

Public Document Pack

TENDRING DISTRICT COUNCIL

AGENDA

For the meeting to be held on Tuesday 27 November 2018

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 - 16)

The Council is asked to approve, as a correct record, the minutes of the Council Meeting held on Tuesday 11 September 2018.

4 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal 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 Petition to Council - Old Fire Station, Mill Lane, Walton-on-the-Naze (Pages 17 - 18)

The Council will note a petition received in accordance with the Scheme approved by the Council.

10 Petition to Council - Public Conveniences in the District (Pages 19 - 20)

The Council will note a petition received in accordance with the Scheme approved by the Council.

11 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.

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.

There are none on this occasion.

12 Questions Pursuant to Council Procedure Rule 11.2 (Pages 21 - 22)

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.

One question has been received, on notice, from a Member.

13 Report of the Leader of the Council - Urgent Cabinet or Portfolio Holder Decisions (Pages 23 - 26)

The Council will receive a report on Cabinet or Portfolio Holder 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).

14 Minutes of Committees (Pages 27 - 68)

The Council will receive the minutes of the following Committees:

- (a) Community Leadership of Monday 3 September 2018;
- (b) Resources and Services of Monday 17 September 2018;
- (c) Human Resources and Council Tax of Monday 24 September 2018;
- (d) Audit of Thursday 27 September 2018;
- (e) Community Leadership of Monday 1 October 2018;
- (f) Standards of Wednesday 3 October 2018;
- (g) Local Plan of Tuesday 30 October 2018; and
- (h) Resources and Services of Monday 5 November 2018.

NOTE: 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.

15 Motion to Council - "Proposed Town Council for Clacton-on-Sea" (Pages 69 - 70)

The Council will consider a motion, notice of which has been given by Councillor Newton pursuant to Council Procedure Rule 12.

16 Motion to Council - "Free Swimming Lessons for Children" (Pages 71 - 72)

The Council will further consider a motion, which was moved by Councillor Pemberton and seconded by Councillor Gray at the meeting of the Council held on 11 September 2018 and which had stood referred to the Cabinet for consideration and report.

NOTE: Cabinet considered Councillor Pemberton's motion at its meeting held on 12 October 2018. The relevant Cabinet Minute and the Cabinet's recommendation to Council are contained within the Council Book.

17 Motion to Council - "Proposed Planning Condition re: Dust Suppression at Development Sites" (Pages 73 - 74)

The Council will further consider a motion, which was moved by Councillor Bray and seconded by Councillor Bush at the meeting of the Council held on 11 September 2018 and which had stood referred to the Planning Committee for consideration and report.

NOTE: The Planning Committee considered Councillor Bray's motion at its meeting held on 16 October 2018. The relevant Committee Minute and the Committee's recommendation to Council are contained within the Council Book.

18 Recommendations from the Cabinet - The Local Council Tax Support Scheme 2019/2020 - Council Tax Exemptions/Discounts for 2019/2020 and the Annual Minimum Revenue Provision Policy Statement 2019/2020 (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 2019/2020, Council Tax Exemptions for 2019/2020 and the Annual Minimum Revenue Provision Policy Statement 2019/2020.

NOTE: Cabinet considered this matter at its meeting held on 9 November 2018. The relevant Cabinet Report and Minute and the Cabinet's recommendations to Council are contained within the Council Book.

19 Recommendations from the Cabinet - Review of the Council's Constitution (Pages 123 - 242)

The Council is asked to consider the recommendations submitted to it by the Cabinet in respect of the proposed changes to the Council's Constitution.

NOTES: (1) Cabinet considered this matter at its meeting held on 9 November 2018. The relevant Cabinet Report and Minute and the Cabinet's recommendations to Council are contained within the Council Book; and

(2) Members will be aware that Council will not be discussing at the meeting Sub-Sections (a) and (b) in the Current Position Section of Part 3 (Supporting Information) of the Report (i.e. the sub-sections that refer to the Council Procedure Rules) as those matters were deferred by Cabinet for further consultation with Members.

20 Reports Submitted to the Council by an Overview and Scrutiny Committee

The Council is asked to consider any reports submitted to it by an Overview and Scrutiny Committee.

There are none on this occasion.

21 Report of the Chief Executive - A.4 - Non-Attendance at Meetings (Pages 243 - 244)

In accordance with Article 2.06 of the Council's Constitution to formally report that Councillors Andy Massey and Giles Watling MP have exceeded four months without attending a meeting of the Council or attending a meeting of a committee or sub-committee of the Council either as an appointed member of a committee/sub-committee or as a substitute member of a committee/sub-committee.

22 Joint Report of the Monitoring Officer and Head of Leadership Support and Community - A.5 - Appointment of Independent Persons and the Independent Remuneration Panel (Pages 245 - 246)

To approve the recommendations from the Interview Selection Panel to appoint Mrs Clarissa Gosling, Mrs Jane Watts, Mr David Irvine and Mrs Susan Gallone as the Council's Independent Persons and Independent Remuneration Panel.

All of the recommended appointments to be for the period expiring at the Annual Council meeting in 2023.

23 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).

24 Exclusion of the Press and Public

The Council is asked to consider the following resolution:

“That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 25 on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraph(s) of Part 1 of Schedule 12A, as amended, of the Act.”

25 Exempt Minutes of Committees (Pages 247 - 250)

The Council will receive the exempt minutes of the following Committees:-

- (a) Human Resources and Council Tax of Monday 24 September 2018; and
- (b) Audit of Thursday 27 September 2018.

NOTE: The above exempt 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.

Date of the Next Scheduled Meeting of the Council

Tuesday, 22 January 2019 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.

Agenda Item 1

TENDRING DISTRICT COUNCIL

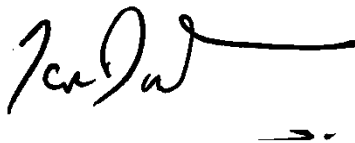
Committee Services
Town Hall
Station Road
Clacton-on-Sea
Essex
CO15 1SE

19 November 2018

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 27 November 2018 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', followed by a horizontal line.

Ian Davidson
Chief Executive

To: All members of the
Tendring District Council

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**MINUTES OF THE MEETING OF THE COUNCIL,
HELD ON TUESDAY, 11TH SEPTEMBER, 2018 AT 7.30 PM
PRINCES THEATRE, TOWN HALL, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors Platt (Chairman), Yallop (Vice-Chair), Alexander, Amos, Baker, Bray, Broderick, B Brown, J Brown, M Brown, Bucke, Bush, Calver, Cawthron, Chapman, Chittock, Coley, Davis, Everett, Fairley, Fowler, Gray, Griffiths, C Guglielmi, V Guglielmi, Heaney, I Henderson, J Henderson, Hones, P Honeywood, S Honeywood, King, Land, McWilliams, Miles, Newton, Nicholls, Pemberton, Poonian, Porter, Raby, Scott, Skeels Jnr, Skeels Snr, Steady, Stephenson, Stock OBE, Talbot, Turner, Watson, White, Whitmore and Winfield
In Attendance:	Ian Davidson (Chief Executive), Ewan Green (Corporate Director (Planning and Regeneration)), Lisa Hastings (Head of Governance and Legal Services), Ian Ford (Committee Services Manager), Elizabeth Ridout (Leadership Support Manager) and William Lodge (Communications Manager)

53. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Bennison, Cossens, Ferguson, Khan and Watling MP.

In response to a question raised by Councillor Calver, the Monitoring Officer (Lisa Hastings) read out the wording of Article 2.06 (Attendance) of the Council's Constitution as follows:-

"It is a requirement that if a Member exceeds four months without attending a meeting of the Council or attending a meeting of a committee or sub-committee of the Council either as an appointed member of a committee/sub-committee or as a substitute member of a committee/sub-committee that shall be reported to the next Council meeting."

The Monitoring Officer informed Council that Councillor Watling had attended a meeting of the Cabinet within the last four months.

54. MINUTES OF THE LAST MEETING OF THE COUNCIL

RESOLVED that the minutes of the ordinary meeting of the Council, held on Tuesday 3 July 2018 be approved as a correct record and signed by the Chairman.

55. DECLARATIONS OF INTEREST

There were none on this occasion.

56. ANNOUNCEMENTS BY THE CHAIRMAN OF THE COUNCIL

Pride of Tendring Awards 2019

The Chairman was pleased to announce that the nomination period for the Pride of Tendring Awards 2019 was now open. He stated that this prestigious event, now in its 8th year, continued to be one that truly inspired and celebrated the achievements of groups and individuals throughout the District.

The nomination period would be open until 5pm on Friday 2nd November 2018 and Members could submit their nominations via the electronic link that had been previously emailed to them.

If any Members had problems submitting the form, the Chairman requested that they contact Emma Haward (01255 686907) or Lizzie Ridout (686340) in the Leadership Support office.

The Chairman informed Council that the Pride of Tendring Awards 2019 evening would take place on Friday 22nd March 2019 and he hoped to see all Members there.

"Tommy" Statue

The Chairman was aware that many Members would have seen the Council's 'Tommy' statue and heard of his tour of duty around Tendring. He thanked Members along with the town and parish councils who had supported 'Tommy's' tour, which had already covered Manningtree, Thorpe-le-Soken, Frinton, Brightlingsea, St Osyth, Holland-on-Sea, Jaywick Sands and Bradfield, along with various events such as the Air Show, the Land of Hope and Glory concert, and VE Day. 'Tommy' had so far travelled 134 miles.

The Chairman requested that if any Member would like to have 'Tommy' visit their ward or a special event, they should contact Lizzie Ridout and she would do her best to incorporate their request into the schedule.

57. ANNOUNCEMENTS BY THE CHIEF EXECUTIVE

There were none on this occasion.

58. STATEMENTS BY THE LEADER OF THE COUNCIL

(1) RSPCA Awards

The Leader of the Council (Councillor Stock OBE) reminded Members that this Council had been recognised for several years by the RSPCA animal welfare charity for its work supporting stray pets with the award of its Community Animal Welfare 'Pawprints' award. He was delighted to inform Members that the Council's Dog Warden Team had won a Gold Award for the fifth year running. In recognition of that and to also mark ten years of the 'Pawprints' awards the Team had also been awarded a platinum award.

The Council's Housing Team had also been awarded a Bronze Award for its work in supporting tenants with pets.

Councillor Stock stated that the whole Council could be proud of those achievements and he congratulated all those Officers involved.

(2) Local Plan Update

The Leader of the Council informed Council that he had hoped to give Members an update on the Local Plan progress but that he was unable to do so pending the outcome of a meeting of Colchester Borough Council's Local Plan Committee on 13 September 2018. He undertook to give Members an update as soon as possible after that meeting had been held.

(3) Grace Mi

The Leader of the Council informed Council that he had been made aware by the local Ward Members, that Grace Mi, a resident of Mistley, was facing deportation to PR China. Having been informed of Grace's personal circumstances and the significant support that she was receiving from the local community, Councillor Stock stated that he was prepared to write to the Home Secretary to request that Grace Mi's deportation be suspended pending a review of her case.

Councillors G V Guglielmi, Coley and I J Henderson asked questions of the Leader of the Council and made statements expressing their support for Grace Mi.

Councillor I J Henderson suggested that this Council should resolve an emergency motion to give the whole Council's support to Councillor Stock's proposed action. The Monitoring Officer (Lisa Hastings) informed Members that Council would have to resolve, pursuant to Council Procedure Rule 25.1, to suspend, for this meeting only, Council Procedure Rule 12.3 in order to allow this to happen.

It was moved by Councillor Turner, seconded by Councillor Scott and:-

RESOLVED that, in accordance with Council Procedure Rule 25.1 (Suspension of Council Procedure Rules), Council Procedure Rule 12.3 (Scope of Motions) be suspended for the duration of this meeting in order to allow Council to consider an urgent motion in respect of the matter of Grace Mi's deportation.

It was then moved by Councillor G V Guglielmi, seconded by Councillor Broderick and:-

RESOLVED that the Council requests that the Leader of the Council writes to the Home Office and the Home Secretary to request that the deportation of Grace Mi be suspended until further notice pending a comprehensive review of this case.

59. STATEMENTS BY MEMBERS OF THE CABINET

Clacton Town Centre Portfolio Holder Working Party

The Investment and Growth Portfolio Holder (Councillor Fairley) gave an update to Members on her Clacton Town Centre Working Party which included the fact that Councillors Amos, Skeels Snr. and Stephenson would be serving on the Working Party and that its first meeting was due to be held on 21 September 2018.

She further stated that the working party would work in partnership with town centre businesses, local community groups and other stakeholders to explore options for improving the area as the retail market changed nationally. To assist that process residents, businesses and community groups would also be asked for their views through a questionnaire.

Clacton Air Show 2018

The Leisure and Tourism Portfolio Holder (Councillor Skeels Snr.) thanked the Officers and all those involved who had put together another spectacular Air Show. He informed Council that it was an encouraging sign that increasing numbers of people were attending the Air Show as part of a longer stay in the District.

60. PETITIONS TO COUNCIL

There were none on this occasion.

61. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.1

No questions had been received, on notice, from members of the public on this occasion.

62. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 11.2

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

Four questions had been submitted as set out below:

Question One

From Councillor Pemberton to Councillor Talbot, Portfolio Holder for the Environment:

“Beach Litter

What is going on with this beach contract?

We are starting to look very silly, and this is doing nothing to enhance the image of our town. I look forward to your comments on this.”

Councillor Talbot replied along the following lines:-

“I thank you for your question and in particular I share your concern about the “Image of our Town”, a question which on this occasion you have addressed, just to me alone, rather than the 185 people on your mailing list, to whom you usually also write to with any complaint you send to me and my officers. How these 185 people help your very sincere desire to “enhance the image of our town”, I just do not know, as I would have thought it was in danger of having the opposite effect!

My officer has provided me with an answer to your question in the following terms:

This summer has been an exceptional year with unprecedented temperatures for prolonged periods. This has resulted in an unparalleled number of tourists visiting Tendring’s tourist destinations including a large organised group of day trippers turning up in coaches one Sunday.

Whilst this increase in tourist numbers spells good news for the resorts, businesses and District as a whole it has also placed an unprecedented pressure upon the resources deployed to clean the seafront areas including the beaches.

During the summer months we place over an additional 130 wheeled bins along the seafronts areas which are emptied twice daily and beaches are litter picked every morning with extra beach cleaners deployed during the day. Following the issues highlighted this summer of large amounts of litter being left on the beaches in Clacton by tourists and extra 20 wheeled bins were deployed in Clacton to help provide beach users to dispose of their waste responsibly but we should not forget that the emphasis remains upon the individuals who make the conscious choice to just leave their rubbish on the beach, making no attempt to dispose of their waste in an appropriate manner. The public need to be educated to dispose of their waste responsibly, consequently signs have been placed on the A133; the gateway to Clacton to remind the public to take their waste home with them. Additionally discussions have been made with our contractors to provide a more flexible beach cleaning service for future summers with the potential of beach cleaning operatives working into the late evenings to help remove any large litter accumulations left by beach users."

Councillor Pemberton then asked a supplementary question to which Councillor Talbot then replied.

Question Two

From Councillor I J Henderson to Councillor Stock OBE, Leader of the Council:

"I am sure that every member of this Council is angry and disgusted at the knowledge that modern slavery exists and is a growing issue within society. To this end, will the Leader of the Council arrange for Tendring District Council to sign up to the Co-operative Party's Charter on Modern Slavery which confirms that signatories will:

Train its corporate procurement team to understand modern slavery through the Chartered Institute of Procurement and Supply's (CIPS) online course on Ethical Procurement and Supply.

Require its contractors to comply fully with the Modern Slavery Act 2015, wherever it applies, with contract termination as a potential sanction for non-compliance.

Challenge any abnormally low-cost tenders to ensure they do not rely upon the potential contractor practising modern slavery.

Highlight to its suppliers that contracted workers are free to join a trade union and are not to be treated unfairly for belonging to one.

Publicise its whistle-blowing system for staff to blow the whistle on any suspected examples of modern slavery.

Require its tendered contractors to adopt a whistle-blowing policy which enables their staff to blow the whistle on any suspected examples of modern slavery.

Review its contractual spending regularly to identify any potential issues with modern slavery.

Highlight for its suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed.

Refer for investigation via the National Crime Agency's national referral mechanism any of its contractors identified as a cause for concern regarding modern slavery.

Report publicly on the implementation of this policy annually?"

Councillor Stock replied along the following lines:-

"I would like to thank Councillor Henderson for raising this very important issue.

I am sure that every member of the Council is utterly appalled by the very notion of modern day slavery and human trafficking. It is really quite difficult to comprehend that in today's society in twenty first century Britain people choose to treat other human beings in such a demeaning, cruel and exploitative way.

Members will be aware that a recent operation was carried out by Essex Police in this District, targeting a suspected modern day slavery operation running from a local car wash. The shocking truth is that this is not a problem restricted to a far off inner city this is happening right under our very noses.

The Tendring Community Safety Partnership has declared that Protecting Vulnerable People from Hidden Harms is one of its key priorities and this includes addressing the issues of human trafficking and modern day slavery. This Council's Safer Communities Team has a responsibility for making referrals to the National Referral Mechanism which is a framework for identifying victims of human trafficking or modern slavery and ensuring that they receive the appropriate support. The Safer Communities Team also has a role in dealing directly with potential victims of modern day slavery to arrange and co-ordinate support. Information is regularly shared between partners at tasking meetings on any issues or locations of interest.

However, as implicit in your question Councillor Henderson, the Council not only has a responsibility to take action with partners but also, where it can, to monitor and check its contractors.

The Modern Slavery Act 2015 is the quite recent legislation which covers this important area and it includes a requirement for businesses to issue a statement about the actions they have taken to ensure that there is no modern day slavery in their supply chains. This Council has a statement on its website which covers training, requirements for the award of contracts and whistle blowing.

The Council continues to undertake work to fully embed these actions including the revision of our contractor competency framework to check the contractor's commitment to addressing modern day slavery and identify any potential issues.

Given that we are fully complying with the legislative requirements and taking a pro-active role in the fight against modern day slavery and human trafficking I do not consider that it is necessary or indeed appropriate for this Council to sign up a charter that is being promoted by one particular political party. However, I do agree that the principles of the Charter are sound and I have asked Officers to make sure that these

are taken into account in developing and embedding our work to prevent modern day slavery from becoming part of our supply chains.”

Councillor Henderson then asked a supplementary question to which Councillor Stock then replied.

Question Three

From Councillor Gray to Councillor P B Honeywood, Housing Portfolio Holder:

“Taking into consideration the new Government green paper on social housing, together with the Armed Forces Covenant, I would like to seek assurances on the level of support and advice council staff, in particular, within housing services, are providing ex-service personnel.

I have been approached by retired members of our armed services who are suffering either mental or physical injuries or an accumulation of both.

According to the Home Office Covenant, Government and local authorities have a legal obligation to assist ex-service personnel with friendly advice and maximum assistance in enabling them to secure safe and affordable housing.

Taking these facts into consideration, I respectfully request that an officer be assigned as a specialist in this field, giving the ex-service personnel a genuine contact. Thus providing them with a friendly face that they feel they can trust, especially given the fact that a lot of these people may be suffering from invisible injuries such as P.T.S.D.

Due to the increasing number of homeless ex-service personnel, I think this would be a very welcome and humane move on the part of this Council, perhaps leading the way for other Councils to follow.

What assurances can you give me in response to my request?”

Councillor Honeywood replied along the following lines:

“The Council adopted its current Housing Allocations Policy in June 2013 following the passing of the Localism Act 2011. The Localism Act gave the Council the power to make some of its own rules on who could apply for housing such as adopting a residency qualification. The Council adopted a rule that a person could not apply for housing unless they have been living in the district for a period of 3 years.

If a person wants to join the housing register or seek assistance as a homeless person, they are routinely asked if they are a current or former member of the armed forces.

The Council does not apply this residency qualification to current or former members of the armed forces who have been discharged in the last 5 years. It does not apply a residency requirement on bereaved spouses or civil partners who have to leave Service Family Accommodation following the death of their spouse or civil partner. It does not apply this residency requirement on members of the reserve forces who have been seriously injured or disabled as a consequence of service.

The Council's policy grants additional priority to households who meet these armed forces criteria. This gives households who are current or former members of the armed forces a better chance of being offered accommodation. Since the Housing Allocations Policy was adopted in June 2013, 15 households have been awarded additional priority as a consequence of time spent in the armed forces.

In terms of homelessness, the Council is rarely approached by households leaving the armed forces because of the financial support and other support that is given prior to discharge by the armed forces themselves and service organisations such as the Royal British Legion and SSAFA. In the last 5 years, there have only been 2 direct approaches from homeless service personnel and both were provided with temporary accommodation in the Council's housing stock. The Homelessness Reduction Act came into force in April 2012 and the Council has a duty to prevent or relieve homelessness for all households and it is recognised that ex-service personnel may have additional needs than other homeless households.

In the event that any person is sleeping rough which might include ex-service personnel, the Council currently employs a Rough Sleeping Co-ordinator whose role is to work intensively with rough sleepers and co-ordinate support services around the individual. The Council does not have a specialist officer or contact point for current or former members of the armed forces in the housing department. However, the Council will be adopting a new homelessness strategy later this year and if Members felt this was needed, this could be passed onto Officers for inclusion in the new strategy."

Councillor Gray then asked a supplementary question to which Councillor Honeywood then replied.

Question Four

From Councillor Stephenson to Councillor Stock OBE, Leader of the Council:

"Could the Leader of the Council please give an update on the following carried motions concerned with Road Safety in Tendring?

I only ask as I have seen little to no action by Essex County Council or by Highways England despite this Council's formal requests for action on either area described in the motions.

For reference, I have included the wording of the motions as agreed by Council.

5th April 2016 - Urgent Matters for Debate - Motion submitted by Councillor Mike Brown on the grounds of the recent fatalities on the A133 and ensuring the safety of the travelling public.

"That this Council –

- Is appalled that another serious accident has occurred on the A133 on the Weeley and Little Clacton by-pass last week leading to another fatality. In the last ten months there have been a total of 5 fatalities;*
- Demands that the Highways Authority take urgent action to investigate the causes of these accidents and implement all, and any, safety measures as soon as practicable.; and*

- *Calls on the County Council and local Members of Parliament to support this motion and to do everything possible to ensure that the A133 Weeley and Little Clacton bypass is made safe for all road users."*

9th May 2017 - Motions to Council - Presented by Councillor Zoe Fairley - Proposed Road Safety Measures at Brickmans Bridge on the B1352

- A. "This Council calls upon Essex Police Serious Collision Unit to prioritise and disclose the causation report into all the serious injury and fatal collisions at Brickman's Bridge, on the B1352 between Mistley and Bradfield.*
- B. Furthermore, this Council calls upon Essex County Council to provide all necessary structural amendments to the bridge, together with supportive traffic calming measures, advance warning signs and speed limit reductions, which will take full cognisance of the Essex Police report and provide improved safety conditions for motorists, passengers and all other road users.*
- C. This Council implores Essex County Council to introduce these changes and improved safety measures without delay and at the earliest possible opportunity.*
- D. This Council nominates its own representative to work with Essex County Council in order to bring about these improvements to the highest standards."*

Councillor Stock replied along the following lines:-

"Brickman's Bridge

Following consideration of this motion at Council in May 2017, I wrote to Essex County Council and Essex Police regarding the safety implications at this location.

A specification for safety measures including reflective bend warning signage is being drawn up but further details and dates for the work are still awaited.

A133

A motion on the A133 was first considered by this Council in April 2016 following a number of fatalities on that road. Following that meeting I wrote to our MPs and to the then Cabinet Member for Highways at Essex County Council requesting that an urgent safety review be undertaken. A safety review was carried out and in November 2016 this Council considered the outcomes from that. I again wrote to Essex County Council endorsing the safety improvements proposed and suggesting other improvements agreed by this Council.

I am sure that Members will be pleased to hear that Essex County Council and the South East Local Enterprise Partnership have made £5.43m available to fund improvements to the A133. These are designed to support economic growth as well as providing safety improvements to the route, increasing journey time reliability through highway capacity improvements for motorists as well as improving signage along the route.

The proposals for the stretch of the A133 from the Frating roundabout to Clacton include:

- *Implementation of a variety of safety improvements between Frating roundabout and Progress Way roundabout including a review of speed limits and junction*

movements with regards to safety to reduce the likelihood of collisions and investigation of average speed cameras between Weeley Roundabout and Progress Way.

- *Introduction of a segregated left turn lane from A120 / A133 spur and Colchester Road (east arm) to reduce conflict and congestion.*
- *Widening of the northbound approach at the Weeley Roundabout as well as road marking and signage improvements.*
- *Rationalisation and decluttering of signage along the whole route.*

The main construction is anticipated to begin in Winter 2018 and will be undertaken in a phased approach over a period of approximately 2 years."

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

There was no such report on this occasion.

64. MINUTES OF COMMITTEES

It was **RESOLVED** that the minutes of the following Committees, as circulated, be received and noted:

- (a) Resources and Services of Monday 2 July 2018;
- (b) Standards of Monday 23 July 2018;
- (c) Audit of Thursday 26 July 2018; and
- (d) Resources and Services of Monday 30 July 2018.

65. MOTION TO COUNCIL - "FREE SWIMMING LESSONS FOR CHILDREN"

Council had before it the following motion, notice of which had been given, pursuant to Council Procedure Rule 12, by Councillor Pemberton:-

"That this Council takes the necessary steps to offer, at Clacton Leisure Centre and other suitable venues, up to six free swimming lessons every year for all children under the age of 15 years, in order to see that every child in the District of Tendring can be taught to swim, cope with a rip tide or strong current, swim/float fully clothed and learn basic life-saving."

