for ensuring that the Finance and Revenues and Benefits Portfolio Holder is informed of and consulted on all significant financial issues.
- 3.4 The Chief Financial Officer shall inform and advise Management Team about the Council's finances and financial performance of its activities, who will in conjunction with the Finance and Revenues and Benefits Portfolio Holder ensure that the Leader, each Portfolio Holder, Committees and Council are advised appropriately.
- 3.5 The Chief Financial Officer shall ensure that adequate and prudent financial planning, including annual budgets and longer-term forecasting, is undertaken by the Council to protect its finances.
- 3.6 Any requirement in these Financial Procedure Rules and the Council's other procedures to obtain approval for or to report to the Council, Committee, Cabinet or Portfolio Holder, on any action shall include the requirement to consult with the Chief Financial Officer where Council finances are concerned.
- 3.7 The Chief Financial Officer has a duty to ensure that the financial implications of decisions made by Heads of Department in respect of services are not to the detriment of the Council as a whole.
- 3.8 The Chief Financial Officer, their Deputy or Chief Executive is authorised to deal with any General Fund Revenue or HRA virement on exceptional grounds of urgency, such as civil emergencies. If this exemption is relied upon, the relevant Officer must provide a report to the responsible decision maker as soon as practicably possible.

4. FINANCIAL PLANNING AND BUDGET APPROVAL

- 4.1 In accordance with the timetable and format determined by the Chief Financial Officer, Heads of Department will prepare:
 - 4.1.1 Detailed revised estimates of income and expenditure of revenue accounts for the current financial year
 - 4.1.2 Detailed revised estimates of expenditure on capital projects for the current financial year
 - 4.1.3 Detailed forecasts of expenditure on capital projects for the forthcoming financial years, the number of which is to be determined by Cabinet.
 - 4.1.4 Detailed forecasts of income and expenditure of revenue budgets for the forthcoming financial years, the number of which to be determined by Cabinet.

- 4.2** The information prepared by the Heads of Department will be collated and checked by the Chief Financial Officer.
- 4.3** Each financial year, and in accordance with the agreed Financial Strategy / Forecast determined in accordance with the Budget and Policy Framework Procedure Rule 3, the Chief Financial Officer will submit to Management Team for their consideration:
- 4.3.1** A forecast of net revenue expenditure for the forthcoming year(s);
 - 4.3.2** A forecast of capital expenditure for the forthcoming year(s) together with known and anticipated funding streams. All such schemes must be in accordance with the Council's approved Capital Strategy and will have been subjected to an investment appraisal in accordance with the Prudential Code and will only be included if it can be demonstrated that the investment is prudent and within affordable and sustainable levels;
 - 4.3.3** The forecast position of the Council's Reserves over the period of the forecast;
 - 4.3.4** The Council Tax rate for the forthcoming financial year(s) resulting from the proposals;
 - 4.3.5** Initial draft revised prudential indicators for the current year and the following 3 years based on the draft capital programme.
 - 4.3.6** Any other information required in accordance with the Financial Strategy / Forecast agreed for the year in question.
- 4.4** Management Team will then, in the light of the Chief Financial Officer submission in 4.3 above, and in accordance with the Budget and Policy Framework Procedure Rule 3, make recommendations to the Cabinet setting out proposed draft budgets.
- 4.5** The Cabinet will, in accordance with the Budget and Policy Framework Procedure Rule 3, draw up firm proposals for consideration by the Council.
- 4.6** In submitting the budget to the Council the Cabinet may attach a reservation to any item and, subject to the approval of the Council, no avoidable expenditure shall be incurred in respect of any such item until the Council has withdrawn the reservation.

5. AUTHORITY TO INCUR EXPENDITURE

In relation to all expenditure both revenue and capital, however funded, and in accordance with delegated powers part 3.19 no. 13 and part 3.75 no. 6 an approved scheme is one where there is:-

- (a) Provision of a service consistent with an historic nature and level that is, and has in prior years, been specifically allocated and defined within the ongoing base Budget;

(Cream)

- (b) Any change to a service set out in 1 above where the appropriate authority to the change has been obtained in accordance with delegated powers;
- (c) Otherwise, a scheme that has the necessary approval from Council, Cabinet, Portfolio Holder or Officer in accordance with delegated powers.

For any expenditure to be incurred the necessary budget must also be in place. Where the necessary budget is not in place then amendments to the budget agreed by Council can only be made in accordance with section 6 below.

6. CHANGES TO BUDGETS AFTER APPROVAL BY COUNCIL

6.1 Supplementary estimates

- 6.1.1 A supplementary estimate will increase the Council's net expenditure and will, if it relates to revenue expenditure, result in a reduction in the Council's reserves. If it relates to capital expenditure it will either increase the Council's use of capital receipts, increase the amount needed to be borrowed or, as in the case of revenue expenditure, reduce the Council's reserves. Therefore a supplementary estimate is needed in all cases of increased overall net expenditure, whether capital or revenue.
- 6.1.2 A supplementary estimate should not normally be considered unless the matter is essential and unavoidable and all other options for applying a virement have been considered.
- 6.1.3 Once the Council Tax for any financial year is set any subsequent increase in items (a) to (d) for that same year will require a supplementary estimate. This does not have to be approved before a commitment is made, if in the opinion of the Chief Financial Officer, the matter is urgent. The Chief Financial Officer shall report any increase in the Council's overall net expenditure to the Cabinet at the earliest opportunity and recommend to Cabinet whether the increased expenditure should be financed by virement or supplementary estimate. If the supplementary estimate is outside the scope of the Cabinet's authority as set out in 5.4.5 below appropriate recommendations will be made to Council.
 - (a) Salaries, wages and pensions increases arising from nationally negotiated decisions, and variations in contributions under the National Insurance and Superannuation Acts;
 - (b) Price increases in connection with continuing contracts for revenue services where, in the opinion of the Chief Financial Officer, such increases are reasonable;
 - (c) Reductions in the amount of income from government, local or public authority sources;
 - (d) Interest rates or other similar financing factors;

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6.1.4 No specific supplementary estimate approval is required at any time for the following:

- (a) Expenditure which is being funded entirely by income received under section 106 agreements and held in the section 106 receipts in advance holding account where that expenditure is in accordance with the terms of the section 106 agreement. In these circumstances the Chief Financial Officer must agree the expenditure, and the financing.
- (b) Debt written off for which specific provision was made in the Council's bad debt provision at the end of the previous financial year.
- (c) Expenditure on a specific activity that has previously been approved in accordance with the Council's constitution and for which the funding of that expenditure in future years has been placed in a dedicated earmarked reserve, and the expenditure is to be financed by the use of that reserve. In these circumstances the Chief Financial Officer must agree the expenditure, and the financing.
- (d) For expenditure where the Council receives full funding from an external source for a specified project and there are no additional revenue costs to the Council in either the current financial year or future financial years.

6.1.5 A supplementary estimate can be approved as follows:

- (a) **Finance and Revenues and Benefits Portfolio Holder** may approve a supplementary estimate of any single item (revenue or capital) up to £50,000 subject to a maximum aggregate value of £150,000 for such single items in any one financial year and providing any single supplementary estimate does not cause the total of supplementary estimates approved by the Finance and Revenues and Benefits Portfolio Holder and Cabinet to exceed £1,000,000 for General Fund Services (capital or revenue) (or £1,000,000 in respect of the Housing Revenue Account (capital or revenue) for the financial year concerned.
- (b) **Cabinet** may approve a supplementary estimate of any single item (revenue or capital) up to £500,000 subject to that supplementary estimate not causing the total of supplementary estimates approved by the Cabinet and Finance and Revenues and Benefits Portfolio Holder to exceed £1,000,000 for General Fund Services (capital or revenue) (or £1,000,000 in respect of the Housing Revenue Account (capital or revenue)-for the financial year concerned.
- (c) **Council** may approve a supplementary estimate up to any amount for General Fund or Housing Revenue Account. However Council must be advised if any decision is likely to result in the Council's agreed minimum working balance not being maintained for the current financial year and the length of the Council's approved financial strategy. In the case of the Housing Revenue Account, Council must be advised if any decision is

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likely to result in the Revenue Account balance being in deficit over the same period.

- 6.1.6** Where a Head of Department wishes to apply for a supplementary estimate a report shall be made, following consultation with the Chief Financial Officer, to Management Team. Management Team will then make a recommendation where appropriate to the Finance and Revenues and Benefits Portfolio Holder or Cabinet. Cabinet must recommend any request for a supplementary estimate that requires the approval of Council to Council.

6.2 Negative Supplementary Estimates

A negative supplementary estimate (having the effect of reducing an otherwise available budget) with the specific purpose of reducing the Council's net expenditure may be approved based on the same limits set out in 6.1.5 above.

6.3 Virements

- 6.3.1** A virement, unlike a supplementary estimate, will not increase the Council's overall net expenditure. However to ensure that the budget, functions and service levels approved by council are not compromised virements can only be undertaken under the following conditions.

- 6.3.2** Virement rules do not need to be followed in the following circumstances but a scheme will still need to be approved including agreement of what is to be delivered:-

- (a) Where expenditure is being funded entirely by income received under section 106 agreements and that income has been received and accounted for in the current financial year and where that expenditure is in accordance with the terms of the section 106 agreement. In these circumstances the Chief Financial Officer must agree the expenditure, and the financing.
- (b) For expenditure where the Council receives full funding from an external source for a specified project and there are no additional revenue costs to the Council in either the current financial year or future financial years. In these circumstances the Chief Financial Officer must agree the expenditure and the financing.

If there are additional costs to the Council then that expenditure must be financed in accordance with these Financial Procedure Rules

- (c) Subject to the agreement of the Chief Financial Officer:
 - (i) Where a decision requires an amendment to the budgetary analysis within the Council's financial information system in order that the

Council's accounts can properly reflect the financial transactions of that decision.

- (ii) Where the budgetary analysis within the Council's financial information system needs to be amended in order to comply with required accounting standards or to properly reflect the costs of an activity or function.

6.3.3 Virement rules are required to be followed in the following circumstances:

- (a) The transfer of a sum from one estimate to another, which can be within or between services
- (b) Where an expenditure estimate is to be increased and offset by a known increase in an income estimate including fees and charges.
- (c) Where reduced income is to be offset by a sustainable reduction in expenditure.

6.3.4 The conditions for a virement are:

All virements must be made within the terms and limits prescribed in these Financial Procedure Rules (see 6.3.5):

- (a) Subject to (b) to (h) below a Head of Department can apply a virement provided that the department is able to ensure that:
 - (i) Overall, the minimum agreed level of service would still be provided
 - (ii) The net service cost will be contained within the overall approved budget and the Council's overall costs will not be increased
 - (iii) There are no additional budgetary implications in future years
 - (iv) The service being provided is within the Council's approved policy
- (b) All virements between **revenue and capital budgets** must be as set out
- (c) A virement cannot be made where the proposed expenditure or reduction in income relates to an item which has **previously been considered** and been rejected by the Council, the Cabinet or responsible portfolio holder.
- (d) Where a virement is proposed and the expenditure is in respect of an item not provided for within an approved budgeted service level, but can be met by fortuitous savings (such as from a tendering process or against growth items identified in the Financial Strategy / Forecast), such expenditure if in excess of £15,000, shall be referred to Cabinet for

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approval. This excludes savings from minor restructuring. In respect of savings against Financial Strategy \ Forecast Growth Items, the limit will apply to the aggregated value of all requested virements from such budgets.

- (e) Cabinet must approve all virements, which are likely to result in a further and/or additional burden on future years' Council tax and revenues.
 - (f) Where significant virements are necessary, it is NOT acceptable to disaggregate the total sum into a number of smaller virements so that these smaller sums fall within the rules/limits of these Financial Procedure Rules. The limits will apply to the aggregated value of the transfer to or from any one estimate.
- (a) **From employee costs to temporary agency staff estimates**

Virement Value	Approval Required
Not more than £15,000 for the engagement of temporary agency staff in respect of a post on the approved establishment for which there is a budget for the year in question and Management Team has approved the filling of that post.	Chief Financial Officer
Over £15,000 but not more than £30,000 for the engagement of temporary agency staff in respect of a post on the approved establishment for which there is a budget for the year in question and Management Team has approved the filling of that post.	The Chief Financial Officer with the approval of the Management Team and Finance and Revenues and Benefits Portfolio Holder.
Over £30,000 for the engagement of temporary agency staff in respect of a post on the approved establishment for which there is a budget for the year in question and Management Team has approved the filling of that post.	The Chief Financial Officer with the approval of the Management Team, Finance and Revenues and Benefits Portfolio Holder and Cabinet.

(b) **Transfers within an approved estimate**

Virement Value	Approval Required
No limit	The Head of Department providing the expenditure does not impose an ongoing commitment on the Council, which has not already been approved and budgeted for.

(c) **General Fund Revenue and HRA (excluding Employees)**

Virement Value	Approval Required
Not more than £15,000	The Head of Department.
Over £15,000 but not more than £30,000	The Head of Department, with the approval of the Management Team together with the Portfolio Holder(s) and/or Committee(s)
Over £30,000 but not more than £50,000	The Head of Department, with the approval of the Management Team, the responsible Portfolio Holder(s) and/or Committee(s) and the Finance and Revenues and Benefits Portfolio Holder
Over £50,000	The Head of Department, with the approval of the Management Team, the responsible Portfolio Holder(s) and/or Committee(s) and Cabinet

(d) **General Fund Capital schemes**

Virement Value	Approval Required
Not more than £15,000	The Head of Department.
Over £15,000 but not more than £50,000	The Head of Department, with the approval of the Management Team, the responsible Portfolio Holder(s) and/or Committee(s) and the Finance and Revenues and Benefits Portfolio Holder.
Over £50,000	The Head of Department, with the approval of the Management Team, the responsible Portfolio Holder(s) and/or Committee(s) and Cabinet.

(e) **Housing Revenue Account Capital Schemes**

Virement Value	Approval Required
Not more than £100,000	Corporate Director (Operational Services), provided that the total Capital Scheme allocation as approved is not exceeded and provided the Chief Financial Officer advises that no increase to Housing Revenue Account costs results.

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Over £100,000	Housing Portfolio Holder provided the total HIP allocation as approved is not exceeded and provided the Head of Finance, Revenues and Benefits Services advises that no increase to Housing Revenue Account and General Fund revenue costs results.
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(f) Between Capital and Revenue

Virement Value	Approval
(i). Increase in an approved Capital budget. which is to be financed by a virement from an existing revenue budget.	<p>a) When the increase in the cost of the project is a supplementary estimate and must be agreed in accordance with these Financial Procedure Rules.</p> <p>b) When the financing from an existing revenue budget is a virement between the revenue financing of capital expenditure budget and the revenue budget which is being reduced and normal virement rules as set out in these Financial Procedure Rules are to apply. In these circumstances the Head of Finance, Revenues and Benefits Services must agree the expenditure and the financing.</p>

Virement Value	Approval
(ii). Increase in an approved capital budget which is to be financed by an increase in borrowing or use of capital receipts	This is a supplementary estimate, which must be agreed in accordance with these Financial Procedure Rules
(iii). Increase in an approved revenue budget, which is to be financed by a reduction in an approved capital budget which results in a reduction in the revenue financing of capital expenditure sufficient to meet the entire increase in the revenue budget.	This is a virement between the revenue financing of capital expenditure budget and the revenue budget, which is being increased, and normal virement rules as set out in these Financial Procedure Rules are to apply. In these circumstances the Head of Finance, Revenues and Benefits Services must agree the expenditure and the financing.
If none of the above circumstances set out in (i), (ii) and (iii) above apply.	A supplementary estimate or virement must be obtained in accordance with these Financial Procedure Rules.

Irrespective of the above in all cases where there is a increase to the General Fund revenue costs	A supplementary estimate or virement must be obtained in accordance with these Financial Procedure Rules.
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- 6.4 The Chief Financial Officer shall ensure that all virements comply with these Financial Procedure Rules and will amend the Council's financial information systems as appropriate.
- 6.5 The Chief Financial Officer will maintain an up-to-date record of all virements and supplementary estimates that have been actioned to date and make this available to the Finance and Revenues and Benefits Portfolio Holder on request.

7. FINANCIAL MANAGEMENT OF BUDGETS DURING THE YEAR

- 7.1 Once the Council has approved the budget, officers to whom authority has been delegated, may incur expenditure within the amount provided under each head of estimate as varied by any supplementary estimate or virement approved under these Financial Procedure Rules provided that:
 - (a) The matter is not one to which the Cabinet has attached a reservation
 - (b) Where appropriate any necessary external consent has been obtained.
 - (c) Procurement Procedure Rules have been complied with
- 7.2 Responsibility for the control of capital and revenue expenditure (including the award of grants) and income for a service or function shall rest with the appropriate Head of Department. Each Head of Department shall notify the Chief Financial Officer of any actual or prospective overspending of expenditure or shortfall in income in excess of the budget which cannot be met by virement as set out in these Financial Procedure Rules.
- 7.3 The Chief Financial Officer has a duty under Section 28 of the Local Government Act 2003 to monitor budgets and the underlying assumptions formulating the budget throughout the year. Where an approved expenditure budget is likely to be overspent or there is likely to be a shortfall in an income budget the Chief Financial Officer shall ensure that corrective action is taken. In exercising this duty the Chief Financial Officer may, irrespective of section 6.2, above examine all budgets and seek explanations from Heads of Department as necessary. The Head of Department shall provide the Chief Financial Officer with any information and explanation requested
- 7.4 The Chief Financial Officer shall provide Heads of Department with adequate and timely accounting information and reports, in appropriate detail, to enable those Heads of Department to carry out budgetary control of their budgets.

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- 7.5** The Chief Financial Officer shall determine the level and detail at which budgets and financial management reports are maintained for use by officers and for reporting to Members.
- 7.6** The Chief Financial Officer shall in conjunction with the Management Team ensure that Portfolio Holders, Cabinet and the Council are fully informed of the Council's financial position.

8. FINAL ACCOUNTS, OUT-TURN REPORT AND STATEMENT OF ACCOUNTS

- 8.1** An Outturn Report for the previous financial year will be prepared by the Chief Financial Officer, in respect of revenue and capital items (including Housing), in accordance with the timetable necessary to produce the Statement of Accounts by the statutory deadline. The outturn report will seek Cabinet approval for
 - 8.1.1** Any transfers to and from reserves.
 - 8.1.2** The funding treatment of capital expenditure and the treatment of capital receipts.
 - 8.1.3** The carrying forward of capital slippage and revenue commitment sums (and the consequential amendments to budgets) in respect of any unspent monies in one year to a later year or to reserves.
 - 8.1.4** The carrying forward of overspent sums in respect of Capital projects and revenue budgets that will be financed by a reduction in the following years budget (and the consequential amendments to budgets) in respect of any overspent monies in one year to a later year or to be financed from reserves.
- 8.2** The Chief Financial Officer will prepare the Council's Statement of Accounts in accordance with statutory requirements and will incorporate all decisions approved by the Cabinet in 7.1 above.
- 8.3** All Heads of Department shall supply the Chief Financial Officer with accurate and timely information as may be required for the compilation of the final and other accounts and matters incidental thereto to enable the above requirements to be achieved. That information shall be supplied in a format specified by the Chief Financial Officer.

9. FINANCIAL ADMINISTRATION

9.1 Internal Audit

- 9.1.1** The designated Head of Internal Audit is the Council's officer for the purposes of compliance with statutory Section 151 responsibilities in respect of Internal Audit along with any other relevant regulations or standards.

- 9.1.2 The designated Head of Internal Audit shall ensure that independent internal audit staff examine and audit the expenditure, income and property and other assets of the Council and its officers. To enable the designated Head of Internal Audit to achieve this, Internal Audit shall have the right of entry to all establishments and the right to examine all records, cash, stores and other properties belonging to or appertaining to the finances of the Council and to carry out such checks and require and receive such explanations as considered necessary.
- 9.1.3 Following completion of each audit a written report shall be submitted to the Head of Department, who must determine and notify the designated Head of Internal Audit of the action they propose to take.
- 9.1.4 In planning the conduct of these audits the designated Head of Internal Audit shall arrange, as far as possible, for the views of the Head of Department to be taken into account.
- 9.1.5 Heads of Department **must** report **any financial irregularity or suspected irregularity**, including those affecting cash, stores or property to the designated Head of Internal Audit **immediately the irregularity or suspected irregularity becomes known**.

9.2 Accounting Arrangements

- 9.2.1 The Chief Financial Officer shall determine, provide, and manage the Council's Financial Information System.
- 9.2.2 All financial returns to Government, the Council's Statement of Accounts and all budget monitoring reports will be prepared from the information in the Council's Financial Information System or such other system that the Chief Financial Officer has agreed can be used to provide the information.
- 9.2.3 Each Head of Department is required to obtain the approval of the Chief Financial Officer for all accounting procedures and records that are proposed. This shall include any computer-based systems that store, utilise or process any financial information and must be capable of interfacing and/or integrating with the Council's Financial Information System.
- 9.2.4 All Heads of Department shall ensure that their approved accounting procedures and records are reconciled to the Council's Financial Information System and that adequate records are maintained to demonstrate this.
- 9.2.5 In this respect each Head of Department shall provide the Chief Financial Officer with details of all authorised officers within their department, setting out matters that those officers are authorised to deal with and, where appropriate, the financial limits and shall notify the Chief Financial Officer of those officers' appointment or departure.

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- 9.2.6 Any officer having in their charge money, equipment, stores or other property for which they are accountable to the Council shall take all reasonable precautions for its safe custody and proper use.

9.3 Responsibilities for Computer System Legislation

- 9.3.1 All Heads of Department whose services utilise computer installations and software shall be responsible for the security and privacy of all data held in those installations, and for ensuring compliance with all relevant legislation in respect of the licensing and use of that software. This includes taking all necessary action to safeguard against computer viruses or other form of data corruption.
- 9.3.2 Heads of Department shall also ensure that all necessary registrations are made under the Data Protection Act and that those registrations are regularly monitored and updated where necessary. Staff shall also be reminded of their individual responsibilities under this Act and the Freedom of Information Act.
- 9.3.3 Similarly, each Head of Department shall ensure that all other relevant computer system legislation is complied with, in particular copyright and patents acts concerning the use of software, scanners and other electronic storage means, for which the appropriate (licence) fee has not been paid, and the Computer Misuse Act.

9.4 Orders for Work, Goods and Services

- 9.4.1 All official orders and associated documents shall bear the name and logo of Tendring District Council and shall be in an agreed standard format and produced by the approved ordering system. They shall be issued only by Heads of Department and their authorised staff and be in accordance with these Financial Procedure Rules and the Procurement Procedure Rules.

9.5 Certification and Payment of Invoices

- 9.5.1 Invoices for payment by the Council shall not be made out by any officer of the Council, other than in circumstances agreed in advance with the Chief Financial Officer, nor shall an officer add any item to an invoice rendered by a supplier.
- 9.5.2 The reasons for any amendment to an invoice shall be recorded and retained in a safe and secure manner in accordance with the directions issued by the Chief Financial Officer.
- 9.5.3 Any Head of Department who issues an order shall be responsible for ensuring the examination, verification and certification of the relative invoice(s), except in circumstances as determined by the Chief Financial Officer, and for correctly and promptly recording on the Council's approved ordering system the receipt of goods, works, or services.

- 9.5.4** Before certifying an invoice the certifying officer must be satisfied, within the tolerances specified by the Chief Financial Officer, that:
- (a) The invoice conforms with the official order
 - (b) That the goods have been received, examined and approved for quality and quantity and that any services have been rendered or any work done satisfactorily and receipted on the approved order system.
 - (c) That the prices charged are correct
 - (d) That the expenditure is, to the best of the certifying officer's belief, lawful and has been duly authorised
 - (e) That no invoice for the same goods, service or work has previously been passed for payment
 - (f) The invoice is arithmetically correct
 - (g) That the expenditure has been properly analysed to the appropriate accounting code(s)
 - (h) That the allocation of VAT has been correctly made
 - (i) That the expenditure can be financed from within the appropriate approved estimate

Where a grant has been approved, the above should be followed by the certifying officer where appropriate.

- 9.5.5** It is the responsibility of a Head of Department receiving goods or materials to ensure that appropriate entries are made in inventories, stores or other records.
- 9.5.6** Wherever practicable the respective duties of ordering, receiving and certifying the relevant invoices for payment of goods, services or work shall not be performed by one and the same officer, and in no case shall an invoice be finally certified for payment by an officer assuming personal control over the goods, works or services to which the invoice relates.
- 9.5.7** The Chief Financial Officer shall examine, so far as he/she considers necessary, invoices passed for payment and shall make all such enquiries and receive all such information and explanations, as shall be required.
- 9.5.8** All Heads of Department shall ensure that the Council's prompt payment of invoice are met.

9.6 Income

- 9.6.1** All arrangements for the collection of monies due to the Council and the issuing of debtor invoices shall be as directed by the Chief Financial Officer.
- 9.6.2** All monies received shall, without delay, either be paid in as instructed by the Chief Financial Officer be banked in the Council's name to the bank accounts designated by the Chief Financial Officer.
- 9.6.3** Heads of Department must ensure that where an invoice is to be issued for sums due to the Council, that the invoice is issued immediately the sum due is known. Where a large sum is likely to be due, interim invoices are to be issued.
- 9.6.4** Where an invoice is to be issued the Head of Department issuing the invoice must ensure that the invoice is correct and the sum demanded is properly due to the Council and meets all legal obligations especially those required to enforce non-payment if such circumstances arise.
- 9.6.5** Each officer who banks money to the credit of the Council's bank account shall enter on the paying-in slip, and on the duplicate thereof, particulars of the payment. In the case of each cheque paid in he/she shall record:-
- (a) The amount of the cheque
 - (b) A reference which shall connect the cheque with the debt or debts in respect of which it was received
- 9.6.6** Where monies are due to the Council under contracts, leases, tenancy agreements, agreements for the sale of property and any other agreements entered into which involve the receipt of money by the Council, the Head of Department shall provide the Chief Financial Officer with all relevant particulars, as soon as possible.
- 9.6.7** Each Head of Department who, under arrangements approved by the Chief Financial Officer, is responsible for the collection or recovery of sums due to the Council shall take prompt action to expedite collection. This action shall comply with the Council's debt recovery procedures as determined and directed by the Chief Financial Officer.
- 9.6.8** Official receipt forms, receipt books, tickets and other documents of a similar nature used to collect revenue due to the Council shall be in a format approved by the Chief Financial Officer.
- 9.6.9** Heads of Department stocking such stationery shall ensure that appropriate security is maintained at all times.
- 9.6.10** Each officer authorised to receive monies on behalf of the Council shall do so only on official receipt forms, tickets or other documents of a similar nature as approved by the Chief Financial Officer, except in respect of payments by
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cheque or drafts where no receipt is requested, or for payments received by the Head of Governance and Legal Services for which he/she is satisfied it is appropriate to give a receipt otherwise than in the official form.

9.6.11 Money received shall not be used to cash personal or any other cheques whatsoever except where, due to exceptional circumstances, the Chief Financial Officer has given prior approval.

9.6.12 Where payment is made to the Council by debit or credit card the Head of Department accepting payment must ensure that all sums due to the Council by the Credit Card or Debit Card Company is received in full by the Council and reconciled.

9.7 Remuneration, Gratuities and Allowances

9.7.1 Heads of Department shall provide the Chief Financial Officer with all appropriate details to enable the payment of all salaries, wages, compensation, gratuities and other emoluments in respect of employees or former employees.

(a) The Head of People, Performance & Projects must notify the Chief Financial Officer immediately of all appointments, dismissals, resignations, suspensions, transfers and changes in the rate of remuneration of employees (other than normal increments).

(b) Heads of Department shall notify the Chief Financial Officer of all overtime or additional hours worked for which payment is to be made and all absences through sickness or other absences affecting the payment due to employees.

(c) Claims for travelling and Subsistence allowances shall be assessed monthly by Heads of Department who, within four working days of the end of each month shall notify the Chief Financial Officer of amounts due to be paid.

(d) Each Head of Department shall notify the Chief Financial Officer of the names and specimen signatures of those officers who are authorised to certify salaries, wages and allowances documents.

9.7.2 The Chief Financial Officer shall examine, so far as he/she considers necessary, all claims for payment of salaries, wages or allowances and subject to that examination, shall make all such payments which are certified by the appropriate Head of Department or other officer authorised by them in writing or in an electronic format approved by the Chief Financial Officer.

9.8 Petty Cash and Other Imprest Accounts

9.8.1 The Chief Financial Officer shall make imprest advances to Heads of Department, where appropriate, for the purpose of defraying petty expenses.

The use of any alternative means of meeting expenses shall be agreed, in advance, with the Chief Financial Officer.

9.8.2 The amount of each advance and the system of operation shall be determined in consultation between the Head of Department and the Chief Financial Officer.