Councillor Pemberton formally moved the motion and Councillor Gray formally seconded the motion.

The Chairman informed Council that, pursuant to Council Procedure Rule 12.4, he would refer the motion to the Cabinet.

Councillor Pemberton's motion thereupon stood referred, without speeches or discussion, to the Cabinet for its consideration and report.

66. MOTION TO COUNCIL - "PROPOSED PLANNING CONDITION RE: DUST SUPPRESSION AT DEVELOPMENT SITES"

Council had before it the following motion, notice of which had been given, pursuant to Council Procedure Rule 12, by Councillor Bray:-

“This Council resolves that:-

- 1. Subject to there being no objection from the Planning Inspectorate, ALL future planning applications approved by this Council, contain a condition requiring the developer / constructor to take all reasonable steps, using dust suppression techniques to ensure that, as far as possible, existing residents living in near proximity to the construction site are not adversely affected by construction related dust; and*
- 2. If any objection is received from the Planning Inspectorate, that objection will be disclosed fully to Councillors in order that this motion can be amended to take account of any such objection at some future time.”*

Councillor Bray formally moved the motion and Councillor Bush formally seconded the motion.

The Chairman informed Council that, pursuant to Council Procedure Rule 12.4, he would refer the motion to the Planning Committee.

Councillor Bray's motion thereupon stood referred, without speeches or discussion, to the Planning Committee for its consideration and report.

67. RECOMMENDATIONS FROM THE CABINET

There were none on this occasion.

68. REPORTS SUBMITTED TO THE COUNCIL BY AN OVERVIEW AND SCRUTINY COMMITTEE

There were none on this occasion.

69. REPORT OF THE CHIEF EXECUTIVE - A.1 - CHANGE OF NAME OF A POLITICAL GROUP ON TENDRING DISTRICT COUNCIL

The Chief Executive formally reported that, pursuant to Regulation 8(5) of the Local Government (Committees and Political Groups) Regulations 1990, the Leader of the then Holland Residents' Group had, on 13 July 2018, served formal notice on the Council that her Group wished to change its name to instead be the Holland-on-Sea Group.

Council noted the foregoing.

70. REPORT OF THE CHIEF EXECUTIVE - A.2 - CHANGE IN MEMBERSHIP OF POLITICAL GROUPS AND A REVIEW OF MEMBERSHIP OF COMMITTEES

The Chief Executive formally reported that –

(1) pursuant to Regulation 10(b) of the Local Government (Committees and Political Groups) Regulations 1990, Councillor Peter Cawthron on 4 July 2018, had served

formal notice on the Council that he no longer wished to be treated as a member of the Non-Aligned political group;

(2) on 13 July 2018, Councillor Cawthron, pursuant to Regulation 9(b) of the Local Government (Committees and Political Groups) Regulations 1990, had served formal notice on the Council that he wished to be treated as a member of the UKIP political group. That notice had been duly counter-signed by the Leader of the UKIP Group (Councillor Mary Newton);

(3) pursuant to Regulation 10(b) of the Local Government (Committees and Political Groups) Regulations 1990, Councillor Alex Porter on 18 July 2018, had served formal notice on the Council that he no longer wished to be treated as a member of the Non-Aligned political group;

(4) as Regulation 8(1) of those Regulations required a political group to have a minimum of two members this meant that the Non-Aligned Group automatically had ceased to exist as mandated in Regulation 8(2); and

(5) on 18 July 2018, Councillor Porter, pursuant to Regulation 9(b) of the Local Government (Committees and Political Groups) Regulations 1990, had served formal notice on the Council that he wished to be treated as a member of the UKIP political group. That notice had been counter-signed by the Leader of the UKIP Group (Councillor Newton).

Council noted the foregoing.

The Chief Executive further reported that, 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.

It was moved by Councillor Stock OBE, seconded by Councillor G V Guglielmi and:-

RESOLVED that the Schedule of Appointments to Committees (which had been previously agreed by Group Leaders and which was set out as an appendix to item A.2 of the Report of the Chief Executive), be approved with immediate effect.

71. REPORT OF THE HEAD OF LEADERSHIP SUPPORT AND COMMUNITY - A.3 - FLAG FLYING PROTOCOL

Further to the decision taken by Full Council at its meeting held on 3 July 2018 (minute 46 referred), a protocol had been prepared to establish dates on which flags should be flown; the circumstances of how those flags should be flown; and any associated decision making in respect of flying flags outside of the terms of the protocol.

Members were informed that whilst the general principle applied by the Authority was to follow the advice provided by central Government, a framework for local decision making in respect of the flying of flags would assist in the determination of any additional requests.

Council's approval was therefore being sought for the adoption of a protocol to govern the flying of flags at Clacton Town Hall.

It was moved by Councillor Stock OBE, seconded by Councillor G V Guglielmi and:

RESOLVED that the Flag Flying Protocol for Clacton Town Hall, as set out in Appendix A to item A.3 of the Report of the Head of Leadership Support and Community, be approved and adopted.

72. REPORT OF THE MONITORING OFFICER - A.4 - PROPOSED REVISION OF ANNEX E OF THE STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

Council was informed that, at the meeting of the Standards Committee held on 23 July 2018 (Minute 33 referred) the Monitoring Officer had referred to Part 4 of Annex E of the Standards Complaints Investigation Procedure and had explained to that Committee that at the present time the report that the Investigator produced did not have to include comments on all of the issues complained of, if for example, the Investigator found that only one issue had been proven. She had also informed that Committee that if it agreed that Annex E needed to be amended to reflect this then this would need to go to Council for approval as Annex E was part of the Council's Constitution.

It had therefore been moved by Councillor P Honeywood, seconded by Councillor Nicholls and:

***"RESOLVED** that the revision to Annex E of the Standards Complaints Investigation Procedure be referred to Council."*

Members were aware that the proposed revision to Annex E was set out, for Council's consideration, in the Appendix to the Monitoring Officer's report with the suggested changes indicated in RED.

It was moved by Councillor Heaney, seconded by Councillor Skeels Snr. and:

RESOLVED that the revised Annex E of the Standards Complaints Investigation Procedure, as set out in the Appendix to item A.4 of the Report of the Monitoring Officer, be approved and implemented with immediate effect.

73. URGENT MATTERS FOR DEBATE

There were none on this occasion.

The Meeting was declared closed at 8.35 pm

Chairman

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COUNCIL

27 NOVEMBER 2018

REPORT OF CHIEF EXECUTIVE

A.1 PETITION: OLD FIRE STATION, MILL LANE, WALTON-ON-THE-NAZE
(Report prepared by Ian Ford)

In accordance with the Council's approved scheme for dealing with petitions, I formally report the receipt of a petition submitted by Mr Steven Walker, as lead petitioner on 22 October 2018. The petition is signed by 105 local residents and requests that the Council makes the necessary arrangements including issuing a preservation order to protect the Old Fire Station building in Mill Lane, Walton-on-the-Naze from demolition.

In accordance with the Council's approved scheme for dealing with petitions, this matter will now be investigated and a report will be prepared and presented to the Cabinet on the basis that it contains between 30 and 249 signatures.

Members will be aware that the next practicable ordinary meeting of the Cabinet is on 14 December 2018.

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

RECOMMENDED - That the receipt of the Petition and the contents of the report be noted.

**IAN DAVIDSON
CHIEF EXECUTIVE**

COUNCIL

27 NOVEMBER 2018

**BACKGROUND PAPERS LIST FOR
REPORT OF CHIEF EXECUTIVE**

A.1 PETITION: OLD FIRE STATION, MILL LANE, WALTON-ON-THE-NAZE

Petition submitted by Mr Steven Walker to the Council on 22 October 2018.

COUNCIL

27 NOVEMBER 2018

REPORT OF CHIEF EXECUTIVE

A.2 **PETITION: PUBLIC CONVENIENCES IN THE DISTRICT**

(Report prepared by Ian Ford)

In accordance with the Council's approved scheme for dealing with petitions, I formally report the receipt of a petition submitted by Mr Mike LeCornu, as lead petitioner on behalf of TenPAG and Unite, on 31 October 2018. The petition is signed by 271 local residents and requests that the Council replaces public conveniences that have been closed for being 'not fit for purpose'.

In accordance with the Council's approved scheme for dealing with petitions, this matter will now be investigated and a report will be prepared and presented to the Council on the basis that it contains more than 250 signatures.

Members will be aware that the next practicable ordinary meeting of the Council is on 22 January 2019.

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

RECOMMENDED - That the receipt of the Petition and the contents of the report be noted.

**IAN DAVIDSON
CHIEF EXECUTIVE**

COUNCIL

27 NOVEMBER 2018

**BACKGROUND PAPERS LIST FOR
REPORT OF CHIEF EXECUTIVE**

A.2 PETITION: PUBLIC COVENIENCES IN THE DISTRICT

Petition submitted by Mr Mike LeCornu to the Council on 31 October 2018.

Questions pursuant to Council Procedure 11.2

The following question has been received, on notice, from a Member:

Question One

From Councillor Chris Griffiths to Councillor Lynda McWilliams, Portfolio Holder for Health and Education:

“A number of St James’ residents have expressed concern over the number of drunks in Clacton town centre, who by their general poor behaviour and foul language are creating an unpleasant environment for residents and visitors.

Could the Portfolio Holder tell us, what action they intend to take, along with other partner agencies, to combat this problem, and how they intend to create a more pleasant environment for those visiting Clacton Town Centre?”

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COUNCIL

27 NOVEMBER 2018

REPORT OF LEADER OF THE COUNCIL

A.3 EXECUTIVE DECISIONS TAKEN AS A MATTER OF URGENCY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To notify Members of recent Executive Decision(s) taken in the circumstances set out in the Council's Constitution in:-

- (a) Rule 15 of the Access to Information Procedure Rules (Special Urgency); and/or
- (b) Rule 18(i) of the Overview and Scrutiny Procedure Rules (Call-in and Urgency).

EXECUTIVE SUMMARY

In accordance with the requirements of Rule 16.2 of the Access to Information Procedure Rules and Rule 18(i) of the Overview and Scrutiny Procedure Rules, this report notifies Members of recent Executive Decision(s) taken in the circumstances set out in Rule 15 of the Access to Information Procedure Rules and/or Rule 18(i) of the Overview and Scrutiny Procedure Rules.

RECOMMENDATION

That the contents of the report be noted.

PART 2 – SUPPORTING INFORMATION

BACKGROUND

The "Special Urgency" procedure in Rule 15 of the Access to Information Procedure Rules provides that where a key decision cannot be reasonably deferred to allow the procedure in Rule 14 (General Exception) of those procedure rules to be followed, it may still be taken with the agreement of the Chairman of the relevant overview and scrutiny committee, or failing him/her, the Chairman or Vice-Chairman of the Council.

Rule 18(i) of the Overview and Scrutiny Procedure Rules provides that the "call-in" procedure will not apply to a decision if the Chairman, or failing him/her the Vice-Chairman, of the relevant overview and scrutiny committee agrees both that the decision is reasonable in all its circumstances and that any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests.

DECISIONS TAKEN AS A MATTER OF URGENCY

(1) Award of £4,200 to The Pharos Trust for Emergency Works regarding LV18

On 14 September 2018, in view of the urgency of the issue concerned and in accordance with Rule 18(i) of the Overview and Scrutiny Procedure Rules, the Finance and Corporate Services Portfolio Holder (Councillor G V Guglielmi) sought and subsequently obtained the

Chairman of the Resources and Services Overview and Scrutiny Committee's (Councillor Stephenson) consent that his decision relating to awarding £4,200 to The Pharos Trust to support emergency works relating to LV18 be exempt from the call-in procedure.

Councillor Guglielmi's decision was as follows:

"To award £4,200 (funded from the Big Society budget) to The Pharos Trust to support emergency works to ensure that LV18 is relocated whilst vital dredging is carried out. Upon return the LV18 will continue as a public tourist attraction in Harwich run by volunteers."

It was felt that any delay likely to be caused by the call-in process would have seriously prejudiced the Council's and the public's interest for the following reasons:-

"To not proceed with a contribution would prevent significant third party funding into the District and would not support the delivery of key financial strands of the Council's long-term forecast, such as business and housing growth."

(2) Participation in a revised Essex Business Rates Pool

On 24 September 2018, in view of the urgency of the issue concerned and in accordance with Rule 18(i) of the Overview and Scrutiny Procedure Rules, the Finance and Corporate Services Portfolio Holder (Councillor G V Guglielmi) sought and subsequently obtained the Chairman of the Resources and Services Overview and Scrutiny Committee's (Councillor Stephenson) consent that his decision relating to agreeing the Council's participation in a revised Essex business rates pool in 2019/2020 and to support an application to the Government to become a pilot area in the same year be taken using the 'special urgency procedure and that it also be exempt from the call-in procedure.

Councillor Guglielmi's decision was as follows:

- "(a) the Council confirms its participation in an All Essex Business Rates Pool in 2019/20 and supports the application to the Government to become a pilot area in the same year;*
- (b) subject to a) above, delegation be given to the Deputy Chief Executive to agree the final pooling agreement and application to become a pilot area in 2019/20;*
- (c) subject to a) and b) above, delegation be given to the Deputy Chief Executive in consultation with the Portfolio Holder for Finance and Corporate Resources to withdraw from the pool / pilot if disadvantageous for the Council to remain a member."*

It was felt that any delay likely to be caused by the call-in process and by not being allowed to use the special urgency process would have seriously prejudiced the Council's and the public's interest for the following reasons:-

"The application to form an Essex business rate pool and pilot for 2019/20 must be submitted to the Government by 25 September 2018."

BACKGROUND PAPERS

(1) Award of £4,200 to The Pharos Trust for Emergency Works regarding LV18

Letter dated 14 September 2018 from the Finance and Corporate Services Portfolio Holder to the Chairman of the Resources and Services Overview and Scrutiny Committee.

Reply dated 14 September 2018 from the Chairman of the Resources and Services Overview and Scrutiny Committee signifying consent to allow the decision to be exempted from call-in.

Email from Tony O'Neil of The Pharos Trust requesting emergency funding for LV18.

Executive Decision dated 14 September 2018.

(2) Participation in a revised Essex Business Rates Pool

Letter dated 24 September 2018 from the Finance and Corporate Services Portfolio Holder to the Chairman of the Resources and Services Overview and Scrutiny Committee.

Reply dated 24 September 2018 from the Chairman of the Resources and Services Overview and Scrutiny Committee signifying consent to allow the decision to be exempted from call-in and to be taken using the 'special urgency' procedure.

Executive Decision dated 24 September 2018.

APPENDICES

None.

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**MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP OVERVIEW AND
SCRUTINY COMMITTEE,
HELD ON MONDAY, 3RD SEPTEMBER, 2018 AT 7.30 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors Land (Chairman), Bush, Chittock, Coley, Griffiths, I Henderson, Newton, Raby, Skeels Jnr and Yallop
Also Present:	Councillor McWilliams – Health and Education Portfolio Holder, Councillor Bucke.
In Attendance:	Karen Neath (Head of Leadership Support and Community) and Charlotte Cooper (Leadership Support Officer)

7. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor V. Guglielmi, (with Councillor A. Coley as substitute) and Councillor A. Pemberton.

8. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Community Leadership Overview and Scrutiny Committee held on 04 June 2018 were approved as a correct record and signed by the Chairman.

9. DECLARATIONS OF INTEREST

There were no declarations of interest made on this occasion.

10. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

11. PUBLIC HEALTH

Dr. Mike Gogarty, Director of Well Being, Public Health and Communities at Essex County Council, attended the meeting of the Community Leadership Overview and Scrutiny Committee to present on public health data and information relevant to the Tendring District.

The presentation included;

- Relative Contribution of the Determinants of Health
- Changes in the Percentage of People Living in 20% Most Deprived Wards Nationally
- Changes in IMD Tendring 2010 to 2015
- IMD Crime Domain Tendring
- Violent Crime (Violent Offences)
- Drug Related Street Crime in Essex
- Health and Disability Domain
- Acute Morbidity

- Life Expectancy and Mental Health
- Key Challenges – Public Health Lens
- Approaches

This was then followed by a question and answer section between members of the Committee and Dr. Gogarty.

**12. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.1. - PERFORMANCE REPORT
APRIL 2018 - JUNE 2018 (QUARTER 1)**

The Committee had before it a report of the Deputy Chief Executive (A.1) which sought to present the performance report 2018/19 (community leadership) for the period April – June 2018 (Quarter 1).

The Committee were made aware that the Performance Report sets out the detailed actions and targets for the delivery of the Council's priorities for the coming year that relate to our partnership and influencing work. The Report includes both the Corporate Plan and Priorities and Projects 2018/19. The indicators and projects highlighted in the report are deemed 'non measurable' as Tendring's role is that of influence only.

The committee were also aware that this report will be presented to members of Cabinet on the 14th September 2018.

Councillor Griffiths raised a concern with regards to the 'Protecting vulnerable people from hidden harms' section. Specifically, Councillor Griffiths raised concerns with the fact Tendring Council have met with Noo Yu Boxing – a programme for young people involved in gangs and high level ASB, believing that engaging young people in boxing would cause more problems rather than solve them. The Head of Leadership Support and Community undertook to try to ascertain some statistics to support the role of this programme.

Councillor Henderson also raised concerns with the fact that all current positions are currently marked as 'on-going', many could be providing more information on where we currently stand. The Head of Leadership Support and Community undertook to review this before the next performance report is produced.

13. SCRUTINY OF PROPOSED DECISIONS

Pursuant to the provisions of Overview and Scrutiny Procedure Rule 13, the Committee had before it the Scrutiny of Proposed decisions.

One decision was put before the Committee; Garden Communities required the approval of an Interim Business Plan and Financial Procedure Rules for North Essex Garden Communities Limited.

The Head of Leadership Support and Community undertook to ascertain the role that the Community Leadership Overview and scrutiny committee can play in scrutinising this forthcoming decision.

14. CONSIDERATION OF ITEMS FOR THE DECEMBER MEETING

The Committee gave due consideration to the speakers / topics in relation to health and well-being to be considered at the next meeting of the Committee, due to be held on 03 December 2018.

It was **RESOLVED** that:-

Open Road to be invited to attend this meeting.

Representatives from Tendring District Council's housing department to be invited to attend this meeting.

Councillor Land also indicated that a further meeting of the committee would be programmed in October, to discuss further issues.

The meeting was declared closed at 9.30 pm

Chairman

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Resources and Services Overview and
Scrutiny Committee

17 September 2018

**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW
AND SCRUTINY COMMITTEE,
HELD ON MONDAY, 17TH SEPTEMBER, 2018 AT 7.30 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors Stephenson (Chairman), Alexander (Vice-Chair), Amos, Baker, Broderick, M Brown, Everett, Miles, Newton, Scott and Steady
In Attendance:	Anastasia Simpson (Head of People, Performance and Projects), Richard Barrett (Head of Finance, Revenues and Benefits Services), Katie Wilkins (Human Resources and Business Manager) and Debbie Bunce (Legal and Governance Administration Officer)

24. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence submitted by Councillors and therefore there were no substitutions on this occasion.

25. MINUTES OF THE LAST MEETING

The Minutes of the meeting of the Committee held on 30 July 2018 were approved as a correct record and signed by the Chairman.

26. DECLARATIONS OF INTEREST

There were none made at this time.

27. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

Subject to providing two working days' notice, a Member of the Committee could ask the Chairman of the Committee a question on any matter in relation to which the Council had powers or duties which affected the Tendring District and which fell within the terms of reference of the Committee.

There were no such questions on this occasion.

28. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.2 - PERFORMANCE REPORT 2018/19 FIRST QUARTER

The Committee had before it a report of the Deputy Chief Executive (Corporate Services) which presented the Performance Report for Quarter One (April 2018 to June 2018), including the Corporate Plan and Priorities and Projects 2018/19.

Appendix A to that report contained details of the 18 indicators and projects where performance was measured. Of those, 14 (78%) were on, or above, their expected target and 4 (22%) were not currently in line with the expected performance.

Members were informed that the Performance Report for Quarter One had been presented to Cabinet on 14 September 2018. Any feedback from the Committee would be presented to a future meeting of the Cabinet as a separate reference report.

The Council's Human Resources Operations Manager (Katie Wilkins) gave the Committee an update in respect of the 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 2018 to June 2018). 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:

Public Conveniences and Recycling all plastic, all colours, tin foil and tins to encourage a recycling culture.

Officers responded to questions raised by Members on various topics and where an answer was not immediately available, the Human Resources and Business Manager undertook to respond to Members as soon as possible after the meeting.

It was **RESOLVED** that the contents of the report be noted.

29. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.1 - CORPORATE BUDGET MONITORING FOR THE FIRST QUARTER OF 2018/19 [INCLUDES UPDATE ON TEN YEAR FINANCIAL FORECAST]

The Committee had before it a report of the Deputy Chief Executive (Corporate Services), which presented it with an overview of the Council's actual financial position against the budget as at the end of July 2018 and which also presented an updated forecast on an on-going basis as part of developing the budget for 2019/20 and beyond.

The Committee was made aware that, at its meeting held on 14 September 2018, Cabinet had considered the same report and had resolved:

"(1) That, in respect of the financial performance against the budget at the end of July 2018, -

(a) the position be noted;

(b) the proposed in-year adjustments to the budget as set out in Appendix H be agreed;

(c) future amendments to in-year employee budgets to reflect organisational changes be delegated to the Chief Finance Officer on the basis that they do not increase the Council's overall net budget; and

(d) the decision to continue to be a member of the Essex Business Rates Pool and associated bid for pilot status in 2019/20 be delegated to the Finance and Corporate Resources Portfolio Holder if advantageous to the Council.

- (2) *That, in respect of the Updated Long Term Forecast, -*
- (a) *the updated forecast be agreed; and*
 - (b) *the Resources and Service Overview and Scrutiny Committee be consulted on the updated position.”*

The Cabinet report referred to above was attached as Appendix A to the report A.1 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 report, Councillor Stephenson moved and Councillor Scott seconded and it was:-

RESOLVED (a) the Committee notes the report and welcomes the revised approach to reporting key financial information and looks forward to seeing this evolve over the coming months; and

(b) that the Committee **COMMENTS AND RECOMMENDS TO CABINET** that:-

(1) the Committee proposes that in respect of the in-year position for 2018/19, the Committee notes the position regarding planning income which was expected at some point given the progress of the local plan. However, it is suggested that if this trend in planning income continues, Officers explore ways to manage the cash flow implications across financial years to alleviate any adverse implications on the budget in any one year.

(2) the Committee will remain alert to the rental income situation within the HRA and hope to see the position stabilise over the coming year. Although not necessarily for inclusion in future reports, it would be helpful for Members to receive more detailed information concerning void periods on a regular basis whilst the current adverse position continues.

(3) in respect of the money owed by one public sector debtor, it would be helpful to the Council’s cashflow position if the relevant service took whatever steps necessary to ensure that money is recovered as soon as possible during the year.

(4) in respect of the Updated Forecast, the Committee notes the updated forecast but in respect of the cost pressure allowance figure of £150k, which is recognised as one of the highest risks to the forecast, the Committee waits to see the level of cost pressures submitted by Services for 2019/20.

(5) the Committee hopes that the Council and its Essex neighbours are successful in forming a business rate pilot/pool in 2019/20 given the level of additional income that this is likely to generate in the area.

(6) when Cabinet see the recommendations from this Committee, Cabinet's recommendations and comments are to go forward onto this Committee's next agenda.

30. **SCRUTINY OF PROPOSED DECISIONS**

Pursuant to the provisions of Overview and Scrutiny Procedure Rule 13, the Committee reviewed any new and/or amended published forthcoming decisions relevant to its terms of reference with a view to deciding whether to enquire into any such decision before it was taken. The relevant forthcoming decisions were before the Committee.

The Committee noted the submitted list of published forthcoming decisions, but wished to scrutinise the Tourism Strategy.

31. **WORK PROGRAMME 2018/2019**

At the request of the Chairman, the Committee reconsidered its work programme for 2018/2019 in order to decide the items that will be considered by the Committee; those that should be looked at by a Task and Finish Working Group; those items that should be the subject of an All Member Briefing and those items that should be entirely deleted from the work programme.

Having discussed the matter it was –

RESOLVED that the following amendments be made to the Committee's Work Programme for 2018/2019:-

5 November 2018 – remove Clacton Airshow to an All-Member Briefing.

5 November 2018 – add Recycling – Task and Finish

5 November 2018 – Remove Corporate Budget Monitoring 2018/19 Second Quarter as this report is not going to Cabinet until 9th November 2018.

Add an additional meeting before the meeting of 17th December 2018 for Corporate Budget Monitoring 2018/19 Second Quarter.

The meeting was declared closed at 10.05 pm

Chairman

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Human Resources and Council Tax
Committee

24 September 2018

**MINUTES OF THE MEETING OF THE HUMAN RESOURCES AND COUNCIL TAX
COMMITTEE,
HELD ON MONDAY, 24TH SEPTEMBER, 2018 AT 7.30 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors Callender (Chairman), Chapman (Vice-Chairman), Alexander, Griffiths, S Honeywood, Khan, King, Porter and Raby
Also Present:	Councillors Broderick, P B Honeywood and Newton
In Attendance:	Anastasia Simpson (Head of People, Performance and Projects), Carol Magnus (Organisational Development Manager), Katie Wilkins (Human Resources and Business Manager), Judy Barker (Data Protection and IT Services Manager), John Higgins (Head of IT and Corporate Resilience), Clare Lewis (Fraud and Risk Manager), William Lodge (Communications Manager), Debbie Bunce (Legal and Governance Administration Officer) and Charlotte Cooper (Leadership Support Officer)

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Calver and Ferguson (with no substitutes) and Chittock (with Councillor Alexander substituting).

**2. MINUTES OF THE FINAL MEETING OF THE HUMAN RESOURCES COMMITTEE
HELD ON 1 NOVEMBER 2017**

The minutes of the final meeting of the Human Resources Committee held on 1 November 2017, were approved as a correct record and signed by the Chairman.

**3. MINUTES OF THE FINAL MEETING OF THE COUNCIL TAX COMMITTEE HELD ON
21 FEBRUARY 2018**

The minutes of the final meeting of the Council Tax Committee, held on 21 February 2018, were approved as a correct record and signed by the Chairman.

4. DECLARATIONS OF INTEREST

Councillor Griffiths declared an interest in the Agenda items in that he was a Shop Steward for the GMB Union, but not for the Council.

Later on in the meeting as reported under Minute 14 below Councillor S A Honeywood declared a personal interest insofar as her son worked in the Council's Planning Department.

5. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

6. UPDATE ON APPRENTICESHIPS

The Council's Organisational Development Manager (Carol Magnus) 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

Members raised questions which were responded to by the Organisational Development Manager. The Chairman thanked the Organisational Development Manager for her attendance.

7. REPORT OF DEPUTY CHIEF EXECUTIVE - A.1 - HEALTH AND SAFETY POLICY UPDATE

There was submitted a report by the Deputy Chief Executive, presented by the Fraud and Risk Manager (Clare Lewis), which updated Members regarding the changes made to the Council's current Health and Safety policy. The Health and Safety policy had been last updated in June 2014.

It was reported that Health and Safety responsibilities had been removed from Environmental Services under Operational Services and transferred to Corporate Services within the Fraud and Risk Team in April 2017.

The Health and Safety team were committed to identifying gaps in the Council's training requirements relating to all Health and Safety matters. Since Health and Safety was moved to Corporate Services in August 2017 a number of Health and Safety related training requirements had been carried out. This ensured the Council was complying with the responsibilities of the Health and Safety at Work Act 1974, to provide necessary information, instruction, training and supervision to enable employees to safely carry out their job role. Failing to provide this training could leave the Council open to risk of accident or incident.

The Committee was further informed that the Health and Safety team would continue to identify gaps in the Council's training needs relating to Health and Safety to ensure the Council was not put at risk of fine by the Health and Safety Executive (HSE) or by prosecution by an employee for a work related incident and to ensure staff continued to receive the training they needed to carry out their role effectively and as safely as possible.

Members were advised that the Policy stated that it should be reviewed yearly. This would ensure that changes in regulations could be taken into account to ensure the Council was up-to-date with its legal responsibilities.

It was reported that the following amendments had been made. Additional wording had been added to the statement of intent.

- “2.4 Additional wording added to show that the Chief Executive has overall responsibility for Health and Safety.
- 2.4.1 Additional bullet point added at the end of the subject.
- 2.4.3 New wording added to subject.
- 2.4.4 Additional bullet point added at the end of the subject.
- 2.4.5 Additional wording added relating to working at height training.
- 2.5 Service managers removed and Head of Departments added.
- 2.5.4 Wording changed to show incident report forms to be emailed to healthandsafety@tendringdc.gov.uk
- 2.5.4 Data Protection Act 1998 replaced by General Data Protection Regulations 2018.
- 2.5.7 New header and wording.
- 2.8 Additional wording added to statement.
- 2.8 Changes made to the wording on the last two bullet points.
- 3 Safety at work regulations added to header.
- 3 Service managers removed and Head of Departments added.
- 3.2 Service managers removed and Head of Departments added.
- 3.2 Second paragraph wording changed.
- 3.2 Third paragraph wording updated
- 3.3 First bullet changed to include the wording “all relevant staff”
- 3.3 Second bullet changed to include first aid.
- 3.3 Additional paragraph added at the end of the subject.
- 3.4.1 RIDDOR website added
- 3.4.3 Service managers removed and Head of Departments added.
- 3.4.4 Health and safety email added to second paragraph.
- 3.4.5 Details of the personal protective equipment regulation added.
- 3.4.5 Service managers removed and Head of Departments added.
- 3.4.6 First paragraph wording changed.
- 3.4.7 New wording added to subject.
- 3.4.8 New wording added to subject.
- 3.4.10 Regulation details added to header.
- 3.5 Service managers removed and Head of Departments added.
- 3.5.2 Service managers removed and Head of Departments added.
- 3.5.2 Inspection frequency added to paragraph three.”

As part of the Council’s consultation processes UNISON had been consulted on all updates to the Health and Safety Policy.

Members raised questions which were responded to by the Fraud and Risk Manager.

It was moved by Councillor Callender, seconded by Councillor Chapman and unanimously **RESOLVED** that:

- (a) the contents of the Health and Safety Policy 2018 be agreed and adopted.
- (b) that the Deputy Chief Executive be authorised to update the Policy with any future legislative or best practice changes, in consultation with the Fraud and Risk Manager.

8. REPORT OF DEPUTY CHIEF EXECUTIVE - A.2 - "TIME TO CHANGE" EMPLOYER PLEDGE ACTION PLAN

There was submitted a report by the Deputy Chief Executive, presented by the HR & Business Manager (Katie Wilkins), which presented the 'Time to Change' Employer Pledge Action Plan.

The Committee recalled that at its meeting held on 1 November 2017 it had agreed with Officer proposals to further develop the work around staff health and wellbeing through a focus on mental health. This included a commitment to:-

- (1) Raise awareness and promote positive mental health in the workplace; and
- (2) Develop an action plan to include:
 - (i) Training for staff and managers to increase understanding of mental health; what it is, what mental ill health actually means and recognising signs and symptoms.
 - (ii) Identify, initially 8 staff to be trained as Mental Health First Aiders (Training provider: Mental Health First Aid England).
 - (iii) Further development of the Intranet to enhance the information on mental health e.g. the mental health mapping tool, self-help and where staff can go for further support.
 - (iv) Continuation of the conversation around mental health through initiatives as part of TDC's livewell/workwell programme.
 - (v) Signing the Time to Change Employer Pledge.

Members were reminded that there was significant evidence to demonstrate that looking after the mental health of employees made clear business sense as mental ill-health was the leading cause of sickness absence in the UK, costing an average of £1,035 per employee, per year (*1 in 4 British workers are affected by conditions like anxiety, depression and stress every year*). The same evidence reported that tackling the stigma of mental ill-health could make a measurable difference to sickness absence rates, presenteeism levels, staff wellbeing, productivity and retention.

It was reported that Officers had now developed a detailed action plan for submission to the 'Time to Change' organisation (*run by Mind and Rethink Mental Illness*). The plan outlines the Council's current and proposed activity against the 7 key principles of the pledge, in an attempt to establish change in how the workplace thought about and acted on mental health problems:-

1. Demonstrate senior level buy-in;
2. Demonstrate accountability and recruit Employee Champions;
3. Raise awareness about mental health;

4. Update and implement policies to address mental health problems in the workplace;
5. Ask your employees to share their personal experiences of mental health problems;
6. Equip line managers to have conversations about mental health;
7. Provide information about mental health and signpost to support services.

It was important to note that the action plan should be a 'living' document, which was reviewed regularly and edited as the organisation's plans evolved.

Members were advised that following submission of the action plan, the 'Time to Change' team would provide detailed feedback within 4 weeks, to which, the Council would have two weeks to respond and resubmit the plan (if necessary). Once agreed, the Employer Pledge would be issued.

In achieving the Employer Pledge, the Council would be able to demonstrate a commitment to not only change how it thought about and acted on mental health in the workplace but also ensured that employees who were facing those problems felt supported.

It was moved by Councillor Raby, duly seconded and unanimously **RESOLVED** that:

- (a) the contents of the report be noted; and
- (b) that the submission of the 'Time to Change' Employer Pledge Action Plan, to enable the Council to attain the Employer Pledge be approved.

9. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.4 - STAFF STATISTICS REPORT

There was submitted a report by the Corporate Director (Corporate Services) presented by the HR & Business 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 and questions it was **RESOLVED** that the contents of the report be noted.

10. REPORT OF DEPUTY CHIEF EXECUTIVE - A.3 - SOCIAL MEDIA POLICY

There was submitted a report by the Deputy Chief Executive, presented by the Communications Manager (Will Lodge), on the updated Council's Social Media Policy.

It was reported that the new Social Media Policy aimed to codify best practice with regards to the Council's use of social media channels. It covered broadly three areas: staff members' personal use of social media; use of corporate social media accounts; and processes associated with corporate social media accounts. The Policy specifically set out that inappropriate use of social media by staff could potentially result in disciplinary action, and what could constitute inappropriate use. Currently any such inappropriate use of social media, either personally or professionally, would be considered in a wider disciplinary context. It also built in safeguards for the Council by enshrining best practice, such as having multiple account admins, into policy.

The Committee was made aware that the Policy did not seek to control staff members' own personal social media accounts. However, it did remind staff to be careful about what information they shared about themselves online, and the potential impact their profile and posts could have not only on themselves, but on the Council.

With regards to business use of social media, the Policy set out the basic principles the Council – through its staff – should adhere to. This covered areas such as copyright and defamation. It also built in safeguards for the Council by enshrining best practice, such as having multiple account admins, into policy. By establishing a clear process for establishing social media channels and running them – such as who is authorised to do so – it allowed the Council to speak with a consistent message. The Policy also placed an emphasis on training of staff to use social media correctly and effectively, and on managers to identify training needs.

Attached to the report for Members' reference were the new Social Media Guidelines, which captured essential best practice in the practical use of social media, and the Social Media Strategy, which set out how the Council would use social media. However, it was the Policy which the Committee was being asked to review, comment on and adopt.

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

- (a) the introduction of the new Officers' Social Media Policy be approved and adopted.
- (b) the Deputy Chief Executive be authorised to update the Policy with any future legislative or best practice changes in consultation with the Council's Communications Manager and the Head of People, Performance and Projects.

11. REPORT OF DEPUTY CHIEF EXECUTIVE - A.5 - CORPORATE INFORMATION SECURITY POLICY

There was submitted a report by the Deputy Chief Executive, presented by the Head of IT and Corporate Resilience (John Higgins) and the Information Governance and IT Services Manager (Judy Barker), on the adoption of the Data Protection and Information Security Policies that would contribute towards the Council's corporate legal compliance with the European General Data Protection Regulations and the UK Data Protection Act 2018, which had come into force on 25 May 2018.

It was reported that the Policies had been created to provide a statement of corporate compliance and assurance that the Council recognised and met its obligations in this regard.

The report recommended that the Corporate Information Security Policy and the Data Protection Policy (Appendices A & B to the report) be endorsed and adopted. Those policies would replace the existing outdated policies which would then be withdrawn from publication.

Members were made aware that the Information Security Policy (Appendix A) was a replacement policy that addressed and correctly reflected the new legislative references and adopted the standard format of other policies. In addition it clearly defined the various roles and responsibilities of the Council's Information Governance structure and its obligations when processing valuable data and using corporate IT services.

The following was a summary of the changes required to achieve a legislative compliant Data Protection Policy (Appendix B) :-

- Reinforced the need for the Council to share data in order to protect the public funds it administered by preventing and detecting fraud;
- Updated the legal Principles to include the need to be transparent about how and why we processed personal information;
- Reinforced the need to comply with our corporate retention policy to ensure the Council did not store information for longer than was necessary for the purpose it was collected;
- Explained the requirement to appoint a Data Protection Officer and what the role involved;
- Supported the need for appropriate security measures, including impact risk assessments;
- Highlighted the updated Rights for individuals, such as the right to be informed, right to rectification, etc.
- Identified the need for a lawful basis or, if none existed, the need to obtain informed and explicit consent for processing; and
- Covered the mandatory reporting of any 'serious' data breaches that met the Information Commissioner's (ICO) criteria.

Members raised questions which were responded to by the Officers. It was agreed that Officers would review the wording of Paragraph 7.5 and if any further changes were required any updates would be circulated to Committee members.

It was moved by Councillor Raby, seconded by Councillor Callender and **RESOLVED** that:

-
- (a) the Corporate Information Security Policy (Appendix A) be approved and adopted with immediate effect;
 - (b) the Data Protection Policy (Appendix B) be approved and adopted with immediate effect; and
 - (c) That the Deputy Chief Executive be authorised to update these policies with any future legislative and/or administrative changes in order to ensure they continued to be fit for purpose and to meet legal compliance requirements.

12. EXCLUSION OF PRESS AND PUBLIC

It was moved, seconded and **RESOLVED:**

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 13 on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 12A, as amended, of the Act.

13. REPORT OF DEPUTY CHIEF EXECUTIVE - B.1 - A MARKET FORCES REPORT FOR THE PLANNING SERVICE

RESOLVED:

That the Market Forces Supplement applied for all qualified (first degree in Planning or the Postgraduate degree in Planning) Planning Officers be continued for a further two years in line with the Council's approved Market Forces Policy, at which point a further review will be undertaken.

The meeting was declared closed at 8.30 pm

Chairman

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Audit Committee

27 September 2018

**MINUTES OF THE MEETING OF THE AUDIT COMMITTEE,
HELD ON THURSDAY, 27TH SEPTEMBER, 2018 AT 7.30 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors Coley (Chairman), Poonian (Vice-Chairman), Alexander, Bray, Scott and Yallop (except item 53)
In Attendance:	Richard Barrett (Head of Finance, Revenues and Benefits Services & Section 151 Officer), Craig Clawson (Acting Audit and Governance Manager), Ian Ford (Committee Services Manager) and Martin Klaassen (Senior Governance Officer)(except items 45 – 48)
Also in Attendance	Kevin Suter (Executive Director) and Chris Hewitt (Audit Manager) [both representing Ernst & Young, the Council's External Auditor]

45. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence received on this occasion and therefore there were no substitutions.

46. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Committee held on 26 July 2018 were approved as a correct record and signed by the Chairman, subject to the third bullet point in Minute 42 being amended to read:-

“Emergency Planning arrangements, in respect of flooding or some other major incident, could result in the Council providing a significant number of alternative residences for a protracted period. This could seriously divert Council Officers from various departments and significantly deplete the financial reserves of the Council in the medium term.

The Council should also be mindful that, in these circumstances, experience shows that the Council will potentially be the target of financial fraud. This would also divert Officers from their normal responsibilities and deplete Council funds.”

47. DECLARATIONS OF INTEREST

There were none made at this time though later in the meeting when the Committee considered Agenda Item 9 Councillor Yallop declared a Personal Interest.

48. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none.

49. REPORT OF THE AUDIT AND GOVERNANCE MANAGER - A.1 - PERIODIC REPORT ON INTERNAL AUDIT - JULY - AUGUST 2018 AND UPDATED INTERNAL AUDIT CHARTER

REPORT ON INTERNAL AUDIT FOR JULY TO AUGUST 2018 AND INTERNAL AUDIT PLAN PROGRESS 2018/19

The Council's Acting Audit and Governance Manager (Craig Clawson) provided a periodic report on the Internal Audit function for the period of July to August 2018.

The Acting Audit and Governance Manager informed the Committee five audits had been completed in the period in question of which two had been given Adequate Assurance. Two audits had been rated Substantial Assurance and one audit had been rated Improvement Required. No audits had been rated Significant Improvement Required.

The Committee was informed that the audit completed in the period under review which had received an 'Improvement Required' opinion and which therefore required reporting to Members was:-

Development Management - Retention of Funds by Third Party Company (Income Management)

It was reported that the planning portal had recently amended the circumstances relating to payments made by applicants and how they were received by Councils. Those new arrangements allowed the company administering the planning portal to keep the monies paid; take their £20 charge per application and then transfer the funds to the Council in one BACS payment. This created a risk because customer monies were retained by a third party, which if they were to become insolvent the money would be lost and the Council would still have an obligation to honour the application without ever having received the money. There was also an increased risk of fraud from outside of the Council. This was a national issue as the planning portal was used by the majority of district and borough councils across the country.

The Committee was informed that the agreed action was for the service to explore whether the planning portal could revert to the previous process of allowing the payments to be sent directly to the Council and the Council then paid back the commission owed to the planning portal supplier. If this was not an option then it had been recommended that a portal be created 'in-house' in order to allow applications to be processed via the Council's own website.

Members were aware that the Internal Audit function issued satisfaction surveys for each audit completed. In the period under review 100% of the responses received had indicated that the auditee was satisfied with the audit work undertaken.

The Committee was reminded that at its previous meeting there had been two significant issues reported. One related to Payment Card Industry Data Security Standard (PCI DSS) compliance which had been addressed in this report. The second related to a Health and Safety programme of works. That action was not due yet. However, the Fraud and Risk Manager had reported that her team was currently working on creating that programme of works for the Health and Safety Officer to work to and to pro-actively plan ahead.

The Acting Audit and Governance Manager also informed the Committee of the current position in relation to the following continuous or consultative audits:

- (i) Office Transformation Programme;
- (ii) Digital Transformation Programme;

- (iii) Project Management; and
- (iv) PCI DSS.

INTERNAL AUDIT CHARTER

The Committee was reminded that the Public Sector Internal Audit Standards required the Council's Internal Audit Charter to be a formal document that: -

- Defined the Internal Audit activity's mission, purpose, authority and responsibility;
- Established the Internal Audit activity's position within the organisation including the nature of the "Chief Audit Executive's" (i.e. the Audit and Governance Manager's) functional reporting relationship with the Board (i.e. the Audit Committee);
- Authorised access to records, personnel and physical properties relevant to the performance of engagements;
- Defined the scope of Internal Audit activities;
- Defined the terms "Board" and "Senior Management" for the purpose of Internal Audit activity;
- Covered the arrangements for appropriate resourcing;
- Defined the role of Internal Audit regarding fraud-related work; and
- Included arrangements for avoiding conflicts of interest if Internal Audit undertook any non-audit activities.

Members were informed that the Internal Audit Charter had been updated to reflect the current working arrangements of the Internal Audit function. The key principles of the Charter remained as they had been as they were the foundations of all Internal Audit activity. However, there had been some changes made where areas had been expanded further in order to explain ways of working and some elements had been removed to provide a leaner audit charter that reflected the current structure of the function.

The aesthetics of the Charter had also been updated to provide a consistent design in line with all other Internal Audit Reports. The amended Internal Audit Charter was set out in Appendix B to the report.

EXTERNAL QUALITY ASSESSMENT (EQA) UPDATE

It was reported that there was only one issue outstanding from the EQA undertaken by an approved assessor and previously reported in full to the Committee and this was due to be completed by December 2018. That issue had related to a consistent approach to risk management to be followed by all departments as well as Internal Audit. This was being addressed as part of the Risk Management review within the annual audit plan in order to develop a risk framework that all service areas and Internal Audit could use as a consistent basis for assessing risk.

It was moved by Councillor Scott, seconded by Councillor Alexander and **RESOLVED** that –

- (a) the contents of the periodic report be noted; and
- (b) the amended Internal Audit Charter, as set out as the Appendix to the Report of the Acting Audit and Governance Manager, be approved.

50. **REPORT OF THE DEPUTY CHIEF EXECUTIVE (CORPORATE RESOURCES) - A.2 - EXTERNAL AUDIT'S ANNUAL AUDIT LETTER FOR THE YEAR ENDED 31 MARCH 2018**

The Committee had before it a report (A.2) which presented the External Auditor's Annual Audit Letter for the year ended 31 March 2018 which primarily summarised the outcomes from various audit activities undertaken during the year.

Members were reminded that the Accounts and Audit Regulations required that:

- (1) *A committee must meet to consider the letter as soon as reasonably practicable;*
- (2) *following consideration of the letter in accordance with paragraph (1) the authority must—(a) publish (which must include publication on the authority's website) the audit letter; and (b) make copies available for purchase by any person on payment of such sum as the authority may reasonably require.*

It was reported that there were a number of different strands of external audit work undertaken during the year such as specific activity in relation to the financial statements and value for money opinion. The outcomes from those activities were reported to the Council separately as they were completed during the year. The Annual Audit Letter was effectively an end of year report for the Council which captured and summarised those outcomes in one document. It was primarily directed to Members but it must also be made available as a public document.

The Committee was informed that the Annual Audit Letter relating to 2017/18 had raised no significant concerns raised. Page 15 of the Audit Letter highlighted the general risks associated with financial resilience / sustainability, which were actively being managed within the Council's long term financial sustainability plan. That action had also been recognised within the Annual Governance Statement and updates would be provided to the Committee over the course of the year, with the first one set out within the Table of Outstanding Issues Report elsewhere on the agenda.

Members were made aware that External Audit had highlighted three issues for consideration in the future which were set out on pages 21 and 22 of the Audit Letter. Those issues were:-

- (1) IFRS9 Financial Instruments;
- (2) IFRS15 Revenue from Contracts with Customers; and
- (3) IFRS16 Leases.

The Committee was advised that responses to those issues would form part of the work that would be undertaken in 2019 to close the Council's accounts and produce the formal Statement of Accounts for 2018/19 by the required statutory deadlines.

Kevin Suter, Executive Director (Ernst & Young) referred to the fact that this was the last Annual Audit Letter that E & Y would be producing before the end of their contract. He thanked the Officers and the Committee for all their help, courteous consideration of E & Y's recommendations plus the Council's positive actions taken in response to those recommendations.

Richard Barrett, Head of Finance, Revenues and Benefits Services, on behalf of the Council, placed on record appreciation of E & Y's work, help and advice. He also paid tribute to the excellent working relationship that the Council had had with E & Y.

Mr Suter informed the Committee that an additional audit fee of £646 had been agreed by the Public Sector Audit Appointments Ltd in relation to the audit of the Comprehensive Income and Expenditure Accounts.

It was moved by Councillor Alexander, seconded by Councillor Bray and **RESOLVED** that the contents of the External Auditor's Annual Audit Letter for the year ended 31 March 2018 be noted.

51. REPORT OF THE DEPUTY CHIEF EXECUTIVE (CORPORATE SERVICES) - A.3 - TABLE OF OUTSTANDING ISSUES

There was submitted a report by the Council's Deputy Chief Executive (Corporate Services) (A.3) which presented to Members 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 by the Committee at its meeting held on 26 July 2018.

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 item A.3 of the Report of the Deputy Chief Executive (Corporate Services), or elsewhere on the agenda where appropriate.

In addition, it was reported that, with respect to actions identified in the latest Annual Governance Statement, there were no significant issues to bring to the attention of the Committee, with updates provided against individual items, as set out in Appendix B to item A.3 of the Report of the Deputy Chief Executive (Corporate Services).

In respect of the legionella issue experienced at the Frinton and Walton Lifestyles, the Committee was advised that the Council was currently engaged in on-going discussions with the Health and Safety Executive.

It was moved by Councillor Scott, seconded by Councillor Yallop and **RESOLVED** that the progress on the outstanding issues be noted.

52. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor Bray, seconded by Councillor Yallop and:-

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 9 on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 12A, as amended, of the Act.

53. REPORT OF DEPUTY CHIEF EXECUTIVE - B.1 - RISK BASED VERIFICATION POLICY

RESOLVED that, following the 2018/2019 annual review, the Risk Based Verification Policy as set out in Appendix A attached to the Report B.1 of the Deputy Chief Executive (Corporate Services) be approved.

The meeting was declared closed at 8.10 pm

Chairman

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Community Leadership Overview and
Scrutiny Committee

1 October 2018

**MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP OVERVIEW AND
SCRUTINY COMMITTEE,
HELD ON MONDAY, 1ST OCTOBER, 2018 AT 7.30 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors Land (Chairman), Bush, Chittock, Coley, Ferguson, Griffiths, I Henderson, Raby, Skeels Jnr and Yallop
Also Present:	Councillors Bucke (except minute 20), McWilliams, Nicholls (except minute 20) and Scott (except minute 20)
In Attendance:	Lisa Hastings (Head of Governance and Legal Services) and Charlotte Cooper (Leadership Support Officer)

15. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor VE Guglielmi, with Councillor Ferguson attending as her substitute.

Councillor Newton was absent from the meeting.

16. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Community Leadership Overview and Scrutiny Committee held on 3 September 2018 were approved as a correct record and signed by the Chairman.

17. DECLARATIONS OF INTEREST

There were no declarations of interest made on this occasion.

18. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were no questions submitted on this occasion.

19. TENDRING ROAD RALLY

The Committee had before it a report of the Head of Leadership Support and Community which sought to ask it to consider and agree the final report for submission to Cabinet.

Members of the public who attended the meeting were invited by the Chairman to voice any concerns held regarding the Tendring Road Rally; the following issues were raised

- Marshals – it was discussed that the training of the marshals for the 2018 rally appeared to have been inadequate; during this Road Rally the marshals appeared to have little authority when it came to moving members of the public into safe viewing areas. It was also noted that the marshals took no notice of children and families dangerously crossing over roads and fields in between

cars, nor did they act on instances where drivers were seen to be driving without a safety helmet. With regards to the suggested 2019 Rally, the routes have been extended from the previous event – this will mean that the marshals will not have a clear line of sight to one another and poses a safety issue.