9.8.3 Whenever an Officer leaves the employment of the Council or ceases to be entitled to hold an imprest advance he/she shall account to the Chief Financial Officer for the unexpended balance of their advance.

9.8.4 All procurements made using a petty cash imprest shall be in accordance with the Procurement Procedure Rules. All procurements must be evidenced by the production, and retention with the petty cash imprest records, of a valid receipt. Where VAT is to be accounted for a valid VAT receipt shall be obtained.

10. WRITE-OFFS OF SUMS DUE TO THE COUNCIL

10.1 The Council has a duty to collect all sums due to it. However there are occasions when it is not possible or cost effective to proceed with recovery of the debt. In these cases the debt needs to be written off and the following conditions, delegations, and limits apply. The Head of Department must be reasonably satisfied that recovery action / options have been 'exhausted' before proceeding to seek a write off of any debt.

10.2 Where a debt has been raised in error or is incorrectly calculated then the debt should be either reduced or cancelled by the issue of a credit note or similar reversal of the original charge. Such reversal must be authorised by a responsible officer other than the one who raised the original debt.

10.3 All write-offs of debt must be set against the budget to which the original income was credited or an appropriate provision if one has been made.

10.4 If the write-off will result in that income budget not being achieved the Head of Department must advise the Chief Financial Officer immediately.

10.5 That part of any debt written off, for which provision has been made in the Council's bad debt provision at the end of the previous financial year can be written off without further action as set out in 5.4.4 (b) of these financial procedure rules

10.6 If the Chief Financial Officer advises that the whole or part of the debt was not included in the Council's bad debt provision at the end of the previous financial year then the Head of Department must apply a virement or seek a supplementary estimate in accordance with section 5 of these Financial Procedure Rules to finance that part of the debt not provided for within that provision.

10.7 The authority to write off debts is delegated by the Council as follows:

Item For Potential Write Off	Authority To Write Off Delegated To
<p>Debt due to the Council where the amount owing is a Council Tax, or NNDR, <u>Housing Benefit or Rent</u> debt which is either:-</p> <ol style="list-style-type: none"> 1. A ceased account and the debt is equal to the amount charged as summons costs making the debt uneconomical to collect, or 2. Not a ceased account but the amount owing is less than the cost of second class postage 3. The debt due to the Council is Housing Benefit and the amount owing is less than £10 <p><i>In respect of 1. and 3. above, there should be no other 'live' Council Tax or NNDR account in the name of the specific debtor.</i></p>	<p><u>Relevant</u> Corporate Director (Operational Services)</p>

Item For Potential Write Off	Authority To Write Off Delegated To
<p>Specific <u>Debtors</u> where :-</p> <ol style="list-style-type: none"> (a) There is a personal bankruptcy, company insolvency, Individual/ Company Voluntary Arrangement or a Debt Relief Order. (b) The <u>Recovery Enforcement Agent</u> Bailiff has been unable to obtain payment and has returned the debt as "nulla bona" <u>and insufficient assets to satisfy the debt.</u> (c) The company has been struck off by Companies House. (d) The death of a debtor who dies insolvent and the claim against the estate has been made. (e) Death of a debtor who has died with 	<p>The Chief Financial Officer on receipt of a written report from the appropriate Head(s) of Department.</p> <p>Where joint / several liability applies to any of the criteria listed, the criteria applied must be applicable to all parties.</p>

<p>no executor with whom to register a claim.</p> <p>(f) Council Tax Debts – Removal outside the jurisdiction of the Magistrates Courts of the debtor.</p> <p>(g) All other debts – Removal outside the UK of the debtor.</p> <p>(h) The remission of debts by the Magistrates or other court.</p> <p>(i) The committal to prison of the debtor in respect of the non-payment of the debt or associated debt.</p> <p>(j) The abscondment of a debtor where a tracing or other appropriate agency has failed to make a trace.</p>	
<p>ANY OTHER DEBTS</p>	
<p>Individual debts not exceeding £2,000 <u>£5,000</u></p>	<p>The Chief Financial Officer on receipt of a written report from the appropriate Head(s) of Department which should where reasonably practical identify if the specific debtor is still receiving goods or services from the Council.</p>
<p>Individual debts exceeding £2,000 <u>£5,000</u> but below £25,000</p>	<p>The Finance and Revenues and Benefits Portfolio Holder on receipt of a written joint report from the appropriate Head(s) of Department, the Chief Financial Officer and the Head of Governance and Legal Services which should include a recommendation as to how the write-off will be financed and should where reasonably practical identify if the specific debtor is still receiving goods or services from the Council.</p>
<p>Individual Debts of £25,000 and above</p>	<p>The Cabinet on receipt of a written joint report from the appropriate Head(s) of Department, the Chief Financial Officer and the Head of Governance and Legal Services which should include a recommendation as to how the write-off will</p>

	be financed and should where reasonably practical identify if the specific debtor is still receiving goods or services from the Council.
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11. INSURANCE

- 11.1 The Chief Financial Officer shall be responsible for the provision of the Council's insurances. This shall include authority to accept annual renewal terms from the appointed insurer subject to such terms being within the terms of the original contract and the approved budget available. Heads of Department shall be responsible for providing the Chief Financial Officer with all necessary information to do this in the most effective manner.
- 11.2 Each Head of Department shall give prompt notification to the Chief Financial Officer of all new risks, properties or vehicles which require to be insured, and of any alterations affecting existing insurances, indicating the amount or variation in cover required.
- 11.3 Each Head of Department shall also notify the Chief Financial Officer of any other risk which in their opinion should be included within the Council's insurance cover arrangements.
- 11.4 Heads of Department shall, as soon as they become aware of such circumstances, notify the Chief Financial Officer in writing of any claim or likely claim. Heads of Department shall not admit any liability or take any action that may commit the Council or its insurers in respect of any potential or actual claim.
- 11.5 Each Head of Department shall consult the Head of Governance and Legal Services regarding the terms of any indemnity which the Council has been requested to give before authority is sought for the giving of the indemnity.
- 11.6 Each Head of Department shall consult the Chief Financial Officer in any case where, in their opinion, the nature or situation of any equipment, stores or other property for which they are accountable to the Council requires the provision of special security arrangements.
- 11.7 The Chief Financial Officer shall, periodically, provide Heads of Department with full details of the risks insured by the Council so that they may check and review the items for which they are responsible.

12. INVENTORIES STOCKS AND STORES

- 12.1 Inventories shall be properly maintained by Heads of Department to record appropriate items in the possession of the Council regardless of whether an item has been leased, rented, borrowed or purchased.

- 12.1.1** All assets of the Council shall be recorded in inventories or registers maintained by Heads of Department in a form approved by the Chief Financial Officer and in accordance with procedures agreed with him/her.
- 12.1.2** Separate registers will be maintained by the Director of Corporate Services for:
- (a) Land and Buildings
 - (b) IT equipment
- 12.1.3** The level or value of items to be listed shall be determined by each Head of Department in consultation with the Chief Financial Officer.
- 12.1.4** Heads of Department are responsible for the checking and certifying of inventories within their control at least once a year to ensure the security of all property under the Council's control.
- 12.1.5** The Council's property, equipment and other facilities shall not be removed other than in the ordinary course of the Council's business nor shall they be used for any other purpose. Heads of Department should ensure that where equipment is removed from Council premises to be used for work purposes elsewhere, including officers' homes, that an appropriate record is maintained of such movements and that adequate insurance cover exists (including whilst in transit).
- 12.1.6** Heads of Department shall ensure that a record is maintained, in a format approved by the Chief Financial Officer, of all items written off. This record shall detail date, description, reason and include appropriate authorisation.
- 12.2** Where appropriate a Head of Department shall notify the Chief Financial Officer of any acquisition, disposal or change of an item, which is included in the Authority's balance sheet or where changes in the Council's insurance cover may be necessary.
- 12.3 Stocks And Stores**
- 12.3.1** All records of stocks and stores shall be in a form approved by the Chief Financial Officer.
- 12.3.2** Procedures for the receipt and issue of stocks and stores shall be approved by the Chief Financial Officer.
- 12.3.3** Each Head of Department shall be responsible for the custody and physical control of all stocks and stores under their control.
- 12.3.4** Each Head of Department shall arrange for continuous stock checking of stocks in hand and shall ensure that all items of stocks are checked at least once in every financial year.
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12.3.5 Each Head of Department shall furnish the Chief Financial Officer with a certificate showing the value of stock and stores in hand under their control as at 31 March in each year in accordance with the timetable necessary to produce the Statement of Accounts by the statutory deadline.

12.3.6 The relevant Corporate Director is authorised to approve the write off of an inventory item and adjusting stocks and stores accounts up to £250 in respect of any one item or £1,250 per annum in consultation with the Chief Financial Officer.

12.4 Disposal of Stocks and Stores and Items owned or managed by the Council

12.4.1 Where a Head of Department identifies items of equipment on an inventory or stocks or stores no longer required and they are satisfied that the items/stores are of no use to other Heads of Department then they shall arrange for disposal which can include being offered for sale to staff / Council Members where the sale is based on the highest price offered.

Only then:

If the total estimated value of the items is in excess of £1,000 then disposal shall be by means of public auction or open tender

12.4.2 Whatever method of disposal is applied, where the value of the items to be disposed of needs to be written from the accounts, the cost shall be allocated to a separately identifiable write-off code provided by the Chief Financial Officer.

12.4.3 Income from any disposal shall similarly be identifiable using a code provided by the Chief Financial Officer

12.5 Where there is a net cost of disposal the Head of Department must finance the cost by virement or supplementary estimate in accordance with these Financial Procedure Rules.

13. BANKING ARRANGEMENTS

13.1 Only the Chief Financial Officer shall be authorised to open bank accounts for monies under the control of the Council and these shall be in the name of the Council. Day to day operation of bank accounts shall be determined by the Chief Financial Officer.

13.2 The conduct of the Council's business with their bankers shall be made by, or under arrangements approved by, the Chief Financial Officer.

- 13.2.1 A bank account or accounts shall be maintained by the Council into which all monies received by the Council shall be paid. Withdrawals from these accounts and transfers from one account to another shall be made only on the authority of the Chief Financial Officer or other officer authorised by him/her in writing.
- 13.2.2 Payments made on the Council's behalf shall be made using BACS transfers wherever possible or otherwise by crossed cheques. The Chief Financial Officer, or other officer authorised by him/her in writing, may make alternative arrangements where they consider it necessary or appropriate, in the interest of the Council.
- 13.2.3 ~~Cheques drawn on banking accounts of the Council shall bear the pre-printed signature of the Chief Financial Officer.~~
- 13.2.4 Manual signatures of the Chief Financial Officer, or other officers authorised by him/her in writing, shall be required in accordance with arrangements determined by the Chief Financial Officer

14. INVESTMENTS, LOANS AND BORROWING

- 14.1 The Council has adopted the CIPFA Treasury Management in Public Services Code of Practice (The Code) 2009.
 - 14.1.1 All securities in the name of the Council and the title deeds of all property in the ownership of the Council shall be held in the custody of the Property Service
 - 14.1.2 This Council will create and maintain, as the cornerstones for effective treasury management:-
 - (a) A treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities.
 - (b) Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
 - 14.1.3 The contents of the policy statement and TMPs will follow the recommendations contained in the Code, subject only to amendment where necessary to reflect the particular circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key principles.
- 14.2 The Council will receive reports on its treasury management policies, practices and activities as follows:-

- 14.2.1** Each year in accordance with statutory requirements and before the start of the forthcoming year Full Council will, following a recommendation by Cabinet and consideration by Corporate Management Scrutiny Committee, approve an Annual Treasury Strategy for the forthcoming year. The Annual Treasury Strategy will include an investment strategy and a borrowing strategy. The investment strategy will include a schedule of those instruments the Council will consider using for investments in the forthcoming financial year. The borrowing strategy will include a statement of the anticipated borrowing requirement for the following financial year. The Annual Treasury Strategy will also include the prudential and treasury indicators for the forthcoming year and at least the subsequent 2 years.
- 14.2.2** The Annual Treasury Strategy will be reviewed as necessary throughout the year. As a minimum the Chief Financial Officer will review the strategy as at the end of September and report the findings of that review to Cabinet, which may at its discretion, forward the report to Council.
- 14.2.3** The Chief Financial Officer will report to Cabinet at the earliest opportunity after 31 March in any year on the Council's Treasury Management performance and activities in the preceding financial year.
- 14.2.4** The Chief Financial Officer will report during the course of the financial year on the Council's Treasury Management performance and activities. Such reports to be considered by Cabinet and the Corporate Management Scrutiny Committee.
- 14.3** The Chief Financial Officer shall, in accordance with the Council's TMPs and the Council's approved Annual Treasury Strategy, be authorised to
- (a) Borrow sums of money.
 - (b) Reschedule or restructure the existing debt portfolio.
 - (c) Invest surplus funds.
 - (d) Determine those counterparties and countries that meet the Council's credit rating criteria.
 - (e) Determine the money brokers the Council will use for temporary borrowing and investment and long term borrowing.
 - (f) Amend as necessary and in accordance with the Council's Treasury Management Practices those schedules set out therein.
 - (g) Take urgent action to safeguard the Council's investments, including where necessary temporarily breaching the conditions set out in the TMP's. The Finance and Revenues and Benefits Portfolio Holder is to be advised of the action taken as soon as practicable.
- 14.4** The execution and administration of treasury management decisions is the responsibility of the Chief Financial Officer, who will act in accordance with the Council's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
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(Cream)

15. LAND AND PROPERTY TRANSACTIONS

- 15.1 All land and property transactions must be undertaken in accordance with the Council's **Property Dealing Procedure**.
- 15.2 Any amendments to the **Property Dealing Procedure** will be made by Full Council as constitutional amendments.

16. EXTERNAL FUNDING

- 16.1 External funding refers to applications to external organisations, including Government departments and agencies for the funding of expenditure. The expenditure may be for the Council's own services or for those services provided in partnership with other public bodies, voluntary sector bodies or private sector organisations.
- 16.2 In any partnership arrangement the Chief Financial Officer must ensure that there are adequate controls in place in respect of the Council's own financial liabilities to the partnership and that there are adequate controls in place for the partnership itself.
- 16.3 Any application for external funding to finance or contribute to the financing of a function, investment or activity for which the Council is either the sole provider or is the accountable body must be approved by Management Team following consultation with the Chief Financial Officer to ensure the external funding being sought is in accordance with the Council's priorities and not an additional impact on resources. Such approval will be recorded with an Officer Decision.
- 16.4 When making application for payment of funds from the body awarding the grant it is a statutory obligation that all figures in the claim be supported by adequate, and comprehensive working papers. All such working papers will be in a format and detail as determined by the Chief Financial Officer.