- Wildlife – the 2018 Rally occurred during peak breeding season, with no consideration as to the safety of the wildlife on this day.
- Insurance issues – it was stated that an insurance company has claimed, if the Tendring Road Rally was a one-off occurrence this would not affect the insurance policy. However, if the rally were to become a regular occurrence, then it would have to be taken into consideration with the insurance policy.
- Pollution – the pollution level created by the 2018 event was described as dreadful, and claimed that it caused one member of the public to suffer with a cough for around one week. It was also noted to have caused high levels of noise pollution.
- Speed Levels – residents have stated that since the 2018 Tendring Road Rally, there has been an increase in cars and motor bikes speeding through the area.

Councillor Scott, who was present in the public gallery and spoke with the permission of the Chairman, raised the issue of those who owned and rode horses in the area had voiced their concerns over the dangerous speed of vehicles. Those concerns had also been raised by those who owned cattle, thereby arguing that the speed levels should be restricted.

Councillor Bucke circulated an email from himself to members of the Committee, which raised concerns and queries over the location of the rally, the consultation with local residents, comments from Parish Councils, the perceived limitations and proposals of the 2019 rally, the duties and power of the marshals, health and safety issues, lessons learned from other rallies that had occurred throughout the UK, availability of the cost/benefit data, and the charitable donations of the 2018 rally.

One member of the public requested that Officers provide more information on the complaints that had been received – how were those complaints received? And how many of the complaints were submitted by those who lived on the route or in the surrounding area?

The Committee deliberated on the report.

It was discussed that Tendring District Council had no statutory powers to stop the event from occurring, and it currently appeared to many as though Tendring Council were involved within the organisation of the event, which was not the case. It was felt that there should be a decision made as to whether Tendring Council would continue to act as a consulting body, or whether it should become a joint partner. It was also stated that it was critical to ensure that the 2019 rally would be a safe event, if it was to go ahead, and that more information regarding the marshals was needed – for instance, how many there would be and what it was exactly that they were responsible for.

Following the receipt of advice from Officers, it was **RESOLVED** that:-

- a) The Committee thanks the Task and Finish Group for its report;
- b) Recommended to Cabinet that they decide whether Tendring District Council should become a Joint Partner, or continue to act as a Consulting Partner or oversight body in respect of the 2019 Road Rally;

- c) c) the Cabinet be requested in its decision making to take into account the recommendations of the Task and Finish Review; and
- d) d) the Cabinet be also requested to pay particular close attention to the health and safety issues around this event.

20. **PUBLIC HEALTH**

Following its previous meeting held on 3 September 2018, the Committee had before it the scope previously agreed for a Task and Finish Group on alcohol.

The Committee was asked to voice any amendments it might have to the scope in the light of the presentation received on 3 September 2018 from Dr. Mike Gogarty, the Director of Well Being, Public Health and Communities at Essex County Council.

The Committee therefore deliberated on the topic of alcoholism, including that there was a vast number of alcohol related issues that needed to be addressed, for instance; those that came into the District with an existing alcohol dependency and functioning and non-functioning alcoholics. This needed to be taken into consideration and a decision needed to be reached as to who was going to be targeted and why in the review.

- Following the receipt of advice from the Officers, it was **RESOLVED** that as the issue of alcohol abuse is so vast; it is in the Council's best interest that the Task and Finish Group begin first by researching further on this issue to gather information and only then to identify which group or particular area the review would be focused on.

The meeting was declared closed at 9.15 pm

Chairman

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**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON WEDNESDAY, 3RD OCTOBER, 2018 AT 10.00 AM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors Heaney (Chairman), Bray (Vice-Chairman), Bucke (except items 34 - 38 (part)), S A Honeywood, Nicholls and Steady
In Attendance:	Lisa Hastings (Head of Governance and Legal Services & Monitoring Officer), Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Ian Ford (Committee Services Manager & Deputy Monitoring Officer) and Martin Klaassen (Senior Governance Officer)
Also in Attendance	Clarissa Gosling (Independent Person)(except item 38) and John Wolton (Independent Person)

34. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor Whitmore (with no substitute).

35. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Standards Committee, held on 23 July 2018, were approved as a correct record and signed by the Chairman.

36. DECLARATIONS OF INTEREST

There were none on this occasion.

37. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none on this occasion.

38. JOINT REPORT OF THE HEAD OF LEADERSHIP SUPPORT AND COMMUNITY AND HEAD OF GOVERNANCE AND LEGAL SERVICES & MONITORING OFFICER - A.1 - INDEPENDENT REMUNERATION PANEL AND INDEPENDENT PERSONS RECRUITMENT

Clarissa Gosling, an Independent Person, declared a personal interest in the subject matter of this item insofar as she was a potential applicant to be re-appointed as a member of the Independent Remuneration Panel and to be re-appointed as an Independent Person. She therefore left the meeting whilst the Committee deliberated this matter and reached its decision.

The Chairman (Councillor Heaney) informed Members that John Wolton, an Independent Person, had informed Officers that he would not be seeking re-appointment as a member of the Independent Remuneration Panel or as an Independent Person. Councillor Heaney, on behalf of the Committee, placed on record its thanks and appreciation to Mr Wolton for all of his help, advice and contributions during his period of office. Mr Wolton suitably responded.

The Head of Governance and Legal Services & Monitoring Officer (Lisa Hastings) then introduced to the Committee Martin Klaassen who had recently been appointed to the post of Senior Governance Officer. Mrs Hastings informed Members that Mr Klaassen would be supporting her and the Council's Head of Finance, Revenues and Benefits (Richard Barrett) in carrying out their statutory duties particularly with regards to the governance framework. He would also support the Independent Persons and the Independent Remuneration Panel in their work and also administer the early stages of the process for dealing with complaints about Members. Councillor Heaney, on behalf of the Committee, welcomed Mr Klaassen to the Council.

The Committee thereupon considered a joint report (A.1) by the Head of Leadership and Community and the Head of Governance and Legal Services & Monitoring Officer which sought its comments on the proposed Independent Remuneration Panel and Independent Persons recruitment pack. The joint report also sought the Committee's approval for the membership of the Interview Panel and to delegate authority to the Interview Panel to make recommendations to Council regarding the appointment of the successful candidates.

Current Position

Members were reminded that, at the meeting of the Council held on 25 November 2014, Council had agreed the appointment of Mr John Wolton, Mrs Clarissa Gosling and the Reverend Dr William Lock as the Council's Independent Remuneration Panel for the purposes of making recommendations to Council on Members' allowances. In addition, Mr Wolton and Mrs Gosling had also been confirmed as the Council's Independent Persons for the purposes of standard's arrangements. All those appointments were in place until the Annual Meeting of the Council in May 2019.

Officers were, therefore, proposing that arrangements be put in place to appoint a new Independent Remuneration Panel and new Independent Persons in time to make new formal appointments at the Annual Council meeting in May 2019.

Recruitment and alternative options

It was reported that, in October 2017, a request had been made to all other Essex local authorities to ask if any were interested in sharing an Independent Remuneration Panel. No responses had been received to that request and it was therefore proposed by Officers that a local recruitment process should take place.

Members were informed that, with regard to Independent Persons for standard's arrangements, a pool of Independent Persons was available through the Public Law Partnership (which covered local authorities in Essex, Hertfordshire and parts of Suffolk) that could be called on by any authority. Those arrangements were considered appropriate to use where capacity or conflicts of interest were an issue however, it was still considered prudent for this Council to recruit and appoint its own Independent Persons.

Therefore it was proposed by Officers that the recruitment process followed that used for recruitment in 2014, namely:-

- that three people be appointed to serve as both the Independent Remuneration Panel and as Independent Persons;
- that an allowance of £600 per annum continued to be paid to each person;
- that a Recruitment Pack be produced incorporating any comments from the Standards Committee;
- that the posts be advertised locally;
- that interviews be undertaken by a Joint Member / Officer panel; and
- that the recommended appointments by the Panel be submitted directly to Full Council for its approval.

The Independent Remuneration Panel / Independent Person Recruitment Pack was before the Committee for its consideration, as set out in the Appendix to the joint report.

Statutory Requirements

The Committee was advised that Section 28(6) and (7) of the Localism Act 2011 required the Council to appoint at least one Independent Person to work with the Monitoring Officer within the Standards Framework and that Section 20 of The Local Authorities (Members' Allowances) England Regulations 2003 required that an Independent Remuneration Panel be established in respect of each authority and that the Panel should consist of at least three people.

Members were informed that, in the Council's Constitution, the advertisement of vacancies of Independent Person(s) and the Independent Remuneration Panel; the review of applications received; the interview of suitable candidates and the making of recommendations to Council as to who should be appointed were delegated to the Chief Executive or the Monitoring Officer. However, as both of these independent roles did have strong engagement with Councillors it was considered appropriate that the Committee was involved in the recruitment process.

Having considered the Officers' advice and proposals:-

It was moved by Councillor Heaney, seconded by Councillor Bray and:-

RESOLVED that –

- (a) the contents of the Independent Remuneration Panel / Independent Persons Recruitment Pack be endorsed;
- (b) the membership of the Interview Panel will consist of Councillors Bray, Bucke and Heaney, together with the Head of Leadership Support and Community and the Head of Legal and Governance Services & Monitoring Officer.
- (c) the Interview Panel be authorised to make recommendations to Full Council regarding the appointment of the Independent Remuneration Panel / Independent Persons and any related matters.

39. 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 complaints received (both existing and new cases), without providing any names, and went through them with the Committee.

General Notes

There was one additional matter where a complaint form had been requested but not returned.

The Monitoring Officer informed the Committee that, in accordance with its request, the Constitution Review Working Party (CRWP) had considered the issue of potentially linking Members' Allowances to attendance at Members' training sessions. However, the CRWP had decided not to pursue this matter as it felt that any issue of non-attendance should be dealt with by the relevant Group Leader through internal Group disciplinary procedures.

Requests for Dispensations

The Committee was advised that no requests for dispensations had been submitted to the Monitoring Officer since the last update to Members.

The meeting was declared closed at 10.50 am

Chairman

Public Document Pack

Local Plan Committee

30 October 2018

**MINUTES OF THE MEETING OF THE LOCAL PLAN COMMITTEE,
HELD ON TUESDAY, 30TH OCTOBER, 2018 AT 6.00 PM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors Stock OBE (Chairman), Turner (Vice-Chair), Bray, Bush, Chapman, Davis, C Guglielmi, Land, Newton, Platt, Poonian and Skeels Jnr
Also Present:	Councillors Everett, Nicholls, Scott, Stephenson and White
In Attendance:	Ewan Green (Corporate Director (Planning and Regeneration)), Cath Bicknell (Head of Planning), Lisa Hastings (Head of Governance and Legal Services), Gary Guiver (Planning Manager), Ian Ford (Committee Services Manager) and Will Fuller (Planning Officer)
Also in Attendance:	Mary Foster (Senior Development Technician)

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Broderick, I J Henderson and Porter (with Councillor Davis substituting).

2. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the minutes of the last meeting of the Committee, held on 20 November 2017, be approved as a correct record and signed by the Chairman.

3. DECLARATIONS OF INTEREST

Councillor Bush declared a Disclosable Pecuniary Interest in item A.2 of the Report of the Head of Planning (Updated Housing Supply Position and Housing Trajectory) insofar as he owned land that was the subject of Planning Applications 15/00987/OUT and 18/01766/DISCON. The land that was subject to those planning applications was referred to in Appendices 1 and 4 to that report.

Councillors Stock and G V Guglielmi each declared a personal interest in item A.1 of the Report of the Head of Planning (Local Plan Examination – Inspector’s Findings and Next Steps) insofar as they were, respective a Director and an alternate Director of the NEGC Ltd Board.

4. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none on this occasion.

5. PUBLIC SPEAKING

The Chairman invited the following persons to address the Committee:

Bill Marshall, a resident of the District, made a statement relating to item A.1 of the Report of the Head of Planning in which he expressed his concern that the Garden Communities Scheme had not recently been fully debated with local residents and that there had been very little input from the Councils to the residents recently. He also expressed his concern that the Council's decision to pursue Option 2 (do more work to fill in the gaps in the evidence now but delay the examination of Section 2 of the Local Plan until the Inspector was satisfied that the Garden Communities were deliverable and that Section 1 of the Plan was sound) had been taken by an executive decision rather than by the Committee as a whole. He stated his belief that the letter submitted to the Inspector on 19 October 2018 was late in the day and that Braintree, Colchester and Tendring Councils could have been a lot further down the road in progress with the Garden Communities if those Councils had collaborated together and produced one joint Local Plan. He expressed his hope that there would not be too many problems with the resubmitted Section 1 of the Local Plan but was further concerned that Section 2 of Tendring's Local Plan would be in disarray if Section 1 was not approved by the Inquiry Inspector. This would then lead to speculative development all over the District. He therefore felt that to pursue Option 2 was a gamble.

Carol Bannister, a resident of Weeley, made a statement relating to item A.2 of the Report of the Head of Planning in which she raised her objections to the inclusion of the words: "All issues raised in objections have been resolved" in the "Other Comments" section relating to Site Code SAMU5 ('Barleyfields', land to the rear of the Council Offices, Thorpe Road, Weeley – Barley Fields Phase 2) as detailed in Appendix 3 to the report. She felt that this was inaccurate and that the residents' objections were still outstanding and valid pending the result of the Public Inquiry and that therefore those words should be removed from the appendix.

Councillor Everett made a statement relating to items A.2 and A.3 of the Report of the Head of Planning in which he expressed his concern that Planning Officers were, too often, conceding the point of a 'presumption in favour of development' at Planning Appeals in their evidence and 'Statements of Common Ground'. They were conceding this point when they did not in fact need to do so just because policies QL1 and EN2 were deemed to be 'out of date'. However, the NPPF stated that just because a policy was out of date it did not necessarily follow that a presumption in favour of development would then apply. Paragraph 11 of the NPPF was quite clear in stating that there were exceptions by using the word "unless" and that this Council was conceding the point when it did not need to do so and giving in before the discussion had even been held therefore making the Appellant's case for them. Once this point had been conceded and a speculative development won on appeal then this would become a material consideration at all future planning appeals thereby letting in unwanted and unneeded speculative development despite the Council have a five year supply of housing land. He urged the Committee to take action now to stop this from happening in the future.

Asa Aldis, Parish Councillor for Wivenhoe, made a statement relating to item A.1 of the Report of the Head of Planning in which he expressed his objections to the Garden Communities Scheme as he felt that it would have a negative impact on the residents Wivenhoe and north Essex and its transport infrastructure. He felt that the Local Plan had ignored the objections of the residents of Wivenhoe as the scale of the proposed Garden Community was too vast to be viable and would damage Wivenhoe. He urged this Council to work with stakeholders to produce a more viable Local Plan by pursuing alternative options. He stated that the Sustainability Appraisal for the Garden Community was unworkable and that there would be funding shortfalls for the proposed

infrastructure and that CPOs were unlikely to succeed. In addition, the Garden Communities scheme was financially unviable.

Councillor Luxford-Vaughan, Colchester Borough Council, made a statement relating to item A.1 of the Report of the Head of Planning in which she stated her belief that, in pursuing Option 2, this Council was “rehashing” a failed plan with Members making uninformed decisions. She urged Members to learn from their mistakes particularly with regard to the Sustainability Appraisal which had been found to be ‘biased’ and pre-determined’ by the Inspector. She stated that Members had a duty not to waste taxpayers’ money in making only cosmetic changes to the Garden Communities Scheme e.g. that alternative sites needed to be identified and that the proposals needed to be at a lower scale. Otherwise it would not survive the further Examination-in-Public as the new Sustainability Appraisal would be deemed to be inadequate.

Paul Griffith, a resident of Wivenhoe, made a statement relating to item A.1 of the Report of the Head of Planning in which he advocated that the Garden Communities Scheme be ‘dropped’ and the new housing allocated to the Scheme be distributed equally over the settlements of the District of Tendring. He advocated the Council using Neighbourhood Plans to engage the local communities to draw up appropriate expansion for their local villages. Those Plans would also form a material consideration in planning policy and could be used successfully to deter speculative development.

The last three speakers then left the meeting.

6. REPORT OF THE HEAD OF PLANNING - A.1 - LOCAL PLAN EXAMINATION - INSPECTOR'S FINDINGS AND NEXT STEPS

Earlier in the meeting Councillors Stock and G V Guglielmi had each declared a personal interest in this item insofar as they were, respectively, a Director and an alternate Director of the NEGC Board.

The Committee had before it a detailed report of the Head of Planning (A.1), which updated it on how the examination of the Local Plan was progressing; reported the Planning Inspector’s findings in respect of Section 1; and advised it as to the next steps of the process.

Members were aware that, following a series of hearing sessions held at Colchester’s Community Stadium in January 2018 followed by a further session in May 2018, the Inspector had issued his findings in respect of Section 1 of the Local Plan and had concluded that whilst the Plan met with legal and procedural requirements, additional work would need to be carried out in order to demonstrate that it met the tests of soundness. This meant that Section 1 of the Local Plan which was common to Tendring, Braintree and Colchester Councils (“the Councils”) could not yet be adopted by those Councils and the examination could not progress to dealing with Section 2 of the Local Plan, which included policies and proposals specific to the District of Tendring.

The Committee was informed that the Inspector had identified additional evidence that he required in order to help him determine whether Section 1 of the Plan could be considered to be sound. Whilst the Inspector was happy with the concept of Garden Communities, he had requested further evidence - 1) justifying the choice of Garden Communities over other possible development options; 2) to demonstrate their practical deliverability and viability within the timescales of the Local Plan and beyond 2033; and

3) the cost and timescales for delivering important public transport and road improvements.

Importantly however, the Inspector had endorsed the Councils' Objectively Assessed Housing Needs (OAN) figures including Tendring's figure of 550 homes a year which was critical to the soundness of Section 2 of the Local Plan and this Council's ability to demonstrate an ongoing five-year supply of deliverable housing sites. The Inspector had also indicated that some modifications to certain policies would be required to bring them in line with the tests of soundness and that those would need to be the subject of consultation in their own right before the Plan could be adopted.

It was reported that in order to address his questions about Garden Communities, the Inspector had given the Councils three options to consider, namely:

- 1) Remove Garden Communities from the Local Plan (for now) and proceed with the examination of Section 2, so long as the Local Plan was reviewed again within 2-3 years (at which point the evidence in support of Garden Communities might be stronger);
- 2) Do more work to fill in the gaps in the evidence now but delay the examination of Section 2 until the Inspector was satisfied that the Garden Communities were deliverable and that Section 1 of the Plan was sound; or
- 3) Withdraw the Local Plan and start again (which would require compliance with the new National Planning Policy Framework (NPPF)).

Members were reminded that the three North Essex Authorities had jointly written to the Inspector on 22 October 2018 to advise him that the Councils remain committed to using Garden Communities principles to secure the future housing requirements in the North Essex Authorities' area and would provide the further evidence requested by the Inspector including evidence on:

- the availability of funding for the necessary strategic infrastructure;
- the financial viability of the proposed communities;
- the environmental effects, including transport issues;
- employment provision within the Communities (and elsewhere) to ensure housing growth was matched with economic growth; and
- continuing engagement with the local communities.

The Committee was made aware that the Councils had also committed to reviewing the 'Sustainability Appraisal' underpinning the choice of strategy in the Local Plan, ensuring that it considered a full range of realistic alternatives to the Garden Communities, at a range of different sizes. Importantly, the Councils would review all of the above mentioned evidence before it was submitted to the Inspector and before any further consultation. That additional evidence would be the subject of future reports to the Committee in due course.

Members were advised that the Councils had also agreed that continued support for the Garden Communities was dependent on funding for the necessary strategic infrastructure being confirmed, otherwise there would need to be a review of the Local Plan at the appropriate time to bring forward an alternative strategy. There was also an acknowledgement that any Garden Community proposed for the Colchester/Braintree

border would be delivered later in the Plan period than previously proposed and that the timescales for delivering the other Garden Communities would also need to be reviewed to ensure they were realistic and deliverable.

The Committee was informed that the Councils were awaiting the Inspector's response to the letter.

It was reported that, if the Inspector accepted the Councils' proposal, the timetable for the next stages of the Local Plan process would shift in order to reflect the requirements for additional evidence, hearing sessions and consultation. It was currently envisaged that the additional evidence would be prepared and agreed by February 2019 before being submitted to the Local Plan Inspector. Further examination hearings for Section 1 of the Local Plan would then take place in, or around, June 2019 following the local elections. If Section 1 was then found to be sound, the adoption of Section 1 and the examination of Section 2 could commence before the end of 2019 with the adoption of the whole Local Plan in 2020. A revised Local Development Scheme (LDS), containing a detailed timetable, would be prepared for the Committee's approval in due course.

Having considered and discussed all of the information provided, it was moved by Councillor G V Guglielmi, seconded by Councillor Bray and unanimously:

RESOLVED that the contents of the report be noted.

7. REPORT OF THE HEAD OF PLANNING - A.2 - UPDATED HOUSING SUPPLY POSITION AND HOUSING TRAJECTORY

Earlier in the meeting Councillor Bush had declared a Disclosable Pecuniary Interest in this item insofar as he owned land that was the subject of Planning Applications 15/00987/OUT and 18/01766/DISCON. The land that was subject to those planning applications was referred to in Appendices 1 and 4 to that report.

The Committee had before it a comprehensive report of the Head of Planning (A.2), which reported to it –

- the number of new homes built in the District of Tendring during the 2017/18 financial year;
- the current housing land supply position (the 'five-year' supply); and
- the updated year-by-year trajectory for building new homes over the remainder of the new Local Plan period up to 2033.

Housing Completions

It was reported that in the period 1 April 2017 to 31 March 2018, 565 new homes had been completed in Tendring. This meant that the housebuilding target for the District had been achieved for a second year in succession.

Five Year Supply

The Committee was informed that the Council could demonstrate a 5.66 year supply of deliverable housing sites. This reflected the Local Plan Inspector's recommendation that the housing requirement for Tendring should remain at 550 homes a year and also took

into account recent appeal decisions and changes to the National Planning Policy Framework (NPPF).

Housing Trajectory

Members were made aware that the Council could also demonstrate that the requirement of 11,000 new homes between 2013 and 2033 could be met and comfortably exceeded. This was through a combination of homes already completed since April 2013, development on large sites with planning permission, sites allocated for development in the plan and small 'windfall' sites.

In response to a question asked by the Chairman in relation to the concerns raised by Carol Bannister in her statement made earlier in the meeting, the Planning Manager (Gary Guiver) stated that he had some sympathy with those concerns and that he would not be adverse to the requested amendment to Appendix 3 of the report being made.

It was thereupon moved by Councillor Bray, seconded by Councillor Turner and unanimously:-

RESOLVED that the words "All issues raised in objections have been resolved" contained in the "Other Comments" section relating to Site Code SAMU5 ('Barleyfields', land to the rear of the Council Offices, Thorpe Road, Weeley – Barley Fields Phase 2) as detailed in Appendix 3 to item A.2 of the Report of the Head of Planning be deleted.

Having discussed the information provided, and following advice from the Head of Governance and Legal Services (Lisa Hastings) reiterating to Members that, regardless of the proposed additional wording at (b), each Planning Appeal would also still need to be defended on its own individual merits, it was moved by Councillor Bray, seconded by Councillor G V Guglielmi and unanimously:

RESOLVED that -

- (a) the Committee endorses the contents of the report as evidence to demonstrate an up-to-date five year housing land supply (taking into account any changes arising from the latest demographic information) and for the purposes of determining planning applications and contesting planning appeals; and
- (b) this Committee believes that, as the Council can demonstrate in excess of a five year housing land supply, the 'Presumption of Favour of Development' therefore should not apply even in cases where important policies are deemed to be 'out of date'.

8. REPORT OF THE HEAD OF PLANNING - A.3 - THE 2018 NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

The Committee had before it a report of the Head of Planning (A.3), which informed it of the implications of the Government's new National Planning Policy Framework (NPPF).

Members were informed that the revised NPPF had been published on 24 July 2018 and that the document set out the Government's planning policies for England and how those were expected to be applied. This revised Framework replaced the previous NPPF published in March 2012 and implemented approximately 85 reforms announced

previously in the Housing White Paper, “Planning for the Right Homes in the Right Places” consultation and the draft revised NPPF Policy consultation.

The Committee was made aware that at the time of issuing the new NPPF, the Government had also published the following documents:

- the Government’s response to the draft revised National Planning Policy Framework consultation, setting out its summary of the consultation responses and the Government’s proposed changes;
- an updated Planning Practice Guidance on housing and economic development needs assessments;
- an updated Planning Practice Guidance on viability;
- the Housing Delivery Test Measurement Book showing the methodology for calculating housing deliver; and
- James Brokenshire MP’s Ministerial Statement entitled ‘Housing Policy’.

It was reported that the key alterations and changes in Government policy related to the following:-

(a) Policies to encourage the delivery of new Housing

- (1) Strategic Plans;
- (2) Introduction of a new standardised method of calculating Housing Need;
- (3) Maintaining Supply;
- (4) Annual Position Statement;
- (5) Housing Delivery Test;
- (6) Revised definition of a deliverable site;
- (7) Affordable Housing;
- (8) Small Sites Policy;
- (9) Entry Level Exception Sites;
- (10) Delivery of larger sites; and
- (11) Prematurity.

(b) Policies to improve Plan Making

- (1) Reviews;
- (2) Test of Soundness;
- (3) Viability; and
- (4) Neighbourhood Plans.

(c) Making more effective use of land

- (1) Avoiding low density development.

(d) Highways

- (1) Considering development proposals; and
- (2) Parking Standards.

(e) Design

- (1) Importance of design standards emphasised; and

(2) Pre-application discussions.

(f) Town Centres

(1) More positive and flexible approach.

(g) Other Issues

- (1) Health and Public Safety;
- (2) Ecology;
- (3) Environmental Standards;
- (4) Storage and Distribution; and
- (5) Implementation.

Having discussed all of the information provided, it was moved by Councillor G V Guglielmi, seconded by Councillor Platt and unanimously:

RESOLVED that the contents of the report and the introduction of the new National Planning Policy Framework be noted.

The meeting was declared closed at 7.32 pm

Chairman

**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW
AND SCRUTINY COMMITTEE,
HELD ON MONDAY, 5TH NOVEMBER, 2018 AT 7.30 PM
IN THE COUNCIL CHAMBER - COUNCIL CHAMBER**

Present:	Councillors Stephenson (Chairman), Alexander (Vice-Chairman), Amos, Baker, Everett, Miles, Newton, Scott and Steady
In Attendance:	Martyn Knappett (Deputy Chief Executive (Corporate Services)), Lisa Hastings (Head of Governance and Legal Services), Ian Ford (Committee Services Manager) and Katie Wilkins (Human Resources and Business Manager)(except items 37 – 39)

32. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Broderick and M Brown. There were no substitutions.

33. MINUTES OF THE LAST MEETING

The Minutes of the meeting of the Committee held on 17 September 2018 were approved as a correct record and signed by the Chairman.

34. DECLARATIONS OF INTEREST

There were none made at this time.

35. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were no such questions on this occasion.

**36. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.1 - PERFORMANCE REPORT
2018/19 SECOND QUARTER**

The Committee had before it a report of the Deputy Chief Executive which presented the Performance Report for Quarter Two (July to September 2018), including the Corporate Plan and Priorities and Projects 2018/19.

The Deputy Chief Executive (Martyn Knappett) outlined the purpose of the Performance Report as a 'snapshot' performance management tool i.e. it helped the Council's senior management and Members see if the Council was delivering what it had set out to deliver.

Appendix A to that report contained details of the 18 indicators and projects where performance was measured. Of those, 15 (84%) were on, or above, their expected target and 3 (16%) were not currently in line with the expected performance.

Members were informed that the Performance Report for Quarter Two would be presented to Cabinet on 9 November 2018. Any feedback from the Committee would be presented to a future meeting of the Cabinet as a separate reference report.

The Council's Human Resources & Business Manager (Katie Wilkins) gave the Committee an update in respect of the indicators and projects.

Officers responded to questions raised by Members on various topics and where an answer was not immediately available, the Human Resources and Business Manager undertook to respond to Members as soon as possible after the meeting.

In addition, the Deputy Chief Executive gave the Committee an update in respect of the "Transforming the Way We Work" Project and he responded to questions raised by Members. Where an answer was not immediately available, the Deputy Chief Executive undertook to respond to Members as soon as possible after the meeting. Matters that the Deputy Chief Executive touched on included:-

- (1) Ongoing works at Pier Avenue and Northbourne Depot;
- (2) Barnes House Extension and Link – Tender Awarded;
- (3) Westleigh House – Timetable for demolition;
- (4) Town Hall works – Planning permission granted;
- (5) Firmstep: new customer portal;
- (6) Learning Zone – new e-learning platform; and
- (7) New HR Policies – Flexi Working and Remote Working.

In response to a question that had been submitted prior to the commencement of the meeting by Councillor Miles, the Deputy Chief Executive gave an update on the Council's regeneration plans for land at Mill Lane, Walton-on-the-Naze which included the old Fire Station building which was now the subject of a petition. He then answered Members' questions on this subject.

It was moved by Councillor Everett, seconded by Councillor Baker and:-

RESOLVED that this Committee recommends to Cabinet that –

- (a) in the light of recent events, an in-year review of the milestones for the Garden Community project and the Local Plan be carried out with a view to establishing new, more realistic targets and milestones for these projects; and
- (b) an in-year review of the impact of the new National Planning Policy Framework's definitions of 'major and 'minor' applications on the Handling of Planning Applications speed of process figures be also carried out.

37. REVIEW OF THE IMPLEMENTATION OF THE NEW OVERVIEW AND SCRUTINY ARRANGEMENTS

The Committee discussed its experience of the new Overview and Scrutiny arrangements since their implementation in May 2018 with a view to submitting its comments and/or recommendations to the Finance and Corporate Resources Portfolio Holder's Constitution Review Working Party who would be conducting a review of the new committee structure also introduced in May 2018.

Following those discussions it was:-

RESOLVED that the following comments be submitted to the Portfolio Holder's Constitution Review Working Party namely that –

- (1) the terms of reference of the Resources and Services and Community Leadership Overview and Scrutiny Committees should be looked at with a view to making them 'more equal' in workload. A suggestion is that leisure and tourism matters could be reallocated to the Community Leadership Committee;
- (2) there should be a sharper focus on the remit, scope, responsibilities and expected outcomes of Task and Finish Working Groups. A suggestion is that guidance in the form of an Overview and Scrutiny handbook should be produced;
- (3) better attendance of Members at All Member Briefings should be encouraged; and
- (4) the Committee reiterates the importance of providing training on overview and scrutiny matters to those Members who have been appointed to serve on an overview and scrutiny committees immediately after the Annual Meeting of the Council in May 2019.

38. COUNCILLORS' CALL TO ACTION

The Chairman informed the Committee that this item had been withdrawn by Councillor Everett prior to the commencement of the meeting.

The Committee's current work programme had been circulated to Members in anticipation of this item being discussed at the meeting.

Members discussed the following three items that were due to be considered at its next meeting on 29 November 2018:-

- Corporate Budget Monitoring 2018/19 Second Quarter (including update on Financial Forecast)
- Recycling - Task & Finish Group's Final Report
- Tourism Strategy

It was moved by Councillor Scott and seconded by Councillor Amos that the Tourism Strategy be removed from the Committee's work programme and instead be made the subject of an All Members' Briefing, which vote on being put to the vote was declared **LOST**.

It was then:-

RESOLVED that the meeting of the Committee due to be held on Thursday 29 November 2018 will now commence at 7.00 p.m. and not 7.30 p.m. as previously scheduled.

39. SCRUTINY OF PROPOSED DECISIONS

Pursuant to the provisions of Overview and Scrutiny Procedure Rule 13, the Committee reviewed any new and/or amended published forthcoming decisions relevant to its terms of reference with a view to deciding whether it wished to enquire into any such decision before it was taken. The relevant forthcoming decisions were before the Committee.

The Committee noted the submitted list of published forthcoming decisions.

It was then moved by Councillor Baker, seconded by Councillor Everett and:-

RESOLVED that, pursuant to the provisions of Overview and Scrutiny Procedure Rule 13, the Committee wishes to enquire into the following forthcoming decision before Cabinet takes a final decision on the matter:-

Adoption of a Draft Housing Strategy and Action Plan.

The meeting was declared closed at 10.05 pm

Chairman

COUNCILLOR MARY NEWTON'S MOTION TO COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE 12 – "PROPOSED TOWN COUNCIL FOR CLACTON-ON-SEA"

"This Council, in accordance with the Local Government and Public Involvement in Health Act 2007 (as amended) and the statutory guidance issued by DCLG in 2010, conducts a Community Governance Review with a view to creating a Clacton Town Council to come into effect in 2023.

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-in-Sea that are not currently being represented by a Town or Parish Council.

This will be inclusive of the following District Council Wards (as effective from May 2019) -

Bluehouse
Burrsville
Cann Hall
Coppins
Eastcliff
Pier
St Bartholomews
St James
St Pauls
West Clacton and Jaywick Sands"

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55. MATTERS REFERRED TO THE CABINET BY THE COUNCIL - REFERENCE FROM COUNCIL - A.1 - MOTION TO COUNCIL - "FREE SWIMMING LESSONS FOR CHILDREN"

Cabinet was aware that, at the meeting of the Council held on 11 September 2018, the following motion had been moved by Councillor Pemberton and seconded by Councillor Gray and, in accordance with Council Procedure Rule 12.4, had stood referred to the Cabinet for consideration and report:

"That this Council takes the necessary steps to offer, at Clacton Leisure Centre and other suitable venues, up to six free swimming lessons every year for all children under the age of 15 years, in order to see that every child in the District of Tendring can be taught to swim, cope with a riptide or strong current, swim/float fully clothed and learn basic life-saving."

Members were informed that, in accordance with Council Procedure Rule 12.5, Councillor Pemberton had been invited to attend the meeting and explain the motion. However, Councillor Pemberton had informed Officers that, due to his work commitments, he would be unable to attend the Cabinet meeting. He had, therefore, asked Councillor Davis to explain the motion on his behalf.

Cabinet had before it a written submission which had been circulated, on behalf of Councillor Davis, prior to the meeting.

Councillor Davis attended the meeting and formally explained Councillor Pemberton's motion.

The Leisure and Tourism Portfolio Holder (Councillor Skeels Snr.) then responded, as follows, to the issues and matters raised by Councillor Pemberton in his motion and in Councillor Davis' written and oral submissions:-

"I would like to thank Councillor Pemberton for his motion; he raises an issue of the greatest significance.

As all Members will no doubt be aware, each school has a statutory obligation under the National Curriculum to provide swimming instruction for every child either in key stage 1 or key stage 2.

As a result of this, children should be able to swim competently, confidently and proficiently over a distance of at least 25 meters using a range of strokes; and perform safe self-rescue in different water-based situations by the time they leave primary school.

It is not clear that every school in the District is meeting this obligation and in our role as Community Leaders, we need to try to understand why and if we can support schools to ensure this vital strand of education is taking place.

There is far from any guarantee that Free Swimming Lessons provided by ourselves or any other agency, would attract any additional children than are currently participating in a Learn to Swim programme. It would make sense therefore, that we focus our efforts on ensuring our local children are taught to swim 'competently and proficiently' in their primary school, as should be their entitlement.

With that in mind, it is my suggestion that we invite the Director for Education from Essex County Council to attend a future meeting of the Community Leadership Overview and Scrutiny Committee to discuss how we can move towards 100% of our local children learning to swim before they leave primary school education.

Further to this, it is important the Council does not make decisions in isolation, but through a partnership approach with water safety professionals.

In our role as community leaders, I am pleased to inform Cabinet we are actively working with partners in the RNLI, Coastguard, Essex Police and other emergency services to review what additional safety measures could be implemented across the entire stretch of Tendring coastline. Rather than work in isolation, it is a sensible approach to develop a cohesive plan of action with partners possessing wide ranging local and national professional expertise in water safety. This work will continue during the remainder of 2018, with the view of implementing a number of initiatives prior to the 2019 season.

With regards to just one of these evolving initiatives, Members may be aware that Swim England and the RNLI provided a Swim Safe course in the sea at Dovercourt Bay during the summer, which was a huge success. This involved children of 7 to 14-years of age learning how to swim outdoors and what to do if they got into trouble in the water. The Council is actively working with these organisations to see if this scheme can be rolled out to other parts of the District in 2019. I will keep Members up to date with progress.

Taking all this into account I applaud the spirit of Cllr Pemberton's motion, but I believe there is a better way of achieving the outcomes that we all want."

Having considered the motion and the supporting submissions:-

It was moved by Councillor Skeels Snr., seconded by Councillor Talbot and:-

RECOMMENDED TO COUNCIL that Council does not support the motion in its original format and that instead the following amended motion be approved:-

"That this Council takes the following steps in order to see that every child in the District of Tendring can be taught to swim, before they leave primary school education:

(a) the Community Leadership Overview and Scrutiny Committee invite the Director for Education from Essex County Council to attend a future meeting of that Committee in order to discuss how all schools can meet their statutory duty and move towards 100% of the District's children learning to swim before they leave primary school education; and

(b) that Officers continue work with partners to develop a cohesive plan to further improve safety measures across the District's coastline and report back with findings and any recommendations to Cabinet in February 2019, for implementation prior to the 2019 season."

72. **REFERENCE REPORT ; DUST SUPPRESSION AT DEVELOPMENT SITES**

The Committee was aware that at the meeting of the Council held on 11 September 2018, the following motion had been moved by Councillor Bray, seconded by Councillor Bush and, in accordance with Council Procedure Rule 12.4, had stood referred to the Committee for consideration and report;

“This Council resolves that:-

1. Subject to there being no objection from the Planning Inspectorate, ALL future planning applications approved by this Council, contain a condition requiring the developer / constructor to take all reasonable steps, using dust suppression techniques to ensure that, as far as possible, existing residents living in near proximity to the construction site are not adversely affected by construction related dust; and

2. If any objection is received from the Planning Inspectorate, that objection will be disclosed fully to Councillors in order that this motion can be amended to take account of any such objection at some future time.”

The Committee were informed that, in accordance with Council Procedure Rule 12.5, Councillor Bray had been invited to the meeting to explain the motion.

Councillor Bray attended the meeting and explained the motion.

The Head of Planning then explained further the relevant planning issues and considerations that had been included within the written report.

Following discussion by the Committee, It was moved by Councillor Cawthron and seconded by Councillor Hones that it be **RECOMMENDED TO COUNCIL** that Council does not support the motion in its original format, which motion on being put to the vote was declared **LOST**.

Following further discussion by the Committee, It was moved by Councillor Everett, seconded by Councillor Alexander and:-

RECOMMENDED TO COUNCIL that Council does not support the motion in its original format and that instead the following amended motion be approved:-

This Council resolves that, where applicable, for planning applications that are recommended for approval by this Council the following condition should be considered:

“During development the constructor/developer will take all reasonable steps, using dust suppression techniques to ensure that, as far as reasonably practicable, residents living in near proximity to the site are not adversely affected by construction related dust.”

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75. CABINET MEMBERS' ITEMS – REPORT OF THE HOUSING PORTFOLIO HOLDER - A.7 – THE LOCAL COUNCIL TAX SUPPORT SCHEME, DISCRETIONARY COUNCIL TAX EXEMPTIONS/DISCOUNTS FOR 2019/2020 AND ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT 2019/2020

There was submitted a report by the Portfolio Holder for Housing (Report A.7), which sought Cabinet's agreement to recommend to full Council the following:

- Local Council Tax Support Scheme 2019/20 (including associated exceptional hardship policy);
- Discretionary Council Tax Exemptions and Discounts 201/20; and
- Annual Minimum Revenue Policy Statement for 2019/20.

Accordingly and in order to allow these matters to progress to Council it was moved by Councillor P B Honeywood, seconded by Councillor McWilliams 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.7 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) the Deputy Chief Executive be authorised, in consultation with the Housing Portfolio Holder, to undertake the necessary steps and actions to implement the LCTS scheme from 1 April 2019.
- (b) the Council Tax Exceptional Hardship Policy, as set out in Appendix B to the aforesaid report, be approved.
- (c) the proposed discretionary Council Tax exemptions and discounts remain unchanged, as set out in Appendix C to the aforementioned report, and that the Deputy Chief Executive, in consultation with the Housing Portfolio Holder, be authorised to undertake the necessary steps and actions to implement the Council Tax exemptions and discounts from 1 April 2019.
- (d) the Annual Minimum Revenue Provision Policy Statement for 2019/20, 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

9 NOVEMBER 2018

REPORT OF THE HOUSING PORTFOLIO HOLDER

A.7 THE LOCAL COUNCIL TAX SUPPORT SCHEME, DISCRETIONARY COUNCIL TAX EXEMPTIONS / DISCOUNTS FOR 2019/20 AND ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT 2019/20

(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 2019/20 (including associated exceptional hardship policy)
- Discretionary Council Tax Exemptions and Discounts 2019/20
- Annual MRP Policy Statement for 2019/20

EXECUTIVE SUMMARY

- This report outlines the proposed Local Council Tax Support (LCTS) scheme and Council Tax exemptions and discounts for 2019/20.
- Given the on-going impact on residents from welfare reforms, including universal credit, it is proposed to continue with the principle highlighted last year of providing some financial stability to Tendring claimants by keeping the LCTS scheme for 2019/20 the same as this year. The current scheme provides for a maximum discount of 80% for working age claimants.
- The associated exceptional hardship policy has also been reviewed for 2019/20 and it is not proposed to make any changes from the scheme operating this year and so remains available to support eligible claimants over the year.
- In respect of discretionary council tax discounts and exemptions for 2019/20, it is proposed to continue with the same level of discounts as agreed for 2018/19 that were approved by Full Council in November 2017.
- The Annual Revenue Provision Policy Statement has also been reviewed for 2019/20 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 continues to be developed.
- 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 27 November 2018, 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.

- Given the recommendation to continue with the existing LCTS scheme, it is not proposed to formally refer it to the Resources and Services Overview and Scrutiny Committee, but it will be considered by Full Council on 27 November 2018.

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 Deputy Chief Executive in consultation with the Housing Portfolio Holder to undertake the necessary steps to implement the LCTS scheme from 1 April 2019;
- b) that Cabinet agrees the Council Tax Exceptional Hardship Policy as set out in Appendix B;
- c) that Cabinet agrees that the discretionary Council Tax exemptions and discounts remain unchanged in 2019/20, 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 Deputy Chief Executive in consultation with the Housing Portfolio Holder to undertake the necessary steps to implement the Council Tax exemptions and discounts from 1 April 2019; and
- d) Cabinet recommends to Council that the Annual Minimum Revenue Provision (MRP) Policy Statement for 2019/20 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 2019/20

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 and 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 Council's 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 2019/20 it is proposed to protect the current position with the scheme proposed remaining unchanged from 2018/19 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.

As at the end of September, the total estimated annual 'cost' of the LCTS scheme in 2018/19 is **£11.467m**, with approximately 10% of this amount (**£1.147m**) 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 - £11.362m
2018/19 - £11.235m (forecast outturn)

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
2017-2018	47	£22,777.71

As highlighted during the previous review of the policy, 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 continues to set 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 **£23,833**. 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 2019/20, no additional costs over above those included within existing budgets are expected

Council Tax exemptions and discounts for 2019/20

It is proposed to keep the level of exemptions and discounts at the same level as 2018/19 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 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 the principle of reducing the number of empty properties and therefore does not necessarily directly link the amount paid to the services received.

The Council also receives feedback from owners / occupiers of caravans / chalets within caravan parks in Tendring who cannot occupy their properties due to lease restriction imposed by the private owners of the sites. They suggest 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 feedback received 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 continued sympathy for the issue faced by effected 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 2019/20 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 2019/20, 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 2019/20

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 since 2017/18, this Council has determined 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 2019/20.

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 2019/20 is set out as **Appendix A**, which remains unchanged from 2018/19.

For information, statistics relating to the LCTS scheme in 2018/19 are set out below:

As at the end of September 2018:

There are currently 13,489 household receiving LCTS at a cost (forgone income due to the discount awarded) of approximately **£11.467m**

The total working age households receiving support is 6,507

The total pensioner households receiving support is 6,982

The collection performance for those accounts where LCTS has been awarded is 49.58% (total overall council tax collection performance is 56.09%)

PROPOSED COUNCIL TAX DISCOUNTS AND EXEMPTIONS 2019/20

The discounts proposed for 2019/20 remain the same as those agreed for 2018/19 by Full Council in November 2017.

Full details of the proposed discretionary 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. Other statutory discounts and exemptions are also available.

The Government have proposed allowing Authorities to increase council tax on long term empty properties as follows:

- For properties unoccupied and unfurnished for up to 5 years – a maximum charge of 200% of 'standard' council tax can be charged.
- For properties unoccupied and unfurnished for over 5 years but less than 10 years – a maximum charge of 300% of 'standard' council tax can be charged.
- For properties unoccupied and unfurnished for over 10 years – a maximum charge of 400% of 'standard' council tax can be charged.

As at the time of finalising this report, the relevant legislative changes had yet to be agreed by the Government. Therefore it is not proposed to consider these potential changes further for 2019/20 but they will be reviewed as part of the consideration of the 2020/21 discounts and exemptions at the same time next year.

Annual Minimum Revenue Provision Policy Statement (AMRP)

Attached as **Appendix D** is the proposed Annual MRP policy statement for 2019/20 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 2018/19, 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 2019/20 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) 2019/20

Appendix B Council Tax Exceptional Hardship Policy

Appendix C Council Tax Discounts and Exemptions 2019/20

Appendix D Annual Minimum Revenue Provision Policy Statement 2019/20

Local Council Tax Support Scheme (LCTS) 2019/20

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

Local Council Tax Support (LCTS)

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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), 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 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 2019/20 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 2019/20 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.
- 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 via the Tendring District Council website at www.tendringdc.gov.uk or via 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 mentally 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, on 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
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(a) Where the second adult or all 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;	25 per cent of the Council Tax due in respect of that day;
(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>Gross Income is less than £201.00 per week; 15 per cent of the Council Tax due in respect of that day;</p> <p>Gross Income is not less than £201.00 per week but less than £260.00 per week; 7.5 per cent of the Council Tax due in respect of that day;</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).	100 % of the Council Tax due in respect of that day.

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 £300 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 (spousal maintenance is taken into account in part or in full depending on whether you have a child);
- 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.

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 discretionary discounts will apply for the 2019/2020 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 a statutory 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

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ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT for 2019/20

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 may be 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 2019/20, no changes compared to 2018/19 are proposed. Therefore the Annual Minimum Revenue Provision Policy Statement for 2019/20 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 2019/20 shall be the Capital Financing Requirement Method for supported borrowing and the Asset Life (equal instalment) Method for prudential borrowing.

71. CABINET MEMBERS' ITEMS – REPORT OF THE FINANCE AND CORPORATE RESOURCES PORTFOLIO HOLDER - A.3 – REVIEW OF THE COUNCIL'S CONSTITUTION

The Cabinet gave consideration to a report of the Finance and Corporate Resources Portfolio Holder (A.3) which sought its approval for the recommended changes to the Constitution for referral onto Full Council following a review undertaken by the Portfolio Holder through the Constitution Review Working Party.

It was reported that the main proposals covered a number of miscellaneous amendments to the Council Procedure Rules, changes required to comply with legislation and other changes to ensure the Constitution was effective, efficient and consistent at an operational level. Areas of the Constitution where changes were being recommended included:-

- (1) Council Procedure Rules;
- (2) Access to Information Procedure Rules;
- (3) Overview and Scrutiny Procedure Rules;
- (4) Articles of the Constitution;
- (5) The Scheme of Delegation;
- (6) Budget and Policy Framework Procedure Rules;
- (7) Financial Procedure Rules;
- (8) Property Dealing Procedure; and
- (9) Procurement Procedure Rules.

Cabinet was made aware that the Standards Committee had requested that the Constitution Review Working Party (CRWP) consider whether attendance at mandatory training sessions for committees should be linked to Members' allowances. Advice had been provided that this would only be feasible through amendments to the Members' Allowances Scheme and recommendations could be put forward to the Independent Remuneration Panel to research this matter further, should the CRWP decide to do so. After discussing the issue in detail, the CRWP had agreed that Members' failure to attend mandatory training sessions could be resolved through the Group Leaders ensuring that members appointed to committees were able to commit to the additional training required to fulfil their roles.

Cabinet was informed that some Members had raised with the Monitoring Officer whether the Council's arrangements in requiring individuals to observe prayers at the Full Council meeting was lawful following the High Court challenge in 2011 and whether an Equality Impact Assessment had been undertaken. The Monitoring Officer had confirmed the legal position and highlighted that individuals should have the choice whether to observe religious ceremonies at all times. For those Members, Officers or the public who did not wish to take part in prayers they should be allowed to do so without further questions. The CRWP had agreed that the Constitution did not require amendment on this matter but had requested the Monitoring Officer to issue guidance to all Members.

In addition, following recent discussions between various Members regarding practices for dealing with ward issues, the CRWP had considered guidance issued to Members by other elected Members at another Council, which had been regarded as good practice. It was agreed by the CRWP that the Constitution did not require any amendment on this point, but that the guidance could be used as part of the induction programme for elected Members following the elections in May 2019. The Monitoring Officer had been requested to take this forward.

The Leader of the Council, Councillor Stock, thanked the members of the Working Party and the Head of Governance and Legal Services, Lisa Hastings and the Committee Services Manager, Ian Ford for the tremendous amount of work that they had undertaken in producing the proposed changes to the Constitution.

Having considered the contents of the report and the detailed proposed amendments to the Constitution set out in Appendices A to N thereto:-

It was moved by Councillor Stock, seconded by Councillor McWilliams and:-

RECOMMENDED TO COUNCIL that –

- (a) the Council's Constitution be amended to reflect the proposed changes as set out in Appendices B to N attached to item A.3 of the Report of the Finance and Corporate Resources Portfolio Holder; and**
- (b) all changes to come into effect immediately following approval.**

RESOLVED that wider consultation be undertaken with all Members of the Council on the proposed changes to the Council Procedure Rules (as set out in Appendices A1 and A2 to the aforementioned report) prior to further decisions being taken.

Key Decision Required:	NO	In the Forward Plan:	NO
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CABINET

9 NOVEMBER 2018

REPORT OF THE FINANCE & CORPORATE RESOURCES PORTFOLIO HOLDER

A.3 **REVIEW OF THE COUNCIL'S CONSTITUTION**

(Report prepared by Lisa Hastings, Monitoring Officer and Ian Ford, Deputy Monitoring Officer)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report asks Cabinet to approve the recommended changes to the Constitution for referral onto Full Council following a review undertaken by the Portfolio Holder through a Working Party.