17. PROCEEDS OF CRIME ACT 2002 (ANTI-MONEY LAUNDERING)

- 17.1 The Proceeds of Crime Act 2002 sets out some of the obligations placed on individuals and organisations to report known or suspected money-laundering activities. This means that both the Council itself and individual officers within the Council are bound by this act. All employees of the Council must report any suspicions. Failure to do so is a criminal offence.
- 17.2 It is the Council's policy is to do all it can to prevent, wherever possible, the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur and to comply with all legal and regulatory requirements especially with regard to reporting of actual or suspected cases.

- 17.3** All Heads of Department will ensure that all staff for whom they are responsible and who are involved in financial transactions are aware of the Council's and their own obligations in respect of money laundering.
- 17.4** The Chief Financial Officer, or officer(s) nominated by him/her will be responsible for anti-money laundering measures within the Council to ensure compliance with the Proceeds of Crime Act 2002 and fulfil the Council's policy in respect of money laundering.
- 17.5** The following instances could be an attempt at money laundering and should raise suspicions and must be reported to the Chief Financial Officer or nominated officer(s). The Chief Financial Officer will determine the limits and procedures to be followed in the event of these activities arising.
- 17.5.1** Payment in cash of an unusually large sum of money.
- 17.5.2** Payment in cash of a sum in excess of the amount owing; particularly if a double payment is made, followed by a request for a non-cash refund.
- 17.5.3** The use of Trusts or offshore funds for handling proceeds or settlement of a transaction should be questioned.
- 17.5.4** Care should be exercised and further enquiries may be needed in the following instances.
- (a) A third party intermediary becomes involved in a transaction
 - (b) The identity of a third party is hard to establish or is undisclosed
 - (c) A party is evasive as to the source or destiny of funds
 - (d) A third party uses a vehicle company and the ultimate ownership is concealed or difficult to establish.

18. STATE AID

- 18.1** State aid rules are in place to protect the European Community free market by ensuring state resources are not used to distort competition or give an unfair advantage. State aid rules can apply to voluntary and non-profit making organisations. State aid has four characteristics:
- (a) It is granted by the State or through state resources (this includes local authorities);
 - (b) It favours certain undertakings, or the production of certain goods (this can include voluntary and non-profit making organisations if they are engaged in economic activity);

(c) It distorts or threatens to distort competition;

(d) It affects trade between member states;

If all four characteristics are present the state aid is prohibited, subject to certain exemptions. State aid takes many forms, it relates to a financial advantage of any kind.

18.2 Any support given to organisations must not breach state aid rules.

18.3 Issues regarding state aid must be checked prior to the award of support and advice sought as appropriate (guidance is available from the Department for Business Enterprise and Regulatory Reform).

18.4 Where state aid rules are considered to apply appropriate approvals must be obtained from the European Commission prior to the award of the support unless specific regulations do not require advance approval, for example they are covered by a block exemption (limits apply) or the de minimis regulations.

18.5 If state aid is being given under a block exemption the aid must comply with every condition stated in the block exemption regulation and appropriate procedures for notifying the Commission of the award must be followed.

18.6 If state aid is being given under the de minimis regulation all relevant procedures must be followed, in particular;

(a) the recipient must be informed of the de minimis nature of the grant.

(b) full information must be obtained from the recipient about other de minimis aid received during the previous three years.

(c) new de minimis aid must only be granted if it will not raise the total aid received in the relevant period of three years over the de minimis limit applicable at the time.

(d) all records of de minimis aid paid must be kept in accordance with the regulations and for the relevant minimum time period.

18.7 All aid given must be notified to the Chief Financial Officer Financial records must separately identify any aid given.

SECTION 1 – SECTION SUMMARY**1.0 Procurement rules are set out across the following sections:**

- SECTION 1 – General Requirements
- SECTION 2 – Exemptions from Procurement Rules
- SECTION 3 – The Procurement Framework and Central Purchasing
- SECTION 4 – Quotation and Tenders
 - 4.1 General Requirements
 - 4.2 Quotations (*Procurement up to £50,000*)
 - 4.3 Tenders (*Procurement over £50,000*)
 - 4.3.1 Selecting Suppliers
 - 4.3.2 Open Competitive Tenders
 - 4.3.3 Selective Tenders
 - 4.3.4 The number of suppliers invited to tender
 - 4.3.5 Going out to Tender
 - 4.3.6 Receipt of Tenders
 - 4.3.7 Opening of Tenders
 - 4.3.8 Acceptance of Tenders
 - 4.3.9 Tender Evaluation Panel
- SECTION 5 – Other Procurement Rules
- SECTION 6 – Official Order Rules

SECTION 1 – GENERAL REQUIREMENTS**1.1 Before undertaking any procurement, Departments should satisfy themselves that**

- The works, goods or services are required and a need can be demonstrated.
- There are no reasonable alternatives e.g. sharing or utilising spare capacity / inventories etc elsewhere within the Council.
- Where relevant, they have considered the requirements of the Public Services (Social Value) Act 2012 and have recorded / evidenced the outcomes against the associated requirements:-
 - ❖ *how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area.*
 - ❖ *how, in conducting the process of procurement, it might act with a view to securing that improvement.*

Procurement Procedure Rules apply to the procurement of ALL goods, works or services. The Council's approved computerised ordering system will be used for all procurement, except where otherwise detailed within these Procurement Procedure Rules.

Procurement can only take place where budgetary provision is available to fund the goods, works or services required (See Financial Procedure Rules).

Where the Council contracts with a third party (who is not an officer of this Council) to supervise a contract on its behalf, the Corporate Director / Head of Department entering into that contract will be required to ensure that the third party complies with the requirements of these Procurement Procedure Rules.

Where the Council enters into or administers a contract either as an agent, or on behalf of another public body the Council's Procurement Procedure Rules will apply unless written instructions have been received by the Council to the contrary.

These Procurement Procedure Rules will not apply where statute or subordinate legislation prescribes otherwise.

Delegation relating to the engagement of consultancy services is set out separately within the 'Common to All Portfolio Holders' section of the constitution. However, for completeness, Corporate Directors / Heads of Department only have delegated authority for the engagement of Consultancy services or Specialist Professional advice up to the value of £15,000 and procurement rules must be followed. For schemes where fees are expected to exceed £15,000 consultation with the Portfolio Holder or Committee Chairman is required.

Procurement within the Council is coordinated by Finance and Procurement Services and in all cases where catalogues or other pre-negotiated approaches are not used, then consultation with the Finance and Procurement Service should be undertaken to identify potential alternative options or additional procurement opportunities.

Where building works form part of the procurement, then it is expected that Departments will discuss their requirements with the internal surveyor as appropriate.

1.2 Use of Local Suppliers

All Procurement should be in line with the Council's Procurement Strategy which includes the recognition of the use of local suppliers and providing a fair basis for them to compete for the provision of goods, works and service required by the Council.

SECTION 2 – EXEMPTION FROM PROCUREMENT RULES

- 2.1 Corporate Directors / Heads of Department shall be exempt from the need to obtain competitive quotations / prices where any of the following circumstances apply: -
- (a) The goods or services are procured from an in-house service.
 - (b) The goods are proprietary items of which there is only one supplier, or are sold by all suppliers at a fixed price.
 - (c) The matter is one of urgency as determined by the appropriate Corporate Director / Head of Department following consultation with the responsible Portfolio Holder or the Leader of the Council.

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- (d) The contractor or supplier is specified for works to this Council for which an external client is making payment.
 - (d) Where the work is of a specialist nature and the Corporate Director / Head of Department can demonstrate that it is not possible to obtain more than one quotation or tender.
 - (e) For the engagement of Counsel by the Head of Governance and Legal Services.
 - (f) Where a partnership arrangement has been entered into with a contractor or a supplier as a result of competitive tendering, and the proposed procurement is within or related to the documented scope of that partnership arrangement. In such cases the Corporate Director / Head of Department must be able to demonstrate that the proposed procurement through such a partnership arrangement is advantageous to the Council (e.g. continuity of service or product supply, or extension of existing arrangements). The documentation to be issued will take the form of a contract variation as determined in the partnership contract and/or via the Official Ordering rules or if appropriate the documentation to be issued will be as required by Procurement Procedure Rules for the value of the procurement. *(EU Limits must be observed to ensure no thresholds are exceeded)*
 - (g) For purchases made from petty cash.

In all cases where an exemption is applied the Corporate Director / Head of Department shall maintain a record to evidence this.

2.2 Further exemption from Procurement Procedure Rules may be sought where a Head of Department can demonstrate that exemption is justified by special circumstances.

- (a) Where no specific exemption is provided above:
 - Where the value of the contract or procurement is estimated to be less than £50,000 exemption may be granted by the Chief Financial Officer in consultation with the Finance and Transformation Portfolio Holder.
 - Where the total value of the contract, or procurement, is estimated to be between £50,000 and £250,000 the Finance and Revenues and Benefits Portfolio Holder may, on the recommendation of the Chief Financial Officer, grant exemption. In such cases a formal Portfolio Holder decision must be made.
 - Where the total contract, or procurement, is estimated to exceed £250,000, the Cabinet, or a Committee may, on the recommendation of the Chief Financial Officer, grant exemption. In such cases a record of the exemption must be made in the minutes of the Cabinet, or Committee.

2.3 **Alternative / Indirect Service Delivery**

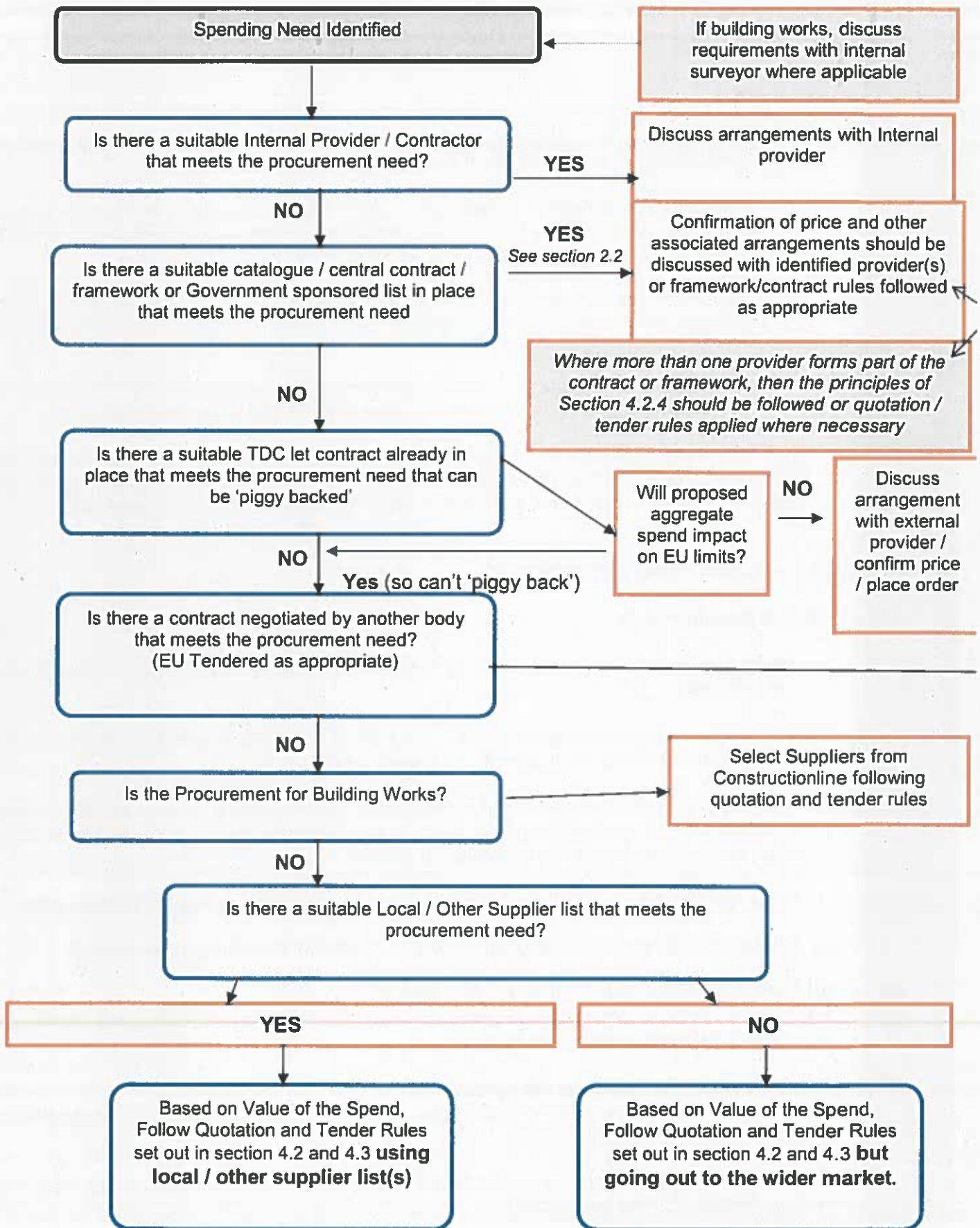
Where the Council seeks to implement alternative delivery options, for whole or parts of services, those procurements will be achieved in accordance with the Council's Procurement Strategy. Such procurements may not necessarily be able to be undertaken within

Procurement Procedure Rules given the number and combination of different procurement routes and processes that may be applicable, but must: -

- (i) Comply with all relevant statutory provisions including European Procurement Directives
- (ii) Follow a documented process determined by the responsible Corporate Director / Head of Department, the Chief Financial Officer and the Head of Governance and Legal Services , and agreed by Management Team and the Cabinet, in advance of the process. The process must demonstrate compliance with the principals of openness and accountability.
- (iii) Be capable of providing clear probity trails, particularly in respect of the opening and evaluation of any associated bids or tenders.
- (iv) Comply with any Procurement Procedure Rules that remain applicable, or offer alternatives that meet the requirements of the Chief Financial Officer and the Head of Governance and Legal Services.

SECTION 3 – THE PROCUREMENT FRAMEWORK

- 3.1** All procurement is expected to follow the following process / framework taking each step in sequence noting that the overall value of procurement is not the initial consideration. Finance and Procurement Services should be consulted at the relevant stage of the process as necessary.



3.2 Central Purchasing

This includes:

- Central Contracts – Where the Council has taken advantage of negotiating with an external provider for the supply of goods, works or services.
- Partnership Agreements – Where the Council has decided to enter into partnership agreements either directly with other public bodies, or as part of a consortium of public bodies, for the procurement of goods, works or services.

Procurement Procedure Rules will be followed to select the supplier / contractor to be used for central contracts or if this Council is undertaking the tendering process to select the supplier / contractor under a partnership approach.

- Specialist call-off contracts – Where contracts have been tendered / negotiated by other public bodies and include the option for other Public Bodies to participate.

If the use of any such contract is not considered to offer Value for Money, then the relevant Corporate Director / Head of Department should consult with Finance and Procurement Services in order to identify the most appropriate / advantageous procurement route.

SECTION 4 – QUOTATIONS AND TENDERS

4.1 General Requirements

- (a) Disaggregation of any procurement, in order to apply a lower level to each of the parts is not permitted.
- (b) Where any procurement spans a number of periods, or years, the total estimated cost will be the cumulative total of all periods, or years covered.
- (c) The use of electronic 'portals' or other electronic means must be used to widely advertise goods, works or services required by the Council where appropriate, to ensure equal opportunity between local and non local suppliers.
- (d) Procurement up to £50,000 (excluding VAT) – Quotation Rules Apply (Section 4.2).
- (e) Procurement over £50,000 (excluding VAT) – Tender Rules Apply (Section 4.3).

4.2 **QUOTATIONS** (Procurement up to £50,000 excluding VAT)

After the appropriate procurement route has been identified by following the framework set out in 3.1 above and if appropriate:

4.2.1 Procurement up to £10,000 (excluding VAT)

Where procurement is less than £2,500 then value for money should be demonstrated by obtaining two prices where possible.

Where procurement is in excess of £2,500, the seeking of two prices would be expected, with evidence retained by the department.

4.2.2 Procurement over £10,000, but not expected to exceed £50,000 (excluding VAT)

A minimum of three quotations shall be sought by the department in addition to the production of a documented specification to include:

- (i) Identification of the procurement of goods, works or services required.
- (ii) Identification of any periods over which the goods, works, or services are to be provided. In appropriate cases, provide for the payment of liquidated damages by a contractor where there is a failure to complete the contract within the period(s) specified.
- (iii) Provision for the retention of stated sums / percentages and the retention period to be applied where appropriate.
- (iv) Provision for the contractor to provide a performance bond, or parent company guarantee where appropriate.
- (v) ~~Identification of any other terms and conditions the relevant department considers necessary including a deadline for receipt of quotations.~~ “unless an exemption is obtained from the Head of Finance, Revenues and Benefits or the Head of Governance and Legal Services, the Council Standard Contract for Services must be used when seeking quotations. When seeking an exemption, the relevant department will identify why any additional or replacement terms and conditions are necessary for the service being sought”.
- (vi) All contractors or suppliers asked to provide a quotation must be advised that the quotations must be sent to a specified e-mail address, and that quotations e-mailed to any other Council e-mail address will be disqualified.

4.2.3 All quotations shall be sought electronically:

The responsible Corporate Director / Head of Department shall arrange for a secure e-mail address to be set up on the Council's e-mail system. Access to this e-mail address must not be available until the time of tender opening. Access to the secure e-mail address shall be controlled by an independent senior member of staff not involved with the project or tender process or a member of the Procurement Service.

Where the lowest quotation received exceeds £50,000 (excluding VAT), Tender Rules shall be followed from that stage as if tenders had been sought.

If the value of the lowest quotation received exceeds the limit of the quotation category applied, then the Corporate Director / Head of Department must seek sufficient further quotations applicable to the level of the value of that lowest quotation.

- 4.2.4** The Corporate Director / Head of Department is under no obligation to accept any of the quotations. However where they are prepared to accept a quotation, the most financially advantageous quotation should be accepted unless other factors such as quality, local supply, performance and deliverability are also considered as part of the selection process. Evidence is expected to be retained to support such decisions where procurement exceeds £10,000.

4.3 TENDERS (*Procurement greater than £50,000 excluding VAT*)

After the appropriate procurement route has been identified by following the framework set out in 3.1 above and if appropriate:

4.3.1 Selection of Suppliers

Tenders Over European Procurement Regulation Thresholds

- (a) Where the total estimated value of a proposed contract over its term is expected to exceed the appropriate current European Procurement regulation thresholds, such regulations will take precedence over these tender procedures.

Tenders Under European Procurement Regulation Thresholds

The appropriate Corporate Director / Head of Department will determine whether to use **Open Competitive Tendering** or **Selective Tendering** as set out separately below

4.3.2 Open Competitive Tenders

A notice inviting tenders shall be prepared which should:-

- (i) Set out the nature and purpose of the contract and specify that expressions of interest are sought and set out details of where further information / tender documents can be obtained
- (ii) Be advertised via the Council's electronic 'portal' that is open to all potential suppliers or alternatively in at least one newspaper or journal circulating among suppliers / contractors who undertake such contracts. The notice period to be allowed for potential suppliers to request additional tender documentation should be determined by the Corporate Director / Head of Department.

Following the expiry of the notice period, Tender documentation will be sent to interested parties in accordance with **SECTION 4.3.5**.

4.3.3 Selective Tendering

Where the Council can access a central / framework arrangement, government sponsored list or a contract negotiated by another public body as set out in **SECTION 3.2** above, more than one supplier may be eligible under such arrangements. If this is the case tender documentation should be sent to the relevant parties in accordance with **SECTION 4.3.5**. In all other cases the following process should be undertaken:

A public notice shall be prepared and advertised via the Council's electronic 'portal' that is open to all potential suppliers or alternatively placed in at least one newspaper or journal circulating among suppliers / contractors who undertake such contracts.

The notice shall: -

1. Specify details of the goods, works or services to be tendered.

2. Specify a time limit determined by the Corporate Director / Head of Department during which time potential suppliers can request that they be considered for inclusion in the associated tender process.
3. After expiry of the period specified in the public notice, the responsible Corporate Director/ Head of Department will undertake an evaluation of the suppliers. This evaluation may be subject to Tender Evaluation Panel review.
4. The responsible Corporate Director / Head of Department, and where appropriate the Tender Evaluation Panel, will in consultation with the appropriate Portfolio Holder or Chairman of the relevant Committee select those contractors suitable and capable to tender for the proposed contract.

Following the conclusion of the evaluation process, Tender documentation will be sent to interested parties in accordance with **SECTION 4.3.5** below:

4.3.4 The Number of Suppliers Invited to Tender

Invitations to tender shall ensure fair competition and where possible include a mix of local and non-local suppliers and shall be sent to: -

Not less than 4 contractors, with the maximum number as determined by the relevant Corporate Director / Head of Department. (Where less than 4 suitable contractors have been identified from the selection process, then all shall be invited to tender).

4.3.5 Going out to Tender

General Rules

Tenders must:

- (i) Specify the goods, works or services to be supplied, contract value, any discounts or other deductions that may apply, the period(s) during which the contract is to be performed and any other relevant terms and conditions that the responsible Corporate Director / Head of Department considers necessary.
- (ii) In appropriate cases, provide for the retention of stated sums / percentages and the retention period to be applied.
- (iii) In appropriate cases, provide for the payment of liquidated damages by a contractor where there is a failure to complete the contract within the period(s) specified.
- (iv) In appropriate cases, and at the discretion of the responsible Corporate Director / Head of Department, make provision requiring the contractor to provide a performance bond and / or a parent company guarantee.
- (v) Identify the basis on which the submitted tenders will be evaluated. (Where the evaluation is other than a straightforward financial evaluation based upon lowest Submitted price, the proposed evaluation process must be submitted to the Tender Evaluation Panel for agreement before tenders are sought).

- (vi) Tenders are required to be submitted on a form of tender prepared by, or agreed by, the Council which shall include a statement that the Council will not be bound to consider or accept any tender.
- (vii) Specify the closing date and time by which tenders must be received.
- (viii) Where a Corporate Director / Head of Department considers that the Council may benefit from the use of post tender negotiation, that officer shall ensure that such intention is included in the documentation submitted to tenderers and before seeking tenders agree a suitable procedure with the Tender Evaluation Panel.
- (ix) Specify social value considerations as appropriate.
- (x) (x) Unless an exemption is obtained from the Head of Finance, Revenues and Benefits or the Head of Governance and Legal Services, the Council's Standard Contract for Services must be used. The draft contract must be supplied as part of the tender exercise. When seeking an exemption, the relevant department will identify why an alternative model contract is required or any additional or replacement terms and conditions are necessary for the service being sought. Any other requirements that may be specified by the Head of Governance and Legal Services.

4.3.6 Receipt of Tenders

Unless determined otherwise by the responsible Corporate Director / Head of Department in consultation with Finance and Procurement Service, all tenders should be requested to be returned electronically by e-mail. However, whatever form of tender response is implemented, all tenders must be submitted in the same manner.

The responsible Corporate Director / Head of Department shall arrange for a secure e-mail address to be set up on the Council's e-mail system. Access to this e-mail address must not be available until the time of tender opening. Access to the secure e-mail address shall be controlled by an independent senior member of staff not involved with the project or tender process or a member of the Procurement Service.

Tender documentation sent to potential providers must state that tenders must only be sent to the specified e-mail address and that tenders e-mailed to any other Council e-mail address or after the closing date and time will be disqualified.

As soon as practical after the closing date and time, tenders must be submitted to the Corporate Director (Corporate Services) or their designated Officer who will arrange for the formal recording of the tenders.

In exceptional circumstances where hard copy tenders are requested, then the email requirement above is replaced by the tender returns being addressed to the Corporate Director (Corporate Services) or their designated Officer. Prospective tenderers must be instructed to clearly mark envelopes with the fact that it is a tender submission and that it is not to be opened until after the relevant closing date and time.

4.3.7 Opening of Tenders

The following rules apply to both electronic and hard copy submission of tenders:

- (a) All tenders shall be opened at the same time in the presence of: -
 - (i) ~~One of the Chairman or Vice Chairman of the Council, the Leader, (or failing him the Deputy Leader) the relevant Portfolio Holder or Committee Chairman or Vice Chairman or other Member(s) of the Council who shall have been authorised by the Council for the purpose~~
 - (ii) The Corporate Director (Corporate Services) or other officer to whom they has delegated responsibility
 - (iii) The responsible Corporate Director / Head of Department or other officer to whom they have delegated responsibility
 - (iv) The Chief Financial Officer, or other officer to whom they have delegated responsibility.
- (b) The Corporate Director (Corporate Services), or other officer to whom they have delegated responsibility, shall prepare and maintain a register of tenders received and shall record in that register the following particulars: -
 - (i) The closing date and time for receipt of tenders
 - (ii) The date upon which the tender was received
 - (iii) Where a tender is received after the closing time on the closing date and is considered or accepted, the reason(s) why it was considered or accepted
 - (iv) The name of the tenderer and the amount of the tender
 - (v) The date upon which the tenders received were opened
 - (vi) The Member present at the opening of the tenders shall immediately sign against the relevant particulars in the register as evidence of having been present when the tenders were opened.
 - (vii) All officers present at the opening of tenders shall immediately sign against the relevant particulars in the register as evidence of such tenders having been opened in their presence
 - (viii) The signature of the officer to whom the tenders were handed after opening
- (c) Any tender received after the closing time and date shall, unless Procurement Procedure Rule 4.3.7 (b)(iii) applies thereto, be returned by the Corporate Director (Corporate Services) promptly to the tenderer. The tender may be opened to ascertain the name and address of the tenderer, but no details of the tender shall be disclosed.

4.3.8 Acceptance of Tenders

- (a) Unless the requirements of Procurement Procedure Rule 4.3.5 (v) have been applied, the most financially advantageous tender to the Council shall be accepted by the Corporate Director / Head of Department (in consultation with the relevant Portfolio Holder or Committee Chairman).
- (b) Where Procurement Procedure Rule 4.3.5 (v) applies, the tenders must be evaluated in accordance with the agreed evaluation process / criteria, and evidence retained to

demonstrate this. The tender identified as most advantageous to the Council shall be accepted by the Corporate Director / Head of Department (in consultation with the relevant Portfolio Holder or Committee Chairman).

4.3.9 Tender Evaluation Consultation Panel

The Council will ~~maintain~~undertake a Tender Evaluation Consultation of all tenders, estimated at over £50,000 (excluding VAT), being sought. This should include, where appropriate, any proposed method of evaluation of expressions of interest from prospective contractors. Panel chaired The Consultation will be led by the relevant Corporate Director (Corporate Services) or their designated officer and will include ~~comprise~~ officers determined by them along with a senior officer from the department letting the contract.

~~Corporate Directors / Heads of Department are required to notify the chairman of the Tender Evaluation Panel of all tenders, estimated at over £50,000 (excluding VAT), being sought. This should include, where appropriate, any proposed method of evaluation of expressions of interest from prospective contractors. The Chairman of the Tender Evaluation Panel will determine which tenders will be reviewed by the panel and at what stages.~~

The Chairman of the Tender Evaluation Consultation Panel shall also have the right to include call-on technical assistance / expertise from other departments as he considered ed necessary.

Officers Decisions recording the award of contract Reports made to Management Team / Members in respect of these tenders subject to review by the panel should include reference to the views / comments identified by the consultees panel.

An external representative can be accepted ~~e~~ into the Panel at the discretion of the Chairman of the any Tender Evaluation Consultation Panel. In all cases where an external representative is included ~~accepted onto the Panel~~, they must be asked to declare any potential interests.

SECTION 5 – OTHER PROCUREMENT RULES

5.1 Contract Clauses

Unless an exemption is obtained from the Head of Finance, Revenues and Benefits or the Head of Governance and Legal Services, the Council's Standard Contract for Services must be used. The draft contract must be supplied as part of the tender exercise. When seeking an exemption, the relevant department will identify why an alternative model contract is required or any additional or replacement terms and conditions are necessary for the service being sought. In all cases contracts must follow any guidance issued by the Section 151 and Monitoring Officers in this regard.

~~Every contract entered into as a result of these Procurement Procedure Rules shall include clauses regarding:-~~

- | | |
|-----|--|
| (a) | British Standards, and British Standard Codes of Practice as issued by the British Standards Institution, or any European standard or equivalent current at the time of tender. |
| (b) | Bribery and corruption, empowering the Council to cancel the contract and recover from the contractor the amount of any loss resulting from such cancellation. |

(c) Freedom of Information
(d) Professional indemnity insurance where consultancy services or specialist professional services are to be procured. Evidence of the proof of such insurance shall be required to be provided.
(e) Equality and diversity
(f) Priority being given to the use of local sub-contractors if required.
(g) Any other standard clauses, amendments or exclusions that are deemed necessary, from time to time, by the Head of Governance and Legal Services.