The main proposals cover a number of miscellaneous amendments to the Council Procedure Rules, changes required to comply with legislation and to ensure the Constitution is effective, efficient and consistent at an operational level.

The key changes to each of these documents are highlighted within the body of this Report.

EXECUTIVE SUMMARY

A Portfolio Holder Constitution Review Working Party was established following various matters being raised at previous meetings of Full Council to “*undertake a light touch review of the Constitutional Rules and Procedures highlighted by Members and Officers ensuring the governance arrangements are up to date, clear and consistent, with the outcome and recommended changes being presented to Cabinet and Council in November 2018.*”

A Portfolio Holder Working Party has undertaken a thorough review of the Constitution with the proposed revisions to the Council Procedure Rules to take effect from May 2019, and other changes to be implemented following approval by Full Council in November. The Working Party's membership included the Portfolio Holder, Councillor Stephenson, Councillor Newton, Councillor Talbot and Councillor I.J. Henderson. The subject areas reviewed were requested by the membership, other Councillors, the Standards Committee and Officers; with proposed changes being discussed and advised upon with suggested alterations being reconsidered prior to full agreement by the Constitutional Working Party.

A summary of the changes compared to the existing Parts of the Constitution 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 working practices for Members and Officers and checked to ensure it is in accordance with legislation, where necessary.

The Constitutional Review Working Party has agreed to undertake the 6 month review requested by Full Council on the revised committee structure, presenting the findings and recommendations to Full Council in January 2019. This work will be commenced in November.

RECOMMENDATION

That Cabinet recommends to Council:

- (a) that the Council's Constitution be amended to reflect the proposed changes as set out in this report and the appendices attached hereto;**
- (b) with the exception of the Council Procedure Rules, all changes to come into effect immediately following approval; and**
- (c) as approved, the revised Council Procedure Rules to come into effect on 1st May 2019.**

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 overall 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 considers 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.

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.

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.

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.

Equality and Diversity implications were considered when taking into account how the Chairman of the Council should be addressed (Article 5 – Appendix F), with the final proposal allowing the appointed Member to use their discretion on how to be addressed.

The impact of religious prayers has been considered and prayers or other religious observances are permitted business at a meeting of the Council under Section 138A of the Local Government Act 1972 (as amended by the Local Government (Religious etc. Observances) Act 2015). However, any person who wishes or is required to attend the meeting should be given the opportunity not to attend until after the observance has finished. Any observance should be at the discretion of the person running the meeting. The Monitoring Officer will provide a detailed guidance note on this specific point in due course consequently, it is not considered necessary to include anything within the Constitution on this point.

PART 3 – SUPPORTING INFORMATION

CURRENT POSITION

The Working Party reviewed various areas of the Constitution and the following changes are recommended (note that references to Part numbers relate to the Constitution prior to any amendments):

(a) Council Procedure Rules – Section 1 (Full Council)(Part 4.1 to 4.20):

Rule 1 – Annual Meeting of the Council:

To include the appointment of up to four Member Representatives to General Assembly of the Local Government Association at the Annual meeting.

Rule 5 – Time and Place of Meetings:

Propose an earlier start time of 7pm.

Rule 9 – Duration of Meeting:

Propose a later finish time of 10.30pm.

Rules 10 and 11– Questions by the Public and Members:

Proposed changes to provide consistency between the scope of questions submitted by the public and Members and reasons for rejection. The same consistency to apply to questions and motions.

Rules 10.1 and 11.2 – Time allocated to Questions by the Public and Members:

Overall time for questions to be reduced to allow further time at the meeting for debating motions that are to be dealt with on the night. The allocated time for questions allows up to a maximum of 3 from the public and a further 3 from Members to be dealt with.

Rules 11.6 & 7 – Response and Supplementary Questions:

Electronic or written responses given by Members to questions to be provided to the Committee Services Manager on the day of the meeting to allow the response to be circulated to the questioner, Chairman, Leader and relevant officers.

Supplementary Questions must solely relate to the response received. This will enable more control over the permissibility of supplementary questions. The content of supplementary questions will no longer be included minutes to prevent this rule being abused.

Rules 12 and 14 – Motions on Notice and Not Permitted:

Proposed changes to provide consistency between the scope of motions and those not permitted with the scope of questions and reasons for rejection.

Rule 12 – Motions:

A maximum of 3 motions shall be accepted at an Ordinary Meeting, and dealt with on the night, in accordance with Rule 12.4 once moved and seconded, unless Council decides to refer the motion to the Cabinet or relevant Committee.

A maximum of 30 minutes debate to be allowed per motion, with the mover and other speakers being allowed 5 and 3 minutes respectively.

Notice of a Referral to Cabinet or the relevant Committee may be given prior to the meeting in accordance with Rule 12.5. If this is received, it will take precedence and no amendments on notice could be received. This allows a Referral to be debated upon at Council and a decision made for further consideration and/or work to be undertaken.

Notices of Amendments may be given prior to the meeting in accordance with Rule 12.5. This could assist members to consider a proposed amendment and for officers to provide advice in advance.

Rule 12.6 sets out how referred motions will be dealt with allowing an opportunity for further work to be undertaken prior to decisions being made, if necessary.

Rule 16 – Rules of Debate:

Removal of the reference to an appropriate body or an individual from amendments to motions, as this was not considered appropriate for motions with the Cabinet and relevant Committee remaining, as the suitable decision making bodies.

Any amendments to the Budget proposals must be submitted to the Council's Chief Financial Officer at least two working days before the budget meeting of Council to enable them to consider the implications for the budget.

Remove the requirement to seek the meeting's consent to alter or withdraw (unless an amendment is pending) a motion because this has not been the practice of Full Council for several years.

Closure motions to include referral to Cabinet or a Committee.

Rule 32 – Application to Committees

Rule 23.2 – Chairman standing during debate to apply to Committees and Sub-committees, so that any member speaking at the time must stop and the meeting must be silent. This application is to demonstrate further respect to the role of Chairman at Committees and Sub-Committees.

*Rule numbers throughout the Council Procedure Rules shown attached in **Appendix A1** have been amended to reflect the proposed changes.*

(b) Council Procedure Rules – Section 2 (Committees)(Part 4.21 to 4.24):

Rule 33 – Appointment of Members of Committees and Sub-Committees:

The Rules relating to eligibility requirements for membership of Committees and Sub-Committees be reordered. Additional requirements following good practice and guidance such as:

- Local Plan and Planning Committee membership remaining separate prior to a Local Plan being adopted;
- Membership of the Audit Committee following CIPFA Guidance; and
- How often mandatory training must be undertaken to remain a member of certain committees.

Rule 38 – Questions on Notice at Committees:

Remove the ability for members to submit Questions on Notice to Sub-Committees (such as Licensing and HR) due to the terms of reference of the sub-committees it was not considered appropriate to allow questions at sub-committees, which could be directed to the main committees.

*Proposed changes to Section 2 of the Council Procedure Rules are shown attached as **Appendix A2**.*

(c) Access To Information Procedure Rules (Part 5):

Rule 13 – Procedure before taking Key Decisions (Part 5.6-7):

Remove reference to the term Forward Plan as the Council has for some time been producing to all Members and on the website, notification of forthcoming key decisions or a decision that would involve the disclosure or likely disclosure of confidential information. Notifications are provided on a rolling-basis rather than monthly.

Cross referring to the definitions of Key Decisions and Confidential and Exempt Information to be included for ease of reference.

Rule 18 – Procedures Prior to a Private Meeting (Part 5.9):

To be expanded to provide all the legislative criteria for notification of private meetings.

*Proposed changes to the Access to Information Procedure Rules are shown attached as **Appendix B**.*

(d) Overview and Scrutiny Function and Procedure Rules:

Article 6 - Overview and Scrutiny Function:

Inclusion of 'executive' prior to 'decisions' which will be reviewed or scrutinised and those to be made.

*Proposed changes to the Overview and Scrutiny Function (Article 6) are shown attached as **Appendix C**.*

Rules 10 (Part 5.21) and 13 (Part 5.24) – Overview Procedure Rules:

Remove reference to the forward plan and replace with forthcoming executive decisions within the Procedure at Committee Meetings and Scrutiny of Proposed Decisions.

Rule 14 – Rights of Committee Members to Documents (Part 5.24):

Provide cross reference to the Access to Information Procedure Rules rather than repeat the text to ensure consistency.

Rule 17 – Call-in (Part 5.25-29):

Provide clarity that Key Decisions made by Officers are also subject to Call-in and non-executive decisions are not eligible.

Provide further information when the Mediation Process is used to resolve matters setting out operational requirements and the decision outcome where mediation is successful.

Include provisions on how a Call-in will be dealt with if the relevant Overview and Scrutiny Committee has already commented or made recommendations to Cabinet prior to a decision being made and thereby being perceived to be pre-determined through its previous endorsement. New material considerations would be required to allow a Call-in to be made.

Should the Overview and Scrutiny Committee decide, following a Call-in of an Officer Decision, to refer the matter back for reconsideration, it will be referred to the Portfolio Holder to undertake the reconsideration.

A Call-in can be withdrawn.

*Proposed changes to the Overview and Scrutiny Procedure Rules are shown attached as **Appendix D**.*

(e) Members of the Council (Article 2):

2.03 - Roles and Functions of all Councillors (Rights and Duties) (Part 2.3):

Additional wording to incorporate the common law position of 'need to know' in respect of rights to access information.

2.04 – Conduct (Part 2.4):

A clear statement that Members are also expected to comply with the requirements of any risk assessments issued by the Council in performance of their functions.

2.05 – Attendance (Part 2.4):

Additional wording to allow a Portfolio Holder's attendance at Cabinet to be included within the calculation and removing duplication of committee and sub-committee.

*Proposed changes to Article 2 Members of the Council are shown attached as **Appendix E**.*

When considering the 'Need to Know Principle' the CRWP decided that the Proper Officer for Access to Information should be extended to cover determinations on the application of the common law position. *Proposed changes to Schedule 4 of the Scheme of Delegation are shown attached as **Appendix N**.*

(f) Chairing the Council and Committees (Article 5)(Part 2.10):

Extending Article 5, which currently only applies to Chairing the Council to include:
5.02 The Role and Function of the Chairman of a Committee:

Emphasising their roles and responsibilities;

5.03 Addressing the Chairman:

Allowing to the appointed Chairman to use their discretion and choice; and

5.04 Training of the Chairman of the Council or Committees:

Setting out an expectation that members appointed to these roles will attend training to enable them to fulfil their roles and responsibilities.

*Proposed changes to Article 5 Chairing the Council are shown attached as **Appendix F**.*

(g) The Cabinet (Article 7)(Part 2):

Rule 5 - Procedures for Private Meetings (Part 2.19)

Remove wording relating to process for forming Portfolio Holder Working Parties, because this is irrelevant to this rule.

Rule 7 - Procedures for Portfolio Holder Working Parties

Include a new Rule bringing together the practices referred elsewhere in the Constitution, by using the wording currently in Rule 5 and the Scheme of Delegation, but expanding the requirements to include setting terms of reference, size of membership, consultation with ward councillors and recording decisions.

*Proposed changes to Article 7 – The Cabinet (also Referred to as the Executive) are shown attached as **Appendix G**.*

(h) Scheme of Delegation - Part 3 - Schedule 3 - Responsibility for Executive Functions

General Principles Regarding Decision Making By The Cabinet (Part 3.27)

Include at the request of the Monitoring Officer and the Section 151 Officer wording on how the Leader can take decisions on behalf of Cabinet, which is a permitted practice under the Leader model of governance but explicit reference was previously omitted.

Part 3.35

Remove wording relating to Portfolio Holder Working Parties to be made under the new Rule 7 (Article 7), referred to above.

*Proposed changes to Executive Functions are shown attached as **Appendix H**.*

(i) Scheme of Delegation (Non-Executive Functions) – Planning Committee and HR Sub-Committee:

Planning Committee (Part 3.15)

Additional wording to be inserted stating that any written request received from a District Councillor requesting that an application be determined by the Planning Committee, should be in accordance with the Member Referral Scheme.

The Scheme has previously been used by the Council and would be relaunched, with the wording being agreed by the Head of Planning and Monitoring Officer, in consultation with the Chairman of the Planning Committee ensuring consistency with the Public Speaking Scheme, Planning Protocol and accepted practice of ward councillors dealing with ward issues.

Human Resources Sub-Committee (Part 3.18):

The Panel currently comprises of 3 members including a member of Cabinet being the relevant Portfolio Holder for the service concerned. Additional wording is required to state “*unless that Portfolio Holder requires the Leader to appoint a substitute for them because they will be unable to attend*”.

*Proposed changes to the Planning Committee’s delegation and Human Resources Sub-Committee terms of reference are shown attached as **Appendix I**.*

(j) Budget and Policy Framework Procedure Rules (Part 5):

Chief Financial Officer has suggested the following amendments for the reasons set out:

Budget and Policy Framework – Rule 3: Process for Developing the Budget (Part 5.15):

To provide the opportunity for amended budget approved by Full Council to be accepted as the final decision, preventing any unnecessary delay. This could only take place, following consultation with the Chief Financial Officer and that they are able to advise on the financial implications of the amendment, at the Council meeting.

*Proposed changes to the Budget and Policy Framework are shown attached as **Appendix J**.*

(k) Financial Procedure Rules:

Chief Financial Officer has suggested the following amendments for the reasons set out:

Financial Procedure Rule 6.3.5: Virement Limits and Approvals (Part 5.40):

Delete Table (a) relating to virements from employee costs to temporary agency staff estimates, because these are items of expenditure within the General Fund and HRA and would be treated in accordance with table (b) on Part 5.41. Decisions regarding these virements would still highlight the types of expenditure.

Financial Procedure Rule 14: Investments, Loans and Borrowing (Part 5.57):

New wording to reflect the new CIPFA Guidance issued in 2018 on respect of Treasury Management.

*Proposed changes to the Financial Procedure Rules are shown attached as **Appendix K**.*

(l) Property Dealing Procedure – Part 5.62:

Including a small amendment to exclude arrangements for utilities to be provided on Council owned land from the Property Dealing Procedure, due to the position that any terms for the provision of utilities is fixed by the service providers.

(m) Part 5 – Procurement Procedure Rules:

Section 4.2.2 – Procurement over £10,000, but not expected to exceed £50,000 (Part 5.71):

Insert within paragraph (v) '*for £25,000 and above*' at the end of the first sentence, this will make the distinction that the standard contract is only required when seeking quotations over £25,000 being consistent with our requirements to use Contract Finder.

OTHER MATTERS CONSIDERED:

The Standards Committee had requested that the Constitution Review Working Party (CRWP) to consider whether attendance to mandatory training sessions for committees should be linked to Members allowances. Advice was provided that this would only be feasible through amendments to the Members Allowances Scheme and recommendations could be put forward to the Independent Remuneration Panel to research this matter further, should the CRWP decide to do so. After discussing the issue in detail, the CRWP agreed that Members failing to attend mandatory training sessions could be resolved through the Group Leaders ensuring that members appointed to committees were able to commit to the additional training required to fulfil their roles.

Some members had raised with the Monitoring Officer whether the Council's arrangements in requiring individuals to observe prayers at the Full Council meeting was lawful following the High Court challenge in 2011 and whether an Equality Impact Assessment had been undertaken. The Monitoring Officer confirmed the legal position and highlighted, that individuals should have the choice whether to observe religious ceremonies at all times. For those Members, Officers or the public who did not wish to take part in prayers they should be allowed to do so without further questions. The CRWP agreed that the Constitution did not require amendment on this matter but requested the Monitoring Officer to issue guidance to all members.

Following recent discussions between various Members regarding practices for dealing with ward issues, the CRWP considered guidance issued to Members by other elected Members at another Council, which was regarded as good practice. It was agreed that the Constitution did not require any amendment on this point, but the guidance could be used as part of the induction programme for elected members following the elections in May 2019. The Monitoring Officer was requested to take this forward.

BACKGROUND PAPERS

There are no background papers (as defined by the Local Government Act 2000) arising from this report.

APPENDICES

A.3

APPENDIX A1	Part 4	Council Procedure Rules – Section 1
APPENDIX A2	Part 4	Council Procedure Rules – Section 2
APPENDIX B	Part 5	Access To Information Procedure Rules
APPENDIX C	Article 6	Overview and Scrutiny Function
APPENDIX D	Part 5	Overview and Scrutiny Procedure Rules
APPENDIX E	Article 2	Members of the Council

APPENDIX F	Article 5	Chairing the Council and Committees
APPENDIX G	Article 7	The Cabinet
APPENDIX H	Part 3	Scheme of Delegation (Executive functions)
APPENDIX I	Part 3	Scheme of Delegation – Planning Committee and HR Sub-Committee
APPENDIX J	Part 5	Budget and Policy Framework Procedure Rules
APPENDIX K	Part 5	Financial Procedure Rules
APPENDIX L	Part 5	Property Dealing Procedure
APPENDIX M	Part 5	Procurement Procedure Rules
APPENDIX N	Part 3	Scheme of Delegation (Proper Officer functions)

ACCESS TO INFORMATION PROCEDURE RULES

The Council considers that Local Government derives an important part of its authority and influence from the trust and confidence of the individuals and communities it serves. Access to Information in respect of decision making is a necessary prerequisite for generating that trust and confidence. Informed members of the local community are better able to contribute to, and take part in, the work of Local Authorities. Access to information is central to this process and requires Local Authorities to establish the appropriate balance between:

- making information readily and openly available to the public; and
- ensuring that certain areas of personal/public life remain the legitimate object of confidentiality.

1. SCOPE

Rules 1 to 11 outline the rights of members of the public and apply to all meetings of the Council, the Overview and Scrutiny Committees, Cabinet, Audit Committee, Human Resources and Council Tax Committee, Licensing and Registration Committee (and its sub-committees), Local Plan Committee, Planning Committee, Standards Committee and the Town and Parish Council Standards Sub-Committee, collectively called meetings.

Rule 12 relates to recording of Decisions by Officers.

Rule 13 deals specifically with Cabinet's schedule of key decisions by which future major decisions of the Council are publicised.

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any, more specific, rights to information contained elsewhere in this Constitution or the law for example the Data Protection Act 1998 and the Freedom of Information Act 2000.

3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions to these rules.

Any person is permitted to film or record any meeting of the Council, a Committee, Sub-Committee or the Cabinet, save where the public have been excluded for consideration of exempt or confidential business. The rules, as prescribed by legislation, will allow for the reporting of meetings via social media of any kind. The Council will provide reasonable facilities to facilitate reporting.

Any person exercising such rights must not disrupt the proceedings. Examples of what will be regarded as disruptive include, but are not limited to, moving outside the area designated for

the public, making excessive noise, intrusive lighting/flash or 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 has not been obtained. Any person considered being disruptive or filming the public will be requested to cease doing so by the Chairman and may be asked to leave the meeting.

4. NOTICES OF MEETING

The Council will give at least five clear working days notice of any meeting, except where an urgent meeting is convened, by making the agenda and reports publically available at the Town Hall, Station Road, Clacton-on-Sea, CO15 1SE (the "designated office") and on the Council's website.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda, accompanying reports and background papers that are open to the public available for inspection at the designated office and on the website at least five clear working days before the meeting. If an item is added to the agenda after publication the revised agenda will be open to inspection from the time the item was added to the agenda.

Copies of the agenda and accompanying reports will be sent to the Councillors who serve on the decision-making body in question.

6. SUPPLY OF COPIES

Agendas, reports and background papers listed within Cabinet reports are available to view on the Council's website. The Council will on request, and for such reasonable charge as is from time to time agreed, supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any background papers listed within the reports; and
- (c) copies of any other documents supplied to Councillors in connection with an item to any person, on payment of a charge for postage and other costs, if the Proper Officer (Monitoring Officer) thinks fit.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

In addition to publishing information on the Council's website, the Council will make available, upon request copies of the following for six years after a meeting:

- (a) the minutes of the meeting which will include a record of decisions taken, together with reasons. However where the meetings discussed exempt or confidential information the minutes open to the public will only include a record of the proceedings and the

decision. The Council aims to publish minutes of meetings within 5 working days following the meeting;

- (b) records of executive decisions taken by individual Cabinet Members or Officers, including the reasons for the decision and any alternative options considered and rejected. They will be published and made available as soon as reasonably practicable after they have been taken;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of Background Papers

In every report a list will be included of those documents (called background papers) relating to the subject matter of the report which in the report author's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but do not include published works or those which disclose exempt or confidential information as defined in Rule 10.

8.2 Public Inspection of Background Papers

The Council will make available for public inspection, for four years after the date of the meeting, one copy of each of the documents on the list of background papers.

Public reports must include not only a list of background papers but at least one copy of each of the documents in the list for public inspection. Arrangements for inspection should be made through the Council's Committee Services at the Town Hall and on the Council's website.

In the case of reports to Cabinet, the background papers will be published on the Council's website, subject to Rule 10 below.

The Council may now charge "a reasonable fee" for access to background papers to be inspected at the Council's offices.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept and be available to the public at the Town Hall, Station Road, Clacton-on-Sea.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential Information – Requirement to Exclude Public

The public will be excluded from meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings, that confidential information would be disclosed.

10.2 Meaning of Confidential Information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.3 Exempt Information – Discretion to Exclude Public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings that exempt information would be disclosed which falls into one of the seven definitions of information that is exempt from disclosure to the public and press.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.4 Meaning of Exempt Information

Exempt information means any information falling within the following seven categories (subject to any condition) as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended):

Category	Condition
1. Information relating to any individual.	
2. Information which is likely to reveal the identity of an individual.	

<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<p>Information is not exempt information if it is required to be registered under:-</p> <ul style="list-style-type: none"> (a) The Companies Act 1985; (b) The Friendly Societies Act 1974; (c) The Friendly Societies Act 1992; (d) The Industrial and Provident Societies Acts 1965 to 1978; (e) The Building Societies Act 1986; or (f) The Charities Act 1993. <p>“Financial and business affairs” includes contemplated, as well as past or current activities.</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p> <p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p> <p>6. Information which reveals that the authority proposes:-</p> <ul style="list-style-type: none"> (a) To give under any enactment or notice under or by virtue of which requirements are imposed on a person; or (b) To make an order or direction under any enactment. <p>7. Information relating to any action or any action proposed to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Employee means a person employed under a contract of service. “Labour relations matters” means any matters specified in section 218(1)(a) to (g) of the Trade Union and Labour Relations (Consolidation) Act 1992. These matters also apply to office holders as to employees.</p>

Notes:

- (a) Information falling within any of categories 1-7 is not exempt by virtue of that category if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
- (b) Information which:-
 - (a) falls within any of categories 1 to 7 above; and
 - (b) is not prevented from being exempt by virtue of the condition is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
 - (c) Where the meeting will determine any person's civil rights or obligations, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in that Article.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Proper Officer (Monitoring Officer) thinks fit, the Council may exclude access by the public to reports which, in their opinion, relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with category of information likely to be concerned.

12. RECORDING OF DECISIONS BY OFFICERS

12.1 Written Record

A written record must be produced, as soon as reasonably practicable, after a decision has been made, which was delegated to an Officer by Council, a Committee or Sub-Committee either:

- (a) under an express authorisation; or
- (b) a general authority to take decisions which grant a permission or licence, affect an individual's rights or award a contract or incur expenditure, which in either case, materially affects the Council's finances.

12.2 Prescribed Format

The written record must be in the prescribed format approved by the Monitoring Officer and Committee Services and contain the following information:

(Cream)

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- (a) the date the decision was made;
 - (b) a record of the decision taken along with the reasons for the decision;
 - (c) details of alternative options, if any, considered and rejected; and
 - (d) where relevant, any conflicts of interest declared.

12.3 Public Inspection of Decision and Background Papers

The Officer making the decision must ensure that the written record and background papers are made available for inspection by the public and published on the Council's website.

APPLICATION OF RULES TO THE CABINET

Rules 13 to 21 apply to the Cabinet, any decisions taken by the Leader, Cabinet Members or Officers under the Scheme of Delegation. If any of these decision makers intend to take a key decision then it must also comply with Rule 13 unless Rule 15 (general exception) or Rule 16 (special urgency) applies. A "key decision" is defined in Article 13.03 of this Constitution.

13. ~~THE FORWARD PLAN &~~ PROCEDURE BEFORE TAKING KEY DECISIONS OR DECISIONS THAT WOULD INVOLVE THE DISCLOSURE OF CONFIDENTIAL OR EXEMPT INFORMATION

~~13.1 The Council's Forward Plan provides a published schedule of key decisions to give advance notice to the public and other interested parties of key decisions, as defined in Article 13 of this Constitution, which are due to be taken.~~

~~13.2~~ 13.1 Subject to Rules 14 and 15 below, a key decision or a decision that would involve the disclosure or likely disclosure of confidential information must not be made until a notice has been published ~~within the Forward Plan on the Council's website (under Forthcoming Decisions)~~ for at least 28 clear days, containing the following details:

- (a) that a key decision is to be made, and details of the matter excluding (if applicable) any details that would reveal confidential or exempt information; or ~~as referred to in Rules 10(2) and 10(4) above;~~
- (b) that a decision that would involve the disclosure or likely disclosure of confidential information is to be made and details of the matter excluding any details that would reveal such confidential or exempt information;
- ~~(b)~~(c) the decision-maker's name and title, if an individual, or if it is a body, its name and full membership;
- ~~(c)~~(d) the date on which, or period during which, the decision is to be made;

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- ~~(d)~~(e) a list of the documents already submitted to the decision-maker for consideration in relation to the matter and details of how to obtain copies; and
 - ~~(e)~~(f) a statement that documents relevant to the decision may be submitted to the decision-maker and details of how to receive copies.