5.2 Authorised Officers

- (a) Each Corporate Director / Head of Department is responsible for advising the Chief Financial Officer, in writing, of those officers who are empowered to enter into contracts, or procurement, on behalf of the Council, and any maximum limits on the values concerned.
- (b) Each Corporate Director / Head of Department shall advise the Chief Financial Officer, in writing, immediately of any changes to those officers so empowered, or their limits.
- (c) Only officers so empowered will be provided with a level of access to any computerised procurement system operated by, or on behalf of, the Council, that enables them to authorise official orders within the limits set.

5.3 Nominated Sub-Contractors and Suppliers

- (a) Competitive quotations / tenders shall be sought for the execution of works or for the supply of goods or materials by a nominated subcontractor in accordance with these Procurement Procedure Rules, unless it is considered impractical to do so
- (b) Where the estimated value of the subcontract does not exceed £50,000 the responsible Corporate Director / Head of Department shall determine whether it is practical to obtain quotations.
- (c) Where the estimated value of the subcontract exceeds £50,000 and the responsible Corporate Director / Head of Department considers the obtaining of tenders to be impractical the approval of the Leader of the Council, relevant Portfolio Holder or Committee Chairman for the proposed course of action shall be sought.
- (d) The invitation to a subcontractor to quote / tender shall include an undertaking that, if selected, the subcontractor will enter into a contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main contract in respect of goods, works or services included in the subcontract.

SECTION 6 – OFFICIAL ORDER RULES

6.1 General Requirements

ALL goods, works or services must be subject to an official order unless an exemption is provided in Section 6.2 below.

- (a) All orders shall be placed using the Council's approved ordering computer system, unless exempted elsewhere in these Procurement Procedure Rules.
- (b) The format of the Council's approved standard official purchase orders (either hard copy or electronic) and any standard terms and conditions to be applied to each order shall be determined by the Corporate Director (Corporate Services).
- (c) In the event of the need to issue a variation to an order, this will be by issue of a further order and must clearly identify the order number of the order to be varied.
- (d) All orders must: -

(i) Bear the name and logo of Tendring District Council.
(ii) Clearly identify goods, works, or services to be procured, and all other detail as is mandatory on the Council's approved ordering computer system.
(iii) Contain any other detail, terms and conditions that are applicable to that order. For the engagement of consultancy services or specialist professional advice this must include a condition relating to professional indemnity insurance.
(iv) Have a value or an accurate estimate of the value of the goods, works, or services entered onto the Council's electronic ordering system.
(v) Must be authorised by an officer duly authorised by the responsible Corporate Director / Head of Department.

6.2 Exemptions from Official Order Rules

Verbal orders, orders that are not accompanied by an official order or not exempt as set out below should only be made in special / exceptional circumstances and only after consultation with the Corporate Director (Corporate Services) or their designated officer. In the case of emergencies where an officer needs to take appropriate action to protect the Council's position or its assets then a verbal order can be made but the Corporate Director (Corporate Services) must be informed as soon as practical thereafter.

Where verbal orders are made they should be followed up by entering the necessary details on the Council's ordering system in accordance with 6.1 above as soon as possible.

A Corporate Director / Head of Department shall be exempt from the need to raise an official order in the following circumstances: -

(a) For cash purchases using the Council's Petty Cash system, where ordering using the approved computer system is considered not to be practical. A maximum limit of £50 (excluding VAT) is applicable to each procurement made using the Council's Petty Cash system.
(b) For the periodic payment of rent and National Non Domestic Rates.
(c) For the periodic payment of former public utility supplies.
(d) Where the nature of the goods, works or service requires an appropriate standard form of written contract.

(d)	For contract variations where a written contract requires a form of written contract variation, that is not in the format of the Council's standard official order.
(e)	For HRA assets where orders for goods, works or services are required to be raised through the Council's authorised Housing Management computer system.
(f)	For the engagement of Counsel by the Head of Governance and Legal Services .
(g)	Where the Chief Financial Officer has agreed the use of purchase cards or where one of the Council's credit cards is used.
(i)	Any other circumstances as agreed, in advance of the procurement, by the Corporate Director (Corporate Services).
(j)	Where goods or services are procured in-house.

COUNCIL

21 NOVEMBER 2017

REPORT OF CHIEF EXECUTIVE

A.2 **MEMBERSHIP OF COMMITTEES**

(Report prepared by Ian Ford)

I formally report that, in accordance with the wishes of the Leader of the UKIP Group and the Leader of the Conservative Group and the authority delegated to me, the following appointments have been made since the last meeting of the Council -

Human Resources Committee

Councillor Bennison was removed from this Committee.

Local Plan Committee

Councillor Ferguson has been appointed to serve in place of Councillor M J D Skeels.

Planning Committee

Councillor J A Brown has been appointed to serve in place of Councillor Bennison.

This item is submitted for **INFORMATION ONLY**.

IAN DAVIDSON
CHIEF EXECUTIVE

COUNCIL

21 NOVEMBER 2017

**BACKGROUND PAPERS LIST FOR
REPORTS OF CHIEF EXECUTIVE**

A.2 MEMBERSHIP OF COMMITTEES ETC.

Formal appointments dated 20 October and 9 November 2017.

COUNCIL

21 NOVEMBER 2017

REPORT OF CHIEF EXECUTIVE

A.3 CHANGE IN MEMBERSHIP OF POLITICAL GROUPS AND A REVIEW OF MEMBERSHIP OF COMMITTEES

(Report prepared by Ian Ford)

I formally report that, pursuant to Regulation 10(b) of the Local Government (Committees and Political Groups) Regulations 1990, Councillors Jeff Bray and Richard Everett on 22 September 2017, each served formal notice on the Council that they no longer wished to be treated as a member of the Independent Alliance political group.

I further formally report that, also on 22 September 2017, Councillor Bray and Councillor Everett, pursuant to Regulation 9(b) of the Local Government (Committees and Political Groups) Regulations 1990, served formal notice on the Council that they wished to be treated as a member of the Conservative political group.

I formally report that, pursuant to Regulation 10(b) of the Local Government (Committees and Political Groups) Regulations 1990, Councillor Andrew Pemberton on 25 September 2017, served formal notice on the Council that he no longer wished to be treated as a member of the UKIP political group.

I further formally report that, on 8 November 2017, Councillor Pemberton, pursuant to Regulation 9(b) of the Local Government (Committees and Political Groups) Regulations 1990, served formal notice on the Council that he wished to be treated as a member of the Non-Aligned political group.

In accordance with Section 15(1)(e) of the Local Government and Housing Act 1989 and Regulation 17(c) of the Local Government (Committees and Political Groups) Regulations 1990 a review of the allocation of seats to political groups has been carried out. The outcome of that review, as agreed by Group Leaders, will be tabled at the meeting.

RECOMMENDED that the Schedule of Appointments to Committees (which has been agreed by Group Leaders), be approved with immediate effect (appendix will be tabled at the meeting).

IAN DAVIDSON
CHIEF EXECUTIVE

COUNCIL

21 NOVEMBER 2017

**BACKGROUND PAPERS LIST FOR
REPORT OF CHIEF EXECUTIVE**

**A.3 CHANGE IN MEMBERSHIP OF THE CONSERVATIVE POLITICAL GROUP AND A
REVIEW OF MEMBERSHIP OF COMMITTEES**

Notices of Wish to no longer be treated as Member of a Political Group (Independent Alliance) signed by Councillors Bray and Everett dated 22 September 2017.

Notice of Wish to be treated as a Member of a Political Group (Conservative) signed by Councillor Bray and dated 22 September 2017.

Notice of Wish to be treated as a Member of a Political Group (Conservative) signed by Councillor Everett and dated 22 September 2017.

Notice of Wish to no longer be treated as a Member of a Political Group (UKIP) signed by Councillor Pemberton dated 25 September 2017.

Notice of Wish to be treated as a Member of a Political Group (Non-Aligned) signed by Councillor Pemberton and dated 8 November 2017.

COUNCIL

21 NOVEMBER 2017

REPORT OF HEAD OF LEADERSHIP SUPPORT AND COMMUNITY

A.4 2018 PARLIAMENTARY BOUNDARY REVIEW

(Report prepared by Karen Neath)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To provide an update on the Parliamentary Boundary Review and determine whether Council has any comment on the revised proposals.

EXECUTIVE SUMMARY

- In February 2016, the Boundary Commission for England (BCE) announced the start of a review of the Parliamentary constituencies in England. Following a decision by Parliament to reduce the number of constituencies in the UK to 600 from 650, and to ensure that the number of electors in each constituency is more equal, the BCE has been asked to make independent recommendations about where the boundaries of English constituencies should be. In doing so, the BCE have to ensure that every new constituency has roughly the same number of electors: no fewer than 71,031 and no more than 78,507. While proposing a set of boundaries which are fairer and more equal, the Commission will also try to reflect geographic factors and local ties. The Commission will also look at the boundaries of existing constituencies and local government patterns in redrawing the map of parliamentary constituency boundaries across England.
- The BCE must report to Parliament in 2018 and, if agreed by Parliament, the new constituencies will be in use at the next scheduled General Election in 2022.
- On 13 September 2016 the BCE published its initial proposals for new Parliamentary constituencies. Council considered the initial proposals at the meeting of Council on 29 November 2016 and agreed the following response to the BCE:

“At present the Harwich and North Essex constituency surrounds the Colchester constituency at its north-west, north, east and south sides, taking in the port of Harwich to the east. We propose to modify this arrangement by pairing Harwich with Clacton-on-Sea in a Harwich and Clacton constituency. In addition, we propose a North East Essex constituency that completely surrounds the Colchester constituency. Our proposed North East Essex constituency comprises 13 wards from the Borough of Colchester and ten wards from the District of Tendring. As a result, the villages of Point Clear, St. Osyth, Seawick and Jaywick are no longer included in a constituency with Clacton. The entirety of our proposed Harwich and Clacton constituency falls within the District of Tendring.”

- On 17 October 2017 the BCE published revised recommendations. The consultation ends on 11 December 2017.
- As far as Tendring is concerned the BCE now propose a Harwich and Clacton County Constituency (electorate 77,200) wholly within the Tendring District and a North East Essex County Constituency (electorate 77,481) comprising ten wards

within the Tendring District and thirteen wards of the Borough of Colchester.

The two constituencies proposed will comprise the following wards:-

Harwich and Clacton County Constituency – Twenty five wards of the District of Tendring:- Alton Park, Beaumont and Thorpe, Bockings Elm, Burrsville, Frinton, Golf Green, Great and Little Oakley, Hamford, Harwich East Central, Harwich East, Harwich West Central, Harwich West, Haven, Holland and Kirby, Homelands, Peter Bruff, Pier, Ramsey and Parkeston, Rush Green, St Bartholomews, St James, St Johns, St Marys, St Pauls and Walton.

North East Essex County Constituency - Thirteen wards of the Borough of Colchester:- Birch and Wintree, Copford and West Stanway, Dedham and Langham, Fordham and Stour, Great Tey, Marks Tey, Pyefleet, Stanway, Tiptree, West Bergholt and Eight Ash Green, West Mersea, Wivenhoe Cross and Wivenhoe Quay.

Ten wards of the District of Tendring:- Alresford, Ardleigh and Little Bromley, Bradfield, Wrabness and Wix, Brightlingsea, Golf Green, Great Bentley, Lawford, Little Clacton and Weeley, Manningtree, Mistley, Little Bentley and Tendring, St Osyth and Point Clear and Thorrington, Frating, Elmstead and Great Bromley.

- The changes from the initial proposals are that Golf Green has been moved from the North East Essex County Constituency to the Harwich and Clacton County Constituency whilst Little Clacton and Weeley has moved from the Harwich and Clacton County Constituency to the North East Essex County Constituency.
- The local government boundaries that the BCE will have regard to, are those that existed on 7 May 2015. It will not generally take into account any changes to boundaries coming into effect after that date. However, in the limited circumstances where the BCE has to consider whether it should divide a ward in order to meet the statutory electorate range, the BCE would be prepared to take into account as appropriate any new ward boundaries introduced after 7 May 2015.

RECOMMENDATION

It is recommended:-

That Council notes the revised proposals on the Parliamentary Boundary Review and determines whether Council has any comment on these.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Council is responding to the consultation as part of its Community Leadership role.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

There are no financial implications

Risk

The consultation is undertaken to allow comments to be made which should mitigate the risk of communities being placed in Parliamentary Constituencies which do not best serve their needs.

LEGAL

The Boundary Commission for England (BCE) is required by the Parliamentary Constituencies Act 1986 to review the parliamentary constituencies in England every 5 years.

OTHER IMPLICATIONS

There are none.

PART 3 – SUPPORTING INFORMATION**BACKGROUND PAPERS FOR THE DECISION**

There are no background papers.

APPENDICES

There are no appendices.

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COUNCIL

21 NOVEMBER 2017

REPORT OF HEAD OF LEADERSHIP SUPPORT AND COMMUNITY

A.5 COMMUNITY GOVERNANCE REVIEWS

(Report prepared by Karen Neath)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To provide an update on Community Governance Reviews across the District.

EXECUTIVE SUMMARY

- At the meeting of Full Council on 5th September 2017 it was agreed that:-
“a Community Governance Review be undertaken in relation to the land in the St Osyth District Council area but not in the St Osyth Parish area.”
- Accordingly, draft Terms of Reference for this review are attached at Appendix A for approval.
- At the meeting of Full Council on 5th September 2017 it was further agreed that:-
“in principle, a wider Community Governance Review of parished and unparished areas in the Tendring District be supported subject to specific terms of reference, having regard to the initial views which are currently being sought, coming to a future meeting of Council for agreement.”
- The initial views submitted were considered by the Electoral Review Working Group at their meeting on 7th November.
 - 16 Town / Parish Councils responded and 11 did not.
 - Of those that responded only 1 – Harwich Town Council would welcome a review of its number of councillors.
 - Lawford, Manningtree and Mistley have discussed the idea of a joint parish but this does not appear to be fully decided at this time.
 - Clacton Town Partnership responded and were fully supportive of a Clacton Town Council. No other comments in support of a Town Council for Clacton were received but neither were any objections.
 - 3 district councillors and 3 parish councillors replied.
 - 5 residents responded but of these 4 were expressing concerns about the running of the same Parish Council.
- The working group discussed the initial responses. They also had in front of them a summary of the current position regarding the number of seats on each Town / Parish Council, the number of seats filled, suggested number of seats and whether an election had been held in 2011 and / or 2015. Following discussion it was agreed that a review be carried out for those that have asked for it and that those that have had elections in 2011 and / or 2015 are not reviewed. Officers were asked to provide

further information on those which had not been contested in both 2011 and 2015 including functions, precept and the make-up of the Council. This will be considered at a future meeting of the Working Group to determine whether the group wishes to make any recommendation about Community Governance Reviews being undertaken.

- In summary, the working group concluded that :-
 - A Community Governance Review of the number of seats on Harwich Town Council be undertaken.
 - The suggested merger of Lawford, Manningtree and Mistley Parish Councils be kept under review and a Community Governance Review be undertaken if all three Councils ask for one.
 - The position regarding a Town Council for Clacton be further considered following consideration of the related motion at Council.
 - No Community Governance Review be taken forward at this time for the following Town / Parish Councils: Bradfield, Brightlingsea, Frinton and Walton, Great Bromley, Harwich, Thorrington, Weeley and Wix.
 - Further information be considered for other Town / Parish Councils.

RECOMMENDATION

It is recommended that:-

- a) The terms of reference attached at Appendix A, for a Community Governance Review for the land in the St Osyth District Council area but not in the St Osyth parish area, be agreed and that this Community Governance Review be commenced;
- b) a Community Governance Review of the number of seats on Harwich Town Council be undertaken and that terms of reference be brought back to the next Council meeting for approval;
- c) no Community Governance Review be taken forward at this time for the following Town / Parish Councils: Bradfield, Brightlingsea, Frinton and Walton, Great Bromley, Harwich, Manningtree, Mistley, Thorrington, Weeley and Wix;
- d) a Community Governance Review to merge Lawford, Manningtree and Mistley Parish Councils be undertaken only if all three councils ask for one;
- e) Community Governance Reviews for areas of the Tendring District not mentioned in a) to d) above be further considered by the Electoral Review Working Group following the receipt of further information with their recommendations brought back to a future Council meeting.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Council is encouraged to periodically consider whether Community Governance Reviews are undertaken.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

Some cost would be incurred in undertaking Community Governance Review

consultations but this is not expected to be significant and can be met from existing budgets. Any subsequent decisions to abolish, set up or otherwise change the arrangements for Town and Parish Councils would be likely to have financial implications but would depend on the action to be taken and cannot be quantified at this time.

Risk

Community Governance Reviews would need to be carefully considered and undertaken in line with statute and guidance to ensure that the outcome is the best one for local residents.

LEGAL

The Local Government and Public Involvement in Health Act 2007 sets out the legal responsibility and arrangements for undertaking Community Governance Reviews.

OTHER IMPLICATIONS

There are none.

PART 3 – SUPPORTING INFORMATION

BACKGROUND PAPERS FOR THE DECISION

There are no background papers.

APPENDICES

Appendix A – Terms of Reference for a Community Governance Review – St Osyth (including location plan)

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**TENDRING DISTRICT COUNCIL
COMMUNITY GOVERNANCE REVIEW – TERMS OF REFERENCE**

Tendring District Council will be carrying out a Community Governance Review in accordance with the Local Government and Public Involvement in Health Act 2007. Part 4, chapter 3 sets out the requirements for Community Governance Reviews.

What does the Community Governance Review cover?

This Community Governance review is for an area of land between St Osyth and Clacton. The land is shown in detail, shaded in red, in Appendix A. The Council is seeking views on whether the District Council boundary and St Osyth Parish boundary should be coterminous.

What is a Community Governance Review?

A Community Governance Review is a legal process whereby Principal Councils (district, County or London Borough) can undertake reviews of community governance in their area. This is usually done by way of review of Town and Parish Council and the 2007 Act allows for a Principal Council to make recommendations on one or more of the following:-

- The creating, aggregating, amalgamating, separation, grouping or abolition of town and parish councils;
- the name and style of a new town or parish council;
- the electoral arrangements of town and parish councils (e.g. number of councillors, wards, election frequency etc.)

Why is Tendring District Council undertaking this Review?

The Local Government Boundary Commission for England issued final recommendations on new electoral arrangements for Tendring District Council in July 2017. As a consequence of this review there is now a small area of land that sits within the St Osyth District Council boundary but is not within the St Osyth Parish boundary. Tendring District Council is therefore seeking views on whether the St Osyth Parish boundary should be moved to become coterminous with the new St Osyth District Council boundary. The new District boundary is fixed through the recommendations of the Local Government Boundary Commission for England so the only option available to make these two boundaries coterminous is to move the parish boundary and add this small area of land to the St Osyth parish area.

The electorate figures that were used during the District review shows that there were 171 affected electors at 2016 which is forecast to rise to 230 affected electors in 2022.

In all other parts of Tendring, District and Parish boundaries are coterminous.

Consultation

Tendring Council is required to consult with electors for the area under review and any other person or body which appears to us to have an interest in the review.

The Council will be consulting with the residents living in the shaded area shown in Appendix A. We will also be consulting with St Osyth Parish Council. The terms of reference Community Governance Review will also be made available on our website and advertised in the press so that other parties have the opportunity to express a view.

Consideration of the Terms of Reference, draft and final recommendations will be conducted at a public Council meeting.

In drawing up recommendations following consultation the Council must have regard to the need to secure that local community governance:-

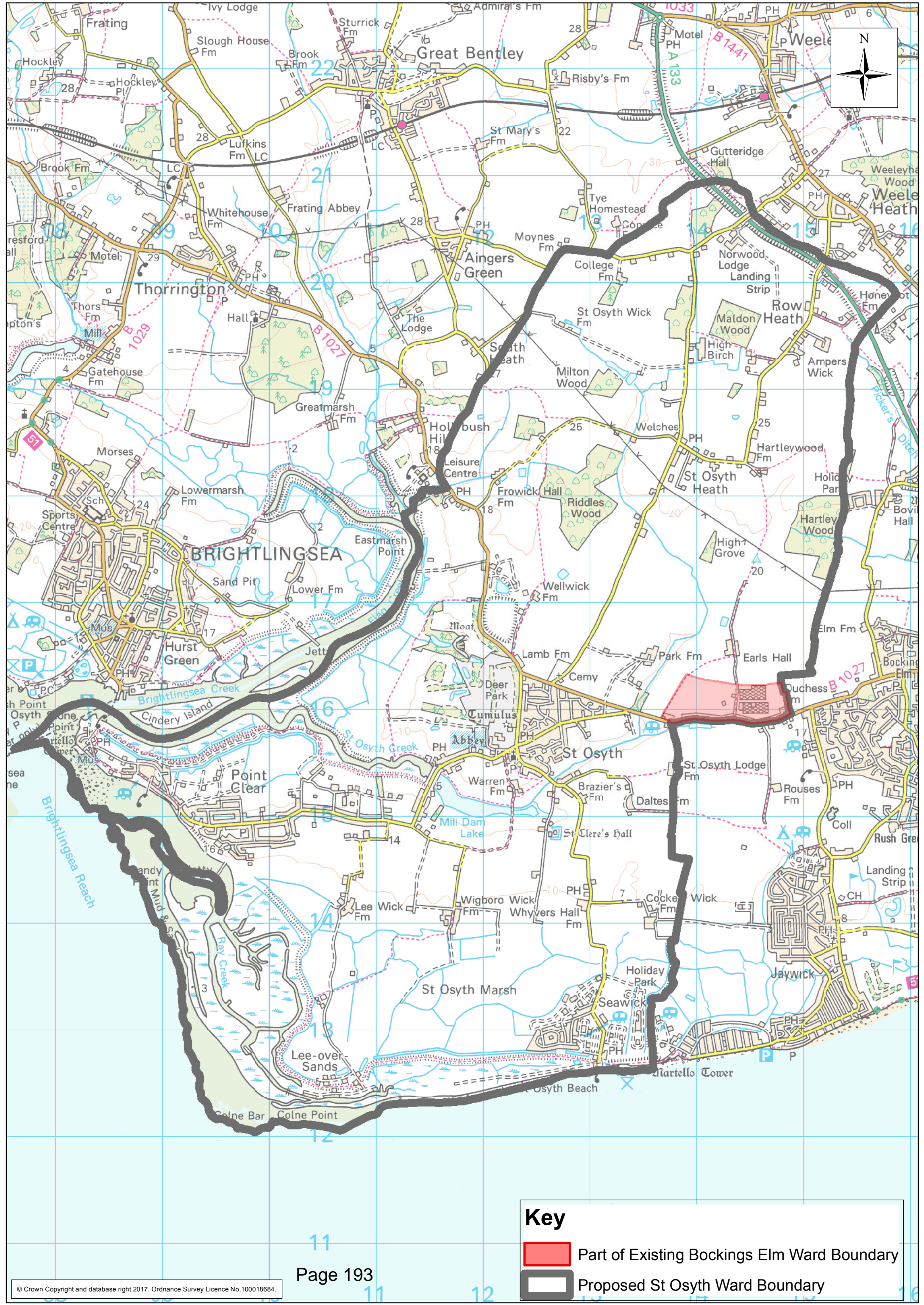
- reflects the identities and interests of the community in that area; and
- is effective and convenient.

Timetable

The Community Governance Review must by law be completed within 12 months of the Terms of Reference being published. The provisional timetable is:-

Action	Date
Terms of Reference considered by Full Council	23 January 2018
Terms of Reference published and start of consultation	24 January 2018
End of consultation	31 March 2018
Consideration by Electoral Review Working Group	April 2018
Draft recommendations considered by Full Council	15 May 2018
Consult on draft recommendations	16 May 2018 to 15 June 2018
Consideration by Electoral Review Working Group	June 2018
Final recommendations considered by Full Council	3 July 2018
Final proposal and order publicised	September 2018
Final boundary arrangements incorporated in Local Elections	May 2019

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Key

- Part of Existing Bockings Elm Ward Boundary
- Proposed St Osyth Ward Boundary

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COUNCIL

21 NOVEMBER 2017

REPORT OF HEAD OF GOVERNANCE AND LEGAL SERVICES

A.6 COMMITTEE STRUCTURE REVIEW

(Report prepared by Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
To agree the principles for a new committee structure.

EXECUTIVE SUMMARY
<p>Council, at its meeting held on 5 September 2017 (Minute 66 refers), considered a report of the Head of Leadership Support and Community (A.5) which had provided details of the final recommendations from the Local Government Boundary Commission for England (LGBCE) of a review of district wards, an update on Community Governance Reviews for Town and Parish Councils and to seek approval to undertake further work to put in place arrangements for a reduced council size in 2019.</p> <p>Council RESOLVED that:-</p> <p><i>f) the final recommendations on new electoral arrangements for Tendring District Council be noted;</i></p> <p><i>g) a Community Governance Review be undertaken in relation to the land in the St Osyth District Council area but not in the St Osyth Parish area;</i></p> <p><i>h) in principle, a wider Community Governance Review of parished and unparished areas in the Tendring District be supported subject to specific terms of reference, having regard to the initial views which are currently being sought, coming to a future meeting of Council for agreement;</i></p> <p><i>i) officers are authorised to commence a review of meeting arrangements, Cabinet and committee size, frequency and make-up in preparation for the reduction to 48 Councillors in 2019; and</i></p> <p><i>j) that, at an appropriate time following the 2019 District Elections, this Council writes to the Local Government Boundary Commission for England and asks for a further Electoral Review of the Tendring District with a specific request that they look again at the decision to recommend a two member ward of St Bartholomews rather than two single member wards of St Bartholomews and Haven as requested by the Council.</i></p> <p>At the meeting of the Electoral Review Working Group held on 7 November 2017, initial proposals were submitted for discussion in relation to the review of Committees in preparation for the reduction in the total number of Councillors to 48 from 2019. <u>The key proposals were:-</u></p> <ul style="list-style-type: none"> • Two Overview and Scrutiny Committees - with task and finish groups focused on evidence based reviews. • Presentations and providing information to all Members will remain through the all Member briefings (not formal meetings, but provides the ability to ask questions). • A single Governance Committee incorporating the existing Audit and Standards Committees. • Two Licensing sub-committees reduced from the current four.

- A combined Human Resources and Council Tax Committee able to consider senior management appointments and dismissals as well as the impact of emergency planning on staff.
- Titles were for working purposes and formal Committee titles would need to be decided in due course.

The following timetable was proposed by the Working Group:-

- Consideration by Electoral Review Working Group – 7 November 2017;
- Consideration by Full Council and agreement to an “in principle” new committee structure – 21 November 2017;
- Consideration by Electoral Review Working Group of the proposed terms of reference, size and committee names etc. – Early January 2018;
- Consideration by Full Council of terms of reference etc. for the new committees – 23 January 2018;
- Implementation of new committee structure – Annual Council 24 April 2018 (seats to be allocated to new committees based on existing 60 Councillors);
- Operation of new Committees to be monitored during 2018;
- Any necessary amendments to terms of reference and appointments to committees based on new Council of 48 Councillors – Annual Council 2019.

The Working Group discussed issues including:-

- whether to have a member of an “Opposition” Group as chairman of the “inward facing” overview and scrutiny committee;
- cross-membership of the Local Plan and Planning Committees;
- the number of meetings in a municipal year of the “inward facing” overview and scrutiny committee;
- the possibility of the Planning Committee meeting in the daytime;
- the size of the committees and especially making sure that the overview and scrutiny committees were large enough to form a pool of potential members of the “task and finish” working groups;
- external input on the workings of the new committee structure;
- the importance of keeping a human resources committee (albeit with a smaller membership than at present); and
- how the overview and scrutiny “task and finish” working groups could operate.

The Working Group **AGREED** that The Centre for Public Scrutiny and/or SOLACE be invited, in Summer 2018, to give their input on the Council’s new committee structure once it has been in operation for a few months.

Having considered the proposed committee structure the Working Group decided to recommend to Council that –

- the proposed new committee structure be approved, in principle; and
- the proposed timetable for the implementation of the new committee structure be adopted.

RECOMMENDATION

It is recommended to Council that:-

- the proposed committee structure, as set out in the Appendix to this report, be approved, in principle; and**

b) the proposed timetable for the implementation of the new committee structure, as detailed in the Executive Summary, be adopted.

PART 2 – SUPPORTING INFORMATION

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

Appendix A - Proposed new committee structure

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CABINET MODEL

COMMITTEE STRUCTURE PROPOSED OPTION

When reviewing organisational structures it is important to focus on outcomes and this suggested model centres on effective decision making.