13.2 DEFINITIONS

A “Key Decision” is an executive decision that meets the description of a Key Decision set out in Article 13.03 of the Constitution.

“Confidential” and “Exempt” information are defined in, respectively, Access to Information Procedure Rules 10.2 and 10.4.

14. GENERAL EXCEPTION

Subject to Rule 15, if publication under Rule 13 above is impracticable, a key decision may only be made:

- (a) where the Proper Officer has **informed** the Chairman of the relevant Overview and Scrutiny Committee in writing of the matter about which the decision is to be made;
- (b) notice is given and published on the Council's website of the details of the decision to be made and the reasons why it is impracticable to give 28 clear days' notice; and
- (c) at least five clear working days have elapsed between notice being given and the decision being taken.

15. SPECIAL URGENCY

If the general exception rule is impracticable, due to the date by which a key decision must be made, the key decision can only be taken if the decision-maker has **received the agreement** of the Chairman of the relevant overview and scrutiny committee, or if they are unable to act, the Chairman or Vice-Chairman of the **Council** and has published a notice on the Council's website, stating that the making of the decision is urgent and the reasons why it cannot reasonably be deferred.

16. REPORTS TO COUNCIL

16.1 When an Overview and Scrutiny Committee can require a Report

If the relevant overview and scrutiny committee thinks that a key decision has been made and was not:

- (a) ~~included in the Forward Plan~~ **published in accordance with Rule 13.1**; or
- (b) the subject of the general exception procedure; or

-
- (c) the subject of an agreement under Rule 15;

the Committee, by resolution at one of its meetings, may require the Cabinet to submit a report to full Council, within such reasonable time as the Committee specifies. The report to Council must include details of the decision, the decision maker and reasons why the Cabinet are of the opinion that the decision was not a key decision. The power to require a report rests with the Committee but may also be exercised by the Proper Officer on receipt of a written request, providing valid reasons to do so, from five members of the Committee.

16.2 Reports on Special Urgency Decisions

The Leader will submit a report to the next practicable ordinary meeting of the Council on Cabinet decisions or executive decisions taken by individual Portfolio Holders or Officers where the making of the decision was agreed as urgent in accordance with Rule 15 since the last such report. The report will include the number of decisions made, the particulars of each decision made and a summary of the matters in respect of which those decisions were made.

17. RECORD OF DECISIONS

A written record must be produced, as soon as reasonably practicable, after a Cabinet (executive) decision has been made, including where Cabinet Members have made individual decisions and Officer's decisions have been made exercising executive functions in accordance with the Responsibility of Functions – Delegated Powers contained within Part 3 of this Constitution.

Each record must be in the prescribed format approved by the Monitoring Officer and Committee Services and contain the following information:

- (a) the decision and the date it was made;
- (b) the reasons for the decision;
- (c) details of any alternative options considered and rejected; and
- (d) declarations of interest and details of any dispensations granted in respect of those interests.

The Record of the Executive Decision will be published on the Council's website together with any report considered at the meeting or by the individual Portfolio Holder or Officer and must be available for inspection, as soon as reasonably practicable. Any background paper must also be listed and one of each of the documents available for public inspection and published on the Council's website.

18. PROCEDURES PRIOR TO A PRIVATE MEETING

18.1 At least 28 days before a private meeting of the Cabinet:-

- (a) notice of intention to hold the meeting must be made available at the Council's offices and **include a statement of the reasons for the meeting to be held in private; and**
- (b) **details of any representations received about why the meeting should be held in public and a statement of its response to any such representations;**
- (c) **that Notice must list any decision that would involve the disclosure or likely disclosure of confidential information that is due to be made at that meeting together with details of the matter excluding any details that would reveal such confidential or exempt information; and**
- ~~(b)~~(d) that Notice must be published on the Council's website.

~~The Council's Forward Plan will be used to publish notice under this rule.~~

18.2 The Notice under 18.1 must include a statement of the reasons for the meeting being held in private.

18.3 At least five clear days before a private meeting, a further notice of the intention to hold a meeting must be available and published on the Council's website. This will form the Cabinet agenda for the meeting.

19. ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET

All Members of the Cabinet will be served notice of, and are entitled to attend, all private meetings of the Cabinet or Committees of the Cabinet.

The Chief Executive, the Deputy Chief Executive, the Chief Financial Officer, the Monitoring Officer (or Deputies) and the Corporate Directors in the light of items to be discussed, or their nominated representatives, at the discretion of the Chief Executive can attend.

20. RIGHTS OF OVERVIEW AND SCRUTINY MEMBERS

20.1 Upon request from a member of an overview and scrutiny committee, the Cabinet **must** make available any document which contains material relating to any business transacted at a public or private meeting of the Cabinet and any decisions made (whether by individual Cabinet Members or Officers).

20.2 This request must be complied with and the documentation provided as soon as reasonably practicable, but no later than 10 clear days after the request is made.

20.3 If the Cabinet determines that material will not be provided, it must provide the member of the overview and scrutiny committee with a written statement, setting out its reasons for that decision.

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Limits on Rights

The member of an overview and scrutiny committee will not be entitled to:

- (a) any document in draft form; or
- (b) any part of a document which contains exempt or confidential information unless it relates to an action or decision that is being scrutinised or to any review in a relevant overview and scrutiny committee's work programme; or
- (c) any exempt material which contains advice provided by a political adviser or assistant.

21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

21.1 Material Relating to Previous Business

All Members will be entitled to inspect any document that is in the possession of, or under the control of, the Cabinet and contains material relating to any business previously transacted at a private meeting unless it contains exempt or confidential information, or the advice of a political adviser or assistant.

21.2 Material Relating to Key Decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet, which relates to any key decision unless paragraph 21.1 above applies.

21.3 Nature of Rights

These rights of a Member are additional to any other rights they may have.

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Part 2 - ARTICLES

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

A3 APPENDIX C

ARTICLE 6 – OVERVIEW AND SCRUTINY FUNCTION

6.01 General Role and Functions:

The Council will appoint two Overview and Scrutiny Committees, whose terms of reference are as set out below. Within its functions, each Overview and Scrutiny Committee will:

1. Review or scrutinise **executive** decisions made by the Cabinet (including delegated to Portfolio Holders and Officers) or ~~published in the forward plan~~ **are due to be made by the Cabinet or a Portfolio Holder** including performance in relation to individual decisions over a period of time;
2. Act as a consultee on policy development and review of policies;
3. Submit to Full Council for approval an annual overview and scrutiny work programme;
4. Make reports or recommendations to the Cabinet or the Council as appropriate, with respect to the discharge of any Council function or on any matter affecting the authority's area or its inhabitants.
5. Prepare and present an annual performance report to Full Council covering the outcomes of the overview and scrutiny functions by each committee;
6. Deal with any Call-in of Cabinet decisions (including those delegated to Portfolio Holders and Officers);
7. Consider requests for scrutiny reviews under the Councillor Call for Action process and petitions as referred under the Petitions Scheme and Council Procedure Rules.

In undertaking the General Role the following principles apply:

- (i) The focused co-ordination of all overview and scrutiny functions on behalf of the Council including the performance reporting on the Corporate Plan, Priorities and Projects;
- (ii) Appoint, where appropriate, and in accordance with its agreed work programme, a group to undertake researched and evidenced reviews on a specific topic, on a task and finish basis. The terms of reference of any Task and Finish group must be agreed by the relevant Overview and Scrutiny Committee prior to its commencement; and

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- (iii) Consideration of the Council's priorities and resources when making researched and evidenced recommendations and referral decisions as an outcome of the scrutiny and prioritising those referrals in a timely manner.

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ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

6.02 Terms of Reference:

The terms of reference for each Overview and Scrutiny Committee are set out below:

(i) Community Leadership Overview and Scrutiny Committee

To hold scheduled quarterly meetings but with the Chairman able to call additional formal meetings. Meetings of Task and Finish Groups can be called as required, following the terms of reference being agreed by the Committee.

To perform the role of Overview and Scrutiny and its functions in relation to

- Community Leadership developing the external focus of overview and scrutiny on “district-wide” issues’ (and where appropriate sub regional, regional and national issues), in particular through collaborative work with local partner authorities, providers, stakeholders and members of the public.
- Approval of discrete researched and evidenced reviews on the effectiveness of partnership operating in the area with particular focus on:
 - Community Safety
 - Health and Well-being
 - Economy, Skills and Educational Attainment
- Community engagement, development and empowerment
- Emergency Planning

(ii) Resources and Services Overview and Scrutiny Committee

- To be chaired by a Member of a political group that is not represented on the Cabinet and to hold 8 scheduled meetings per year but with the Chairman able to call additional formal meetings. Meetings of Task and Finish Groups can be called as required, following the terms of reference being agreed by the Committee.
- To perform the role of Overview and Scrutiny and its functions in relation to the effective use of the Council’s resources including approval of discrete researched and evidenced reviews on the effectiveness of:

Financial Strategy

Budget setting (including General Fund & Housing Revenue Account)

Service Delivery and Performance

Procurement and Contract Management

Transformation and Digital Strategies

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ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

Customer Service and Standards

6.03 Proceedings of the Overview and Scrutiny Committees:

The Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 5 of this Constitution.

OVERVIEW AND SCRUTINY PROCEDURE RULES**1. OVERVIEW AND SCRUTINY COMMITTEES**

The Council will have two Overview and Scrutiny Committees (“the Committees”), which together will perform all overview and scrutiny functions on behalf of the Council. They will each consist of eleven members, who will be appointed by the full Council at its annual meeting. Their terms of reference and functions will be as set out in Part 2, Article 6 of the Constitution.

2. MEMBERSHIP

All Councillors except Cabinet members may be members of the Overview and Scrutiny Committees. However, no Member may be involved in scrutinising a decision in which they have been directly involved in making.

3. CO-OPTED MEMBERS (WITHOUT VOTING RIGHTS)

Each Overview and Scrutiny Committee shall be entitled to appoint people as Co-opted Members (without voting rights) as considered appropriate to enable them to perform their overview and scrutiny functions. The duration of the appointment will be determined by the Committee. In addition, the Council may determine which groups or bodies should be represented on a particular Committee by Co-opted Members (without voting rights).

4. MEETINGS OF THE COMMITTEE

There will be eight ordinary meetings of the Resources and Services Overview and Scrutiny Committee in each year. The Community Leadership Overview and Scrutiny Committee will meet quarterly. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the relevant Committee, or by the Committee Services Manager, if considered necessary or appropriate.

5. QUORUM

The quorum for the Committee shall be as set out in Part 4 (Council Procedure Rules).

6. CHAIRMEN

The Chairmen of the Committees shall be appointed as set out in Part 4 (Council Procedure Rules).

The Chairmen of the Overview and Scrutiny Committees will meet with the Head of Democratic Services and appropriate Heads of Service or relevant officer to co-ordinate the

business of the relevant Committees and determine which Committee will assume responsibility for any particular issue.

7. WORK PROGRAMME

Each Overview and Scrutiny Committee will submit a work programme for the year ahead and a review of the previous year's activities to the Annual Meeting of the full Council for approval. In addition, it will be responsible for co-ordinating and prioritising its work programme on an ongoing basis.

In preparing, co-ordinating and prioritising its programme, each Overview and Scrutiny Committee will take into account:-

- The General Role and Principles of undertaking its functions, as set out in Part 2 Article 6
- the planned work on the preparation of elements of the Budget and Policy Framework as set out in the Council's Business Plan;
- the need for statutory timetables to be met;
- the wishes of all members of the committee;
- requests from the Cabinet to carry out reviews; and
- requests from Group Leaders in accordance with Rule 8.

8. AGENDA ITEMS

Any member of an Overview and Scrutiny Committee shall be entitled to give notice to the Head of Democratic Services that they wish an item relevant to the terms of reference and the functions of the Committee to be included on the agenda for the next meeting of that Committee. Such notice must be given by delivering it, in writing (or by personal e-mail) to the Head of Democratic Services no later than midday seven working days before the day of the meeting. On receipt of such a notice the Head of Democratic Services will ensure that the item is included on the agenda.

Any such request by Members will be considered at the next available meeting where the Committee will decide if the item should form part of the work programme.

The Leader of any political group may request that an item be included on the Overview and Scrutiny work programme. The relevant Overview and Scrutiny Committee will consider the request on the agenda and determine at its meeting, whether the item is appropriate for inclusion on the work programme.

The relevant Overview and Scrutiny Committee will respond, as soon as their work programme permits, to requests from the Council and if it considers appropriate, the Cabinet

to review particular areas of Council activity. Such referrals will be accompanied by Council/Cabinet's view on the matter under consideration to assist the relevant Overview and Scrutiny Committee in effective investigation of the matter. Where they do so, the relevant Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or Cabinet shall consider the report at its following meeting.

9. COUNCILLORS CALL FOR ACTION

The Councillors Call for Action is an additional means for Councillors to raise issues of local community concern, for consideration by the Council's overview and scrutiny function, on behalf of residents. A Councillors Call for Action should only be raised where other means of resolving the matter have been exhausted.

- (a) Any Member of the Council may raise a Councillors Call for Action, which should be sent to the Council's Head of Democratic Services.
- (b) Once the Councillors Call for Action is received, the matter must be considered by the relevant Overview and Scrutiny Committee, whose terms of reference the matter falls within and they must endeavour to consider the matter within a reasonable timescale. Where the matter falls within the terms of reference of more than one Committee, the Chairmen of the Committees will determine the most appropriate Committee to deal with the matter, except where the matter relates to a crime and disorder issue where all such matters must be considered by the Overview and Scrutiny Committee responsible for crime and disorder matters.
- (c) If a Councillors Call for Action is deemed not to be valid, a letter will be sent to the Member concerned informing them of the reasons for this. Where the issue has been deemed not to be valid because other methods of resolution have not been exhausted, the Call for Action may be re-submitted, if necessary, once the Councillor concerned has pursued the matter further.

10. PROCEDURE AT COMMITTEE MEETINGS

- (a) The Committees shall consider the following business:
 - (i) Minutes of the last meeting;
 - (ii) Declarations of Interest;
 - (iii) Questions raised on ~~the Forward Plan~~ forthcoming executive decisions in accordance with Rule 13;
 - (iv) Responses of the Cabinet to reports of the Overview and Scrutiny Committee;

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- (v) Responses of the Cabinet to called-in decisions referred for reconsideration;
 - (vi) Consideration of any matter referred to the Committee for a decision in relation to the call-in of a decision; and
 - (vii) The business otherwise set out on the agenda for the meeting.
- (b) Where an Overview and Scrutiny Committee undertakes researched and evidence reviews on a specific topic, on a task and finish basis (e.g. with a view to policy development), the relevant Committee may also ask people to attend to give evidence at the Task and Finish Group meetings that are to be conducted in accordance with the following principles:
- (i) that the terms and reference of any Task and Finish Group must be agreed by the relevant Overview and Scrutiny Committee prior to its commencement;
 - (ii) consideration being given to the Council's priorities and resources when making researched and evidenced recommendations and referral decisions as an outcome of the scrutiny;
 - (iii) that the reviews be conducted fairly and all members of the Task and Finish Group be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (iv) that those assisting the Task and Finish Group by giving evidence be treated with respect and courtesy; and
 - (v) that the review by the Task and Finish Group be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any Task and Finish review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

11. POLICY REVIEW AND DEVELOPMENT

- (a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules within this Constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, each Overview and Scrutiny Committee may make proposals or act as consultee for the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Each Overview and Scrutiny Committee where relevant to their terms of reference, may, as resources permit, agree to form a specific Task and Finish Group to

investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

12. REPORTS FROM AN OVERVIEW AND SCRUTINY COMMITTEE

- (a) Specific evidence based recommendations on proposals for development from an Overview and Scrutiny Committee will be submitted by way of a formal report for consideration by Cabinet. If the proposals would involve a change to the existing Budget and/or Policy Framework, the Cabinet will consider the matter and make a recommendation to Full Council. The report will be drafted by Officers and agreed by the relevant Chairman in respect of the proposals from the relevant Overview and Scrutiny Committee.
- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Cabinet or Council, the report may refer to the contrary views of a Member, if the Member concerned specifically requests this.
- (c) The Cabinet shall consider the report from the relevant Overview and Scrutiny Committee at the next meeting of the Cabinet for which the agenda has not yet been published.
- (d) In addition to making recommendations on specific proposals for development, the Overview and Scrutiny Committees may make more general comments/suggestions regarding matters they have considered, which they would like the relevant Cabinet Member to consider and take appropriate action. In such instances, a copy of the relevant minute will be sent to the Cabinet Member.
- (e) Where specific evidence-based recommendations on proposals for development from the Overview and Scrutiny Committees relate to matters that are the responsibility of Partner Authorities and organisations, notice in writing by way of a formal report will be provided to the relevant Partner Authority or organisation requiring them to have regard to the recommendations. The Partner or organisation will be requested to respond to the relevant Committee within two calendar months setting out action, if any, that is to be taken in response to the recommendations.
- (f) On occasions, matters may be referred to Overview and Scrutiny from Council. On such occasions, the Chairman of the relevant Overview and Scrutiny Committee will respond to the request, be this via an Overview and Scrutiny Committee or a Task and Finish Review Group. Upon concluding the necessary work, the matter and any

recommendations made by the Overview and Scrutiny Committee will be referred to the Cabinet for consideration. The matter, along with the recommendations of the Overview and Scrutiny Committee, and any comments or recommendations of the Cabinet shall be referred back to Full Council for consideration.

13. SCRUTINY OF PROPOSED DECISIONS

The Overview and Scrutiny Committees will, at their ordinary meetings, review the new and/or amended items **forthcoming decisions** relevant to their terms of reference. ~~contained in the latest Forward Plan.~~ If they wish to enquire into any forthcoming decisions, such an enquiry might consist of questioning members of the Cabinet and Officers, and seeking the views of local stakeholders and/or other interested parties. The Cabinet will take into account any recommendations expressed by the relevant Overview and Scrutiny Committees when determining the final decision and record their response within any report and/or decision.

Matters may only be raised on the ~~Forward Plan~~ **forthcoming decisions** at Committee meetings where the Member has notified the Head of Democratic Services in writing (or by personal email) of the question they wish to ask, no later than Midday, two working days before the day of the meeting.

14. RIGHTS OF COMMITTEE MEMBERS TO DOCUMENTS

- (a) In addition to their rights as Councillors, members of the Overview and Scrutiny Committees in fulfilling their functions have the right to documents, ~~and as provided for in the Access to Information Procedure Rules (the Regulations).~~ **20 (Rights of Overview and Scrutiny Members).**

~~The Regulations include the following rights of Members of Overview and Scrutiny Committees (Upon Request):~~

- ~~• The Cabinet must make available any material relating to business in respect of past decisions (and within 10 days);~~
- ~~• Exempt information where this relates to an action or decision that the Member is scrutinising or to any review in a relevant Overview and Scrutiny Committee's work programme. (Such Members are not entitled to any exempt material which contains advice provided by a political adviser or assistant); and~~
- ~~• If Cabinet refuses, it must set out reasons for doing so, in writing.~~

- (b) ~~Nothing in this paragraph~~ **This would not** prevents more detailed liaison between the Cabinet and any **Overview and Scrutiny** Committee as appropriate.

15. MEMBERS AND OFFICERS GIVING ACCOUNT

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- (a) It shall be for each Corporate Director to determine which Officers attend to provide advice to Overview and Scrutiny Committees, subject to each Committee being able to supplement this as thought necessary through (b), (c) and (d) below:
 - (b) Any Overview and Scrutiny Committee may scrutinise and review decisions made or action taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Overview and Scrutiny role, it may require any Cabinet Member, or any Senior Officer to attend before it to explain in relation to matters within their remit:
 - (i) any particular decision or series of decisions (excluding decisions made by the Planning, Licensing, Audit or Standards Committees); and/or
 - (ii) the extent to which the actions taken implement Council policy.
 - (c) Where any Cabinet Member or Senior Officer is required to attend a meeting of the relevant Overview and Scrutiny Committee, at least seven working days' notice of the meeting at which they are required to attend shall be given. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the relevant Committee. Where the account to be given to the Committee will require production of a report, then the Member or Officer concerned will be given sufficient notice to allow for the preparation of that document.
 - (d) Where, in exceptional circumstances, the Cabinet Member or Senior Officer is unable to attend on the required date, the Chairman of the relevant Committee, shall, in consultation with the Member or Officer, arrange a substitute or an alternative date for attendance.
 - (e) Participation by any Cabinet Member(s) in the general debate of the Overview and Scrutiny Committees will be at the discretion of the relevant Chairman (this rule does not apply when the Committee is considering a call-in).

16. ATTENDANCE BY OTHERS

Each Overview and Scrutiny Committee may, in so far as it relates to matters within their terms of reference, invite people other than those referred to in paragraph 15 above to address them, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and may invite such people to attend. Attendance by those invited is entirely optional but encouraged in the spirit of partnership working and community engagement.

17. CALL-IN

When a decision is made by the Cabinet, or an individual member of the Cabinet, the decision is published, normally within five working days of being made. The Chairman of the relevant

Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision. Decisions will also be sent to all Members.

That notice will include the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the decision is called-in.

(a) The rules applying to call-in are:

- (i) All executive decisions taken at Cabinet meetings, or by individual Cabinet Members or by Officers (who are making a Key Decision as defined in Article 13.03), may be called-in, subject to the exceptions outlined in Procedure Rule 18;
- (ii) Prior to holding a call-in, ~~all Members of the Council~~ the callers-in are expected to attempt to resolve the matter through informal mediation, together with the relevant Cabinet Member and/or the Leader of the Council, if appropriate to do so;
- (iii) The Committee Services Manager, will process call-in notices received from:
 - a. The Chairman of the relevant Overview and Scrutiny Committee; or
 - b. Three Non-Cabinet Members of the Council.

All valid call-in notices will be referred to the relevant Overview and Scrutiny Committee for determination and the decision-maker will be notified of the call-in.

- (iv) A notice of call-in must be made on the appropriate prescribed form or email (so long as the email addresses the relevant information required) and must be received within five working days of the date of publication of the decision. Use of the prescribed form is encouraged, and should be completed in full, with reference to the criteria for submitting call-in requests and stating the reasons why the issue needs to be scrutinised.
 - (v) ~~Only Cabinet decisions (including decisions by individual Cabinet Members) are eligible for call-in.~~ Individual decisions taken by non-Cabinet and Non-Executive Committees (such as Planning, and Licensing, Standards and Audit Committees) cannot be the subject of call-in; and
 - (vi) Any decision can only be called-in once.
- (b) Those seeking to call-in a decision shall be required to state their reasons, in accordance with the criteria set, in the call-in notice form based on one or more of the following seven assessment criteria. These seven criteria are as follows:

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- (i) The decision-maker has failed to consult relevant people, or bodies, in contravention of defined Council policies or procedures.
 - (ii) The decision is contrary to the Council's Budget or Policy Framework.
 - (iii) The decision is not consistent with Council policy.
 - (iv) The decision-maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable.
 - (v) The decision is contrary to a previously agreed decision made in Full Council, which has not been superseded by a subsequent decision.
 - (vi) The decision is inconsistent with a previous Overview and Scrutiny recommendation that has been accepted by Cabinet or Council and that recommendation has not been superseded by a subsequent decision.
 - (vii) The decision was not taken in accordance with the principles set out in Article 13 (Decision-Making) of the Constitution.

(c) Mediation Process

- (i) Those seeking to call-in a decision shall state, when providing their reasons in the call-in notice, whether they wish to enter into mediation with the relevant Cabinet Member(s) and if so, what element of the decision and/or further information would they wish to discuss as part of the mediation.
- (ii) Once those seeking the call-in have provided this information, the relevant Cabinet Member(s) must respond and confirm whether they wish to engage with the mediation process.
- (iii) Upon confirmation that the parties wish to mediate, Committee Services will set up a mediation, at which an Officer(s) with knowledge of the background to the decision can attend to assist with providing or clarifying any information.
- (iv) The mediation meeting must be held no later than three working days before the date of any meeting arranged to allow consideration of the call-in by the relevant Overview and Scrutiny Committee.
- (v) The Council's Monitoring Officer and/or Section 151 Officer (or their appointed deputies) may attend the mediation meeting at their individual discretion.
- (vi) The Officer from Committee Services attending the mediation will, within 24 hours, produce a note for circulation to all parties to the meeting for approval. That note must include any and all assurances given by, or agreements reached with the Cabinet Member(s).
- (vii) Once those assurances or agreements are subsequently confirmed as being acceptable by all parties in writing then the call-in will be treated as having been dealt with and any further required action in relation to the decision will be undertaken in accordance with the Council's Constitution.

The Mediation Process does not preclude the relevant Cabinet Member(s), upon being made aware of the call-in and the reasons for it, making an immediate, unilateral undertaking to amend or rescind their decision or undertake any other appropriate action. Committee Services will inform the callers-in of such unilateral undertaking and ask if they are satisfied by that undertaking. If the callers-in confirm the undertaking as being acceptable to them in writing then the call-in will be treated as having been dealt with and any further required action in relation to the decision will be undertaken in accordance with the Council's Constitution.