COMMITTEES

Overview and Scrutiny

As a reminder the Four Principles of Good Public scrutiny are (referenced from a practice guide for local government scrutiny about the best ways to understand and use evidence jointly produced in May 2017 by The Centre for Public Scrutiny (CfPS), the Society of Local Authority Chief Executives and Senior Managers (Solace) and The Alliance for Useful Evidence (supported by Nesta):

1. *providing a 'critical friend' challenge*
2. *reflecting the voice and concerns of the public*
3. *taking the lead and owning the scrutiny process*
4. *making an impact on the delivery of public services*

A range of attributes, skills and conditions demonstrate good scrutiny including:

- *inquiries are non-political, methodologically sound and incorporate a wide range of evidence and perspectives;*
- *engages in evidence based challenge of decision makers and service providers; and*
- *provides viable and well evidenced solutions to recognised problems.*

The terms of reference of the current O&S committees need to be reviewed; there is overlap and duplication with other committees and presentations to the all member briefings.

The All Member Briefing sessions, although not formal meetings, are held at least monthly and are a key aspect of engagement with external partners and various officers in the Council, providing all members with information and updates on a wide variety of topics and allowing members to discuss issues and ask questions. Although it is recognised that these are informal, the important role they play has been taken into account in the consideration of Overview and Scrutiny Committees below, as they are a forum which all members can attend, receive presentations and information and ask questions. The proposal is that the Committees are focussed more on examination and active scrutiny of key priority areas.

Overview & Scrutiny Committee focusing on community and partnerships

Proposal:

- *an overarching outward facing committee meeting quarterly focusing on community and partnership working, setting a couple of discrete pieces of work each year based on priorities for evidence based task and finish reviews to be undertaken by representatives of the committee reporting back.*
- *Councillor call for actions*

Overview & Scrutiny Committee

Proposal:

- *an O&S committee which focuses on the effective use of Council resources (budget, IT and assets) and performance of council services holistically in the widest sense.*
- *Opportunity for the Committee to undertake a small number of discrete, focussed pieces of work through task and finish task and finish reviews to be undertaken by representatives of the committee reporting back.*

Governance Committee:

This would include the current terms of reference and remit of the following committees:

- *Audit*
- *Standards*

Town & Parish Councils Standards (Governance) Sub-Committee:

This would include the current terms of reference and remit of the current committee

Local Plan Committee:

The terms of reference and remit of the current committee would remain unchanged, but could be reviewed through the Local Plan adoption process, however such a committee would still be required after adoption to review and monitor the Local Plan and focus on Garden Community Development Plan Documents.

Human Resources & Council Tax Committee:

This would include the current terms of reference and remit of the following committees:

- *Council Tax*
- *Human Resources including appointments and dismissal of senior management*
- *Emergency Planning (impact on staff)*

Planning Committee:

The terms of reference and remit of the current committee would remain unchanged, as functions relate to Planning and Conservation as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities)

(England) Regulations 2000 (as amended).

Licensing and Registration Committee:

The terms of reference and remit of the current committee would remain unchanged, as functions relate to licensing, registration, health and safety at work and smoke free premises as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

Miscellaneous Licensing Sub-Committee:

This would include the current terms of reference and remit of the current committee, namely Hackney Carriage / Private Hire licences.

Premises/Personal Licences Sub-Committee:

This would include the current terms of reference and remit of the current three A, B and C committees

Decision Notice

This Decision records the outcome of the Hearing taken by Tendring District Council's Standards Committee on 27th September 2017 in accordance with the District Council's arrangements for dealing with complaints against Councillors.

The Complaints Procedure was approved by full Council on 26th November 2013.

COMPLAINT:

An allegation that a Member of District Council has failed to comply with the Members' Code of Conduct.

Date of Hearing:	Wednesday 27 th September 2017
Subject Member:	District Councillor Lis Bennison (did not attend)
Complainants:	Mr Anthony Chandler Mr William Hones
Investigating Officer:	Lisa Hastings (Head of Governance & Legal Services) TDC Monitoring Officer
Membership of Standards Committee:	District Councillors R Heaney (Chairman), P Honeywood, F Nicholls, R Bucke, G Steady, A Davis and T. Witmore;
Independent Persons:	Mrs Clarissa Gosling Mr J Wolton (was allocated to the Councillor in this matter, as per the Independent Person Protocol adopted by Council).
Monitoring Officer:	Mrs Lisa Hastings
Summary of Complaint:	The alleged breaches related to: (i) Paragraph 3.1: The Leadership Principle of Public Life; (ii) Paragraphs 3.2: In fulfilling the Duties and Responsibilities, a Councillor must not: (b) disrespect others; and (c) bully or harass any person

	<p>(iii) Paragraph 3.4(a):</p> <p>A Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute; and</p> <p>(iv) Paragraph 3.7(a):</p> <p>A Councillor must comply and observe the law.</p> <p>The incident had occurred at the Clacton Airshow in August 2016, whereby Councillor Bennison whilst acting as a steward on behalf of the District Council assaulted Mr Chandler, a member of the public.</p> <p>Councillor Bennison was subsequently convicted of assault at Southend Magistrates Court on 13th July 2017.</p>
<p>Any declarations of interest:</p>	<p>Councillor Heaney declared an interest in that she was on the Planning Committee with Councillor Bennison.</p> <p>Councillor Whitmore declared an interest in that he was in the same political group as Councillor Bennison and also a friend.</p> <p>Councillor Davies declared an interest in that she was a friend of Councillor Bennison and she attended the Court hearing in respect of Councillor Bennison.</p>
<p>Hearing in public/availability of relevant documents for public inspection:</p>	<p>The Hearing was held in public and agenda papers were made available.</p>
<p>Written Representations received</p>	<p>Councillor Bennison was not present at the hearing but had previously sent a written apology which was included within the Standards Committee Report (pages 46-7).</p> <p>As part of any Code of Conduct investigation, it is necessary that the allegations are put to the member who is the subject of the complaint to respond to. Whilst the apology was received, despite being provided with a further opportunity to respond specifically to the complaints, Councillor Bennison did not provide an express</p>

	<p>admission as to whether the Code of Conduct had been breached. Councillor Bennison:</p> <ul style="list-style-type: none"> • Believed her actions demonstrated that she was tackling poor behaviour; • denied being disrespectful, harassing or bullying; • denied that neither her office or that of the Council has been brought into disrepute; and • in respect of the failure to comply with the law, pleaded not guilty to the alleged offence and requested the Judge's summing up and the Section 44 alluded to in his summing up to be included within the report.
<p>Council's Standards Committee decision on whether or not there has been a failure to comply with the Code of Conduct and reasons for their decision:</p>	<p>The Committee considered:</p> <ul style="list-style-type: none"> • The content of the Investigation Report and presentation of the Investigator; • the views of the Independent Person contained within the committee report; and • the written representation from Councillor Bennison including the notes of the District Judge. <p>The Committee unanimously agreed that Councillor Bennison's criminal conviction for assault was conduct that failed to comply with the law and could reasonably be regarded as bringing her office as a Councillor or the Council into disrepute. Therefore, Councillor Bennison was found to be in breach of paragraphs 3.4(a) and 3.7(a) of the Code of Conduct. Consequently, the Leadership principle was also compromised.</p> <p><u>Reasons:</u></p> <p>The Committee's reasons for the decision were expressed as their agreement with the findings of the investigation and recommendation from the Monitoring Officer, which were referred to on pages 45 of the Committee report, in that:</p> <p>A Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute (Paragraph 3.4(a)):</p> <p>The Monitoring Officer concluded that a criminal conviction for assault is prima facie evidence that</p>

	<p>the Councillor’s actions brought the Council into disrepute and consequently, there was evidence that paragraph 3.4(a) has been compromised and breached.</p> <p>A Councillor must comply and observe the law (Paragraph 3.7(a))</p> <p>The Monitoring Officer concluded that a criminal conviction is without doubt evidence that Councillor Bennison’s actions failed to comply with the law and consequently, there was evidence that paragraph 3.7(a) has been compromised and breached.</p> <p><u>Principles of Public Life:</u></p> <p>In addition to Paragraphs 3.4(a) and 3.7(a) of the Code of Conduct it was necessary to revisit that elected members are required to conduct themselves in a way which is consistent with the Principles of Public Life and that <i>“holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs”</i>. Therefore, in obtaining a criminal conviction for assault, Councillor Bennison had contravened the Principle of Leadership. Councillor Bennison has provided comments surrounding the incident and in effect, believes she was tackling poor behaviour. However, slapping an individual and using violence is not a reasonable reaction of an elected member and does not promote or maintain high standards of conduct or demonstrate Leadership.</p> <p>The Standards Committee expressed their disappointment that Councillor Bennison had failed to acknowledge the Code of Conduct was breached when she was convicted of a criminal offence within a court of law.</p>
<p>Any mitigating circumstances taken into account:</p>	<p>Councillor Bennison was not at the meeting however, the Committee did take into account the written apology contained within the body of the Committee and Investigation Report.</p>

Sanctions imposed:

The Committee considered the range of sanctions available under Section 8 of the District Council's Complaints Procedure and that any sanctions must be relevant and proportionate and necessary to promote and maintain high standards of conduct:

- (1) That the Committee's findings in respect of District Councillor Bennison's conduct be published on Tendring District Council's website;*
- (2) That the Committee's findings and outcome of the hearing be reported to the November meeting of full Council for its information;*
- (3) the Group Leader acknowledge that Councillor Bennison has breached the Code of Conduct and in response it is suggested that Councillor Bennison is removed from any Committees and Sub-Committees of the Council for one month; and*
- (4) it is disappointed that Councillor Bennison failed to acknowledge that the Code of Conduct was breached and requests that training with the Monitoring Officer is organised for Councillor Bennison on the Code of Conduct.*

Approved by: Councillor Rosemary Heaney

Chairman of the Standards Committee

Date: 4th October 2017

Background Paper – Published Report to Standards Committee and the minutes of the meeting held on 27.09.17

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Decision Notice

This Decision records the outcome of Tendring District Council's Standards Committee on 27th September 2017 in accordance with the District Council's arrangements for dealing with complaints against Councillors.

The Complaints Procedure was approved by full Council on 26th November 2013.

COMPLAINT:

An allegation that a Member of District Council has failed to comply with the Members' Code of Conduct.

Date of Committee:	Wednesday 27 th September 2017
Subject Member:	District Councillor Jack Parsons (did not attend)
Complainant:	Mr William Hones
Membership of Standards Committee:	District Councillors R Heaney (Chairman), P Honeywood, F Nicholls, R Bucke, G Steady, A Davis and T. Whitmore;
Independent Persons:	Mrs Clarissa Gosling and Mr J Wolton
Monitoring Officer:	Mrs Lisa Hastings
Summary of Complaint:	<p>The alleged breaches related to:</p> <p>(i) Paragraph 3.1:</p> <p>Selflessness and Leadership Principles of Public Life;</p> <p>(ii) Paragraph 3.4(a):</p> <p>A Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute; and</p> <p>(iii) Paragraph 3.7(a):</p> <p>A Councillor must comply and observe the law.</p> <p>On 27th July 2017, Councillor Parsons received a criminal conviction for an incident which occurred on 26/06/2017, in that Cllr Parsons had without</p>

	<p><i>good reason or lawful authority, in a public place Church Road, Clacton, Essex, an article which had a blade or was sharply pointed, namely a Carving knife, contrary to section 139(1) and (6) of the Criminal Justice Act 1988. Councillor Parsons was sentenced to 70 hours of Community Service and ordered to undertake 10 Rehabilitation Days.</i></p>
Any declarations of interest:	None
Availability of relevant documents for public inspection:	The Committee meeting to consider the sanctions was held in public and agenda papers were made available.
Written Representations received:	Councillor Parsons was not present at the meeting but had previously sent a written apology which was included within the Standards Committee Report (pages 6 and 9).
Council's Standards Committee decision on whether or not there has been a failure to comply with the Code of Conduct and reasons for their decision:	<p>Councillor Parsons acknowledged that his criminal conviction brought the Council into disrepute and therefore, in breach of the Members' Code of Conduct, in addition a written apology has been received and these statements were referred to within the body of the Committee report.</p> <p>Due to Councillor Parson's acceptance, an investigation into the matter was not required. Under the Complaints Procedure once there is a finding that evidence exists of a failure to comply with the Code of Conduct, there are two options available.</p> <p>The first option is to consider an informal resolution (paragraph 7.1.1 of the Complaints Procedure) and in this matter the Monitoring Officer did not consider informal resolution was appropriate. A formal apology has been given by Councillor Parsons however, it was considered necessary and in the public interest for a referral to the Standards Committee due to the seriousness of the conviction and upon the specific request.</p> <p>The second option available (paragraph 7.1.2) is for the Monitoring Officer to report the outcome of any investigation to the Standards Committee to conduct a hearing before deciding whether the Member has failed to comply with the Code of</p>

	<p>Conduct and if so, whether to take any action in respect of the Member. In this case, Councillor Parsons had already admitted that he had failed to comply with the Code of Conduct therefore the Standards Committee had the power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct. Accordingly, the Standards Committee considered the sanctions set out in paragraph 8 of the Complaints Procedure.</p> <p>In addition to bringing the Council into disrepute, the Monitoring Officer brought to the Committee's attention that Paragraph 3.7(a) of the Code states "<i>a Councillor must comply and observe the law</i>", which had been compromised due to the conviction.</p>
<p>Any mitigating circumstances taken into account:</p>	<p>Councillor Parsons was not at the meeting however, the Committee did take into account the written apology contained within the body of the Committee and Investigation Report.</p>
<p>Sanctions imposed:</p>	<p>The Committee considered the range of sanctions available under Section 8 of the District Council's Complaints Procedure and that any sanctions must be relevant and proportionate and necessary to promote and maintain high standards of conduct.</p> <p>The Committee:</p> <ul style="list-style-type: none"> (i) acknowledged that Councillor Parsons is suffering from personal health problems; (ii) encourages Councillor Parsons to review his position as an elected Member due to the circumstances surrounding his conviction and whether he is able to effectively represent his Ward and residents; (iii) strongly encourages Councillor Parsons to continue with the professional advice and medical treatment he now has access to and that; (iv) requests the Monitoring Officer to publish the findings in respect of the Councillor Parsons conduct on the Council's website and

	(v) requests that the Committee's findings be reported to Council for information.
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Approved by: Councillor Rosemary Heaney

Chairman of the Standards Committee

Date: 5th October 2017

Background Paper – Published Report to Standards Committee and the minutes of the meeting held on 27.09.17