- ~~(e)~~ (d) The submission of a call-in notice shall have the effect of suspending the implementation of the decision pending consideration of the matter by the relevant Overview and Scrutiny Committee, who must meet to consider the matter within 15 working days from the date following receipt of the call-in notice.

If the relevant Committee does not meet within this period, the decision shall take effect on the expiry of the 15 working day period. The Chairman of the relevant Overview and Scrutiny Committee is under an obligation to ensure that the meeting is held within 15 days.

If the relevant Overview and Scrutiny Committee has already commented or made recommendations on the specific matter which has been called-in prior to the decision being made then it will be deemed to be pre-determined on the matter and the call-in will be considered by another Overview and Scrutiny Committee.

- ~~(d)~~ (e) At the meeting to consider the call-in notice, the Overview and Scrutiny Committee shall limit its consideration to the reasons stated in the call-in notice.
- (i) The layout of the meeting will provide separate tables for both the callers-in and the relevant Cabinet Member to sit at for the item of the call-in.
 - (ii) Stage One of the meeting – the Councillor(s) requesting the call-in shall attend and explain their objections to the decision and the reasons for the call-in against the stated criteria.
 - (iii) Stage Two – the decision-maker (relevant Cabinet Member **and relevant Officer**) shall establish the reasons behind the decision and can determine whether it should be referred back to the ~~decision-maker~~ **Cabinet Member** for consideration.
 - (iv) Stage Three – Questions can be asked by:
 - a. The callers-in;
 - b. The relevant Cabinet Member **or relevant Officer**; and
 - c. The Committee.

All questions will be at the discretion of the Chairman, taking account of relevance to the subject matter.

- ~~(e)~~ (f) It should be noted that, although a decision may be deemed to meet the criteria for call-in, this does not automatically mean the matter should be referred back to the decision-maker. There may be compelling reasons for the decision being made and all evidence should be heard before determining what action should be taken.
- ~~(f)~~ (g) Both the callers-in and the decision-maker are permitted to stay at the meeting whilst the Committee debates and decides what action to take at the discretion of the relevant Chairman.
- ~~(g)~~ (h) Participation in the general debate will not be permitted but the callers-in and relevant Cabinet Member may answer questions or points of clarification arising through the debate, at the discretion of the relevant Chairman.
- ~~(h)~~ (i) On considering the matter, the Committee will decide whether or not to ask the decision-maker to reconsider its decision.
- ~~(i)~~ (j) If, having had regard to the advice of the Monitoring Officer, which will be summarised within the Report, the Committee considers the executive decision is contrary to the Budget or Policy Framework; the Committee may refer the matter to the next practicable meeting of the Council, subject to the provisions of Council Procedure Rules.
- ~~(j)~~ (k) If the relevant Overview and Scrutiny Committee decides to ask the decision-maker to reconsider their decision, the decision-maker shall be required to do so within 15 working days following the meeting of the relevant Overview and Scrutiny Committee, **unless the decision maker was an Officer in which case it will be referred back to the Leader of the Council or relevant Portfolio Holder for reconsideration. In that circumstance the Leader of the Council or relevant Portfolio Holder shall be required to reconsider the decision within 15 working days.**
- ~~(k)~~ (l) If the Overview and Scrutiny Committee decides that it does not wish to refer the matter back to the decision-maker or to Council, the decision shall be confirmed and take effect immediately following the meeting of the Committee.
- (l) (m) If the matter is referred to Council, who do not object to the decision, the subject of call-in, no further action is necessary and the decision will be effective on the date of the Council meeting. If Council does object, it only has authority to make decisions where it is considered contrary to the Budget and Policy Framework. The Council must refer any decision relating to Cabinet Functions, to which it objects, back to the decision-maker, together with the Council's views on the decision. The decision-maker shall, within a further 15 working days, choose whether to amend the decision or not before reaching a final decision and implementing it.
- ~~(m)~~ (n) **Decisions referred back to the Decision Maker**

The comments and views provided by Council or the relevant Overview and Scrutiny Committee when referring a decision back for reconsideration shall be final and no further representations shall be made to the decision-maker.

The decision-maker will send a report to the relevant Overview and Scrutiny Committee, once a decision has been reconsidered, and that report should include the reason why the decision-maker has either reconfirmed the original decision or why the decision has changed.

(o) Withdrawal of a Call-In

A request to call-in a decision may be withdrawn in writing (or by personal email) at any time by one of the Members making the request.

18. EXCEPTIONS TO CALL-IN

The call-in procedure set out above shall not apply in respect of Cabinet decisions regarding the following:

(i) Urgent Decisions

A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person, or body, the decision is an urgent one and why, and therefore not subject to call-in.

The Chairman of the relevant Overview and Scrutiny Committee must agree that the proposed decision is reasonable in all its circumstances and that it should be treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required.

Decisions taken as a matter of urgency must be reported by the Leader to the next practicable ordinary meeting of the Council, together with the reasons for urgency.

(ii) Other Exceptions

(a) "Provisional" or "in principle" decisions where the issue is to be referred to an Overview and Scrutiny Committee for comment.

(b) Recommendations from Cabinet to Council.

(c) Decisions by the Cabinet where the issue has been referred to them by the Council or an Overview and Scrutiny Committee for their view or comment shall not be subject to call-in.

(d) Unless the decision has taken into account new material considerations arising since the original consultation with the Council or an Overview and Scrutiny

Committee a decision by the Cabinet in response to such consultation shall not be subject to call-in.

- ~~(d)~~(e) Where Full Council has delegated to the Cabinet the ability to approve additional information in respect of the Corporate Plan to ensure that statutory publishing deadlines are met, such decisions shall be construed as urgent for the purposes of Rule 18(i) above. In such circumstances the Chairman of the relevant Committee, or other Chairman or Vice-Chairman so authorised to act in his absence, will only be required to agree that the proposed decision is reasonable in all the circumstances.
- (iii) The operation of the provisions relating to call-in and urgency shall be monitored in accordance with Article 15 of this Constitution and a report submitted to Council with proposals for review if necessary.

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01 Composition and Eligibility

(a) Composition

The Council comprises 60 members, otherwise called Councillors. One or more Councillors will be elected by the voters in Wards in accordance with a scheme drawn up by the Local Government Boundary Commission for England, and approved by the Secretary of State.

(b) Eligibility

Only registered voters of the District, or those living or working there, will be eligible to hold the office of Councillor.

2.02 Election and Terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular elections.

2.03 Roles and Functions of all Councillors

(a) Key roles. All Councillors will:

- (i) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) Represent their communities and bring their views into the Council's decision-making process, i.e. become an advocate for their communities;
- (iii) Effectively represent the interests of their ward and of individual residents;
- (iv) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;
- (v) Be involved in decision-making for the people of the District as a whole;
- (vi) Be available to represent the Council on other bodies; and
- (vii) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other Committees and Sub-Committees, maintaining the highest standards of conduct and ethics.

(b) Rights and Duties

- (i) Councillors will have such rights of access to ~~such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.~~
- (ii) Members are entitled to receive information from Officers in a timely manner to reasonable requests for the purposes of undertaking their role as Ward Councillors, decision makers and performing functions, such as overview and scrutiny **(this is referred to as the common law ‘need to know’ principle)**. Under common law principles councillors have the right to access information held by their authority where it is reasonably necessary to enable the member to properly perform their duties as a councillor.

However, if the member’s motive for seeing documents is indirect, improper or ulterior this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go off on ‘fishing expedition’ through their council’s documents. If a councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the councillor would have to show good cause why sight of them is necessary to perform their duties (See R v. Clerk to Lancashire Police Committee ex parte Hook [1980] Q.B. 603).

- (iii) Councillors will not make public information that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iv) For these purposes “confidential” and “exempt” information is defined in the Access to Information Rules in Part 5 of this Constitution.

2.04 Conduct

Councillors will at all times observe the Members’ Code of Conduct and protocols set out in Part 6 of this Constitution.

Councillors are also expected to comply with the requirements of any risk assessments issued by the Council in performance of their functions.

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 7 of this Constitution.

2.06 Attendance

It is a requirement that if a Member exceeds four months without attending a meeting of the Council ~~or of the Cabinet if appointed as a Portfolio Holder~~ or attending a meeting of a committee or sub-committee of the Council either as an appointed member ~~of a committee/sub-committee~~ or as a substitute member ~~of a committee/sub-committee~~ that shall be reported to the next Council meeting.

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A3 APPENDIX F

ARTICLE 5 – CHAIRING THE COUNCIL AND COMMITTEES

5.01 Role and Function of the Chairman of the Council

The Chairman and Vice-Chairman will be elected by the Council annually.

The Chairman and the Vice-Chairman must not be Members of the Cabinet.

The Chairman or, in their absence, the Vice-Chairman will have the following roles and responsibilities:

1. To uphold and promote the purposes of the Constitution, and to rule on the interpretation and application of the Constitution as and when necessary at meetings;
2. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. To ensure that the Council meeting is a forum for debate of matters of concern to the local community and the place at which Members who are not on the Cabinet are able to generally hold the Cabinet to account;
4. To promote public involvement in the Council's activities;
5. To attend such civic and ceremonial functions as the Council and they determine appropriate;
6. To be the custodian of the democratic process of the Council;
7. To call extraordinary meetings of the Council under Schedule 12 Part I, Section 3 of the Local Government Act 1972.

5.02 Role and Function of the Chairman of a Committee

The Chairman and Vice-Chairman of a Committee will be appointed by the Council annually.

The Chairman or, in their absence, the Vice-Chairman will have the following roles and responsibilities:

1. To uphold and promote the purposes of the Constitution, and to rule on the interpretation and application of the Constitution as and when necessary at meetings;
2. To preside over meetings of their Committee so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;

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3. To ensure that the Committee meeting is a forum for debate of matters of concern to the local community;
 4. To call special meetings of their Committee under Council Procedure Rule 35.2.

5.03 Addressing the Chairman

The relevant Councillor at the beginning of their term of office as Chairman of the Council or as a Chairman of a Committee will announce how they wish to be addressed in meetings, using one or more of the following preferred terms:

Chairman;

Madam Chairman;

Chair; or

Chairperson.

5.04 Training of the Chairman of the Council or Committees

Once elected/appointed as the Chairman of the Council or of an individual Committee, the relevant Councillor will be expected to attend training to enable them to fulfil the role and its responsibilities as set out in points 2 and 3 in paragraphs 5.01 and 5.02 above.

The Vice-Chairman of the Council and the Vice-Chairmen of Committees will also be expected to attend such training.

A3 APPENDIX G**ARTICLE 7 – THE CABINET (ALSO REFERRED TO AS THE EXECUTIVE)****7.01 Role and Responsibilities:**

The Cabinet will carry out all of the local authority's functions, known as Executive Functions, that are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

7.02 Forms and Composition:

The Cabinet will consist of the Leader of the Council together with other Councillors appointed to the Cabinet by the Leader. The Leader will determine the number of Councillors who may be appointed to the Cabinet subject to the statutory minimum requirement of two Councillors appointed to the Cabinet by the Leader and the statutory maximum number of ten members of the Cabinet.

7.03 Leader of the Council:

The Leader of the Council will be a Councillor elected to the position by the full Council. The election of the Leader will normally be carried out at the Annual Meeting of the Council following the District Council Elections. The Leader will hold office until the annual meeting of the Council following the next District Council elections or until:-

- (a) They resign from the office (only upon disqualification or resignation in accordance with Section 91B of the Local Government Act 2000); or
- (b) They cease to be a Councillor only; or
- (c) The Council passes a resolution removing the Leader from office at an earlier date. If the Council so passes a resolution to remove the Leader, a new Leader is to be elected at the meeting at which the Leader is removed from office or at a subsequent meeting.

Upon expiry of the fixed term the Leader will be eligible for re-election for subsequent fixed terms.

Upon the occurrence of a vacancy in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council. The person appointed to fill the vacancy shall hold office for the remainder of the original term subject to earlier termination as provided for above.

In the interim period between the vacancy in the office of the Leader and the next ordinary meeting of the Council, the Deputy Leader will act as Leader on an interim basis.

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7.04 Deputy Leader of the Council

The Leader of the Council will appoint one of the members of the Cabinet to be his deputy. The Deputy Leader of the Council, unless he resigns as Deputy Leader or ceases to be a member of the authority, will hold office until the end of the term of office of the Leader of the Council. However, the Leader may, if he thinks fit, remove the Deputy Leader from office.

Where a vacancy occurs in the office of the Deputy Leader the Leader will appoint another person in his place.

If for any reason the Leader is permanently unable to act or the office of Leader is vacant, the Deputy Leader will act temporarily in his place until the next formal ordinary meeting of the Council when a new Leader will be elected.

If the Deputy Leader is also unable to act or the office is vacant the Cabinet will act in the Leader's place or will arrange for a member of the Cabinet to act in his place.

7.05 Other Cabinet Members (also known as Portfolio Holders)

Other Cabinet members shall hold office until:

- (a) they resign from office; or
- (b) they are no longer Councillors; or
- (c) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

7.06 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out below at 7.08.

7.07 Responsibility for Executive Functions

The arrangements for the discharge of Executive Functions are contained in Part 3 of the Constitution.

The Executive functions may be discharged by:

- (i) the Cabinet as a whole;
- (ii) a Committee of the Cabinet, where appointed by the Leader;
- (iii) an individual member of the Cabinet;
- (iv) an officer;
- (v) an area committee;

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- (vii) joint arrangements; or
 - (viii) another local authority.

Part 3 of the Constitution will be maintained and kept up to date with the agreement of the Leader of the Council, setting out which Members of Cabinet, Committees of the Cabinet, Officers or joint arrangements are responsible for the exercise of particular Executive Functions.

7.08 Cabinet Procedure Rules

1. MEETINGS

1.1 Cabinet Meetings

The Cabinet will meet at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices (the Town Hall) or another location to be agreed by the Leader.

1.2 Meetings of the Council

Meetings of the Cabinet and their committees must be held in public except where confidential or exempt information is to be discussed.

1.3 Quorum

The quorum for a meeting of the Cabinet shall be three including the Leader or in his absence the Deputy Leader.

1.4 Chairmanship

The Leader (or in his absence the Deputy Leader) will preside at any meeting of the Cabinet at which he is present.

1.5 Who may Attend?

- (i) Subject to the Access to Information Rules and the provisions of the Members' Code of Conduct, any Councillor may attend meetings of the Cabinet. They may not speak without the consent of the Leader, or in any case vote.
- (ii) The Leader or Deputy Leader of the opposition groups may, as of right, attend meetings of the Cabinet and participate fully in the discussion on all agenda items, but cannot vote. If requested by the Leader or Deputy Leader of an opposition group to do so, the minutes of the meeting of Cabinet on a particular matter will record their Group's opposition to all, or part, of a decision.
- (iii) Meetings of the Cabinet shall have in attendance the Chief Executive, the Chief Financial Officer (or his Deputy), the Monitoring Officer (or his Deputy) and other relevant

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Corporate Directors in the light of items to be discussed, or their nominated representatives, at the discretion of the Chief Executive.

- (iv) The Chief Financial Officer and Monitoring Officer have the right to attend and present a report to discharge their statutory duties whenever necessary.
- (v) The Constitution includes no provision for substitute members at meetings of the Executive.

2. AGENDA

2.1 Members' Written Questions

Any Member has the right to submit a written question to the Cabinet on any item on their agenda and to attend to present it at the meeting of the Cabinet when the item is to be considered. Such question shall be submitted at least 24 hours before this Cabinet meeting. The Member may withdraw their question at any time.

2.2 Order of Business

At each meeting of the Executive the following business will be conducted:

- (a) Consideration of the minutes of the last meeting;
- (b) Declarations of interest, if any;
- (c) Matters referred to the Cabinet (by the Overview and Scrutiny Committees or the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 5 of this Constitution;
- (d) Any matter where the Overview and Scrutiny Committee or Council have resolved that an item be considered by the Cabinet. The Chief Executive will ensure that an item is placed on the agenda of the next available meeting;
- (e) Consideration of reports from the Overview and Scrutiny Committees;
- (f) Matters set out in the Agenda for the meeting and which shall indicate which are key decisions, and which are not, in accordance with the Access to Information Procedure Rules set out in Part 5 of this Constitution;
- (g) Key decisions, as indicated on the agenda for the meeting, in accordance with Access to Information Procedure Rules set out in Part 5 of this Constitution;
- (h) Any matter relating to an executive function that the Leader of the Council wishes to be included, whether or not authority has been delegated to the

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Cabinet, a Committee of it or any Member or Officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect;

- (i) Any matter relating to an executive function requested by a member of the Cabinet. The Chief Executive will be required to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration, subject to the issue in question not having been considered in the last six months;
- (j) Any matter relating to an executive function requested by a Member of the Council, subject to the agreement of the Leader of the Council. A Member may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, subject to the issue in question not having been considered in the last six months. If the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered who will also be invited to attend the meeting. There may only be up to two such items per Cabinet meeting;
- (k) Any matter included on the agenda by the Monitoring Officer and/or the Chief Financial Officer for consideration. They may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Financial Officer and Monitoring Officer are of the opinion that a matter requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered; and
- (l) The Chief Executive or any member of Management Team may place an item on the agenda of any meeting of the Executive.

3. CONSULTATION

All reports to the Cabinet from any Member of the Cabinet or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation.

Reports about other matters will set out the details and outcome of consultation, as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

Prior to all Cabinet Decisions, Ward Members must be consulted in specific ward related matters; the outcome of the consultation will be included within the body of the Report.

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All reports to the Executive will include details of all appropriate officer advice in respect of the matter under consideration, in particular, advice from the Chief Executive, the Chief Financial Officer and/or the Monitoring Officer.

4. CONDUCT

(a) Disturbance by Public – Removal of Member of the Public

If a member of the public interrupts proceedings, the Leader will warn the person concerned. If he continues to interrupt, the Leader will order his removal from the meeting room.

(b) Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Leader may call for that part to be cleared.

5. PROCEDURES FOR PRIVATE MEETINGS OF THE CABINET

The rules concerning private meetings of the Cabinet are set out in the Access to Information Procedure Rules in Part 5. This does not apply to Portfolio Holder Working Parties or Groups, who meet for specific subjects with cross party representation.

~~The process for appointing members of the Portfolio Holder Working Parties or Groups will require a letter to be sent to the Leader of each political group inviting them to identify members of their group who are interested in serving on the group.~~

6. DECISIONS

6.1 Overlap of Interests

- (a) In cases where there is an overlap in responsibilities between Portfolio Holders, the Leader of the Council shall advise of the relevant Portfolio Holder to make the decision.
- (b) Where any, or all, members of the Cabinet have an interest this should be dealt with in accordance with the Council's Code of Conduct for Members as set out in Part 5 of this Constitution.

6.2 How are Decisions to be taken by the Cabinet?

Cabinet decisions which have been retained to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules, as applicable in Part 5 of the Constitution.

After any meeting of the Cabinet, whether held in public or private, or with regards to decisions taken by individual members of the Cabinet, within their delegated powers, the Chief Executive, or, where no Officer was present, the person presiding at the

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meeting, will produce a record of every decision taken at that meeting or by individual members of the Cabinet. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. The record of decisions made at meetings will take the form of the minutes of the meeting.

Records of all decisions will be published as soon as practicable after they have been taken and made publicly available. In accordance with the Overview and Scrutiny Procedure Rules, decisions of the Cabinet, subject to certain exceptions, may not be implemented until the expiry of the call-in period.

7. PROCEDURES FOR PORTFOLIO HOLDER WORKING PARTIES

Portfolio Holders can form working parties to examine and advise the Portfolio Holder under specific aspects of the Portfolio Holder's responsibility, for a period limited to delivery of the project.

The process for forming a Portfolio Holder Working Party will require a letter or personal email to be sent to the Leader of each political group inviting them to identify members of their group who are interested in serving on the working party.

The appointments of Members to serve on working parties will therefore have had regard to the suggestions of the Group Leaders and if necessary, the need to maintain a broad political balance within the membership thereof.

The Portfolio Holder will determine the size of the working party together with its terms of reference. The Portfolio Holder will also decide whether to involve relevant Ward Members and interested third parties in the work of the working party.

Any decision of a Portfolio Holder in respect of the administration of a working party cannot be called-in for scrutiny.

Any formal decision taken by the Portfolio Holder following the outcome of the Working Party will need to be formally recorded in accordance with Article 7 (7.08 Section 6.2) and include any declarations of interest as required by the Members' Code of Conduct and details of consultation undertaken with the relevant Ward Members.

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Schedule 3

Responsibility for Executive Functions

A3 APPENDIX H

EXECUTIVE FUNCTIONS ARE THE RESPONSIBILITY OF THE CABINET.

1. ROLE AND RESPONSIBILITIES

1. The general roles and responsibilities of the Cabinet are as follows:-

- (i) To make recommendations to the District Council with regard to the formulation of its policy framework, including the setting of the budget and council tax levels.
- (ii) To advise the District Council on all matters requiring a decision outside of the Council's agreed budget and policy framework.
- (iii) To discharge in accordance with the District Council's policy framework all functions of the Council, except those functions which cannot, by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and other legislation, be the responsibility of the Cabinet. Such functions are the responsibility of the Council and its various Committees as set out in Schedule 2 to Part 3 of the Constitution.
- (iv) To deal with those "local choice functions" which have been delegated to the Cabinet by the Council as detailed in Schedule 1 of Part 3 of the Constitution.

2. RESPONSIBILITIES OF THE LEADER OF THE COUNCIL

- 1. The Leader of the Council is responsible for the overall operation of the Council's portfolios through effective management of their Cabinet.
- 2. To ensure effective communication of Cabinet business including appropriate liaison with Overview and Scrutiny.
- 3. To be the leading voice of the Council on all executive functions and for overall policy.
- 4. To be the member representative for executive functions of the Council working with the Council's partners and stakeholders, on statutory bodies, the voluntary sector, the business community and other national and local organisations.
- 5. Ensure that their actions are taken in accordance with Section 3 below when making formal decisions.

3. GENERAL PRINCIPLES REGARDING DECISION MAKING BY THE CABINET

- 1. The Leader of the Council is responsible for approving the delegation of executive functions to either:
 - (i) The Cabinet collectively (see 4.1 below);
 - (ii) An individual Member of the Cabinet (Portfolio Holder) (see 4.2 below);

(Green)

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(April 2015)

- (iii) A Working Party of the Cabinet (known as a Portfolio Holder Working Party);
- (iv) An Officer, in consultation with the relevant Portfolio Holder(s); or
- (v) An Officer.

Executive functions can also be delegated to, and discharged by an area committee or another local authority or jointly with one or more local authorities.

No Member or Committee of the Cabinet to whom the Leader of the Council has delegated a function may delegate on to another Member or Committee.

2. Powers and duties of the Cabinet and Portfolio Holders under their delegated authorisation must be:-

- (i) performed on behalf of and in the name of the Council;
- (ii) subject to the directions of the Council and of the Cabinet as appropriate;
- (iii) subject to powers and duties reserved for confirmation by the Council as set out in Article 4 of the Constitution;
- (iv) within the limits of the Council's approved policy framework and budget;
- (v) statutory provisions and restrictions;
- (vi) taking into account Officer's advice; and
- (vii) in accordance with the Council's approved Policies, Procedures, Protocols and Codes of Conduct.

3. Absence of the Leader of the Council:

The Portfolio Holder designated by the Leader as their Deputy may exercise the functions of the Leader of the Council in the absence of the Leader.

4. The Leader of the Council may exercise any of the powers delegated to the Cabinet:

- a. Following a resolution of the Cabinet (subject to the Constitution), or
- b. In cases of urgency, in consultation with the Monitoring Officer and/or Section 151 Officer.

In cases of urgency the decision of the Leader of the Council will be recorded and published in accordance with the Constitution. The Leader of the Council will also be required to make a public statement to the next formal meeting of the Cabinet which will explain why they had taken the decision as a matter of urgency.

5. The Leader of the Council may exercise any of the powers delegated to a Portfolio Holder:

- a. In their absence
- b. At their request
- c. In cases of urgency, in consultation with the Monitoring Officer and/or Section 151 Officer, or
- d. As the Leader so determines.

6. Where decisions are taken by individual Portfolio Holders under delegated powers the following principles and decisions shall apply:

(Green)

Part 3.30

- (a) All delegations to Portfolio Holders will be exercised after consultation and written advice from all relevant Officers.
 - (b) In cases where there is a significant difference of opinion between Portfolio Holders, the issue will be referred to the Leader of the Council in consultation with the Chief Executive and if necessary to the Cabinet for decision.
 - (c) The exercise of delegations by Portfolio Holders shall be within the Scheme of Delegated Powers of the Portfolio Holders.
 - (d) A Portfolio Holder shall not delegate any powers to an Officer unless such delegation is approved by the Leader of the Council.
 - (e) A Portfolio Holder may, if they consider it appropriate, elect to refer up to the Cabinet, the exercise of any power delegated to them.
7. In cases where there is an overlap in responsibilities between Portfolio Holders, the Leader Of the Council shall determine which Portfolio Holder(s) should make the decision.
 8. The Monitoring Officer shall in any case of uncertainty and after having considered relevant legislation, determine whether any matter falls within the remit of the Council, the Cabinet, a Committee or an Officer of the Council.
 9. A record of Portfolio Holder decisions shall be maintained and published, as set out in Article 7 of the Constitution.
 10. In the event of a change to the delegations of Executive Functions by the Leader or to the corporate structure of the Council by the Chief Executive, the changes will take immediate effect. The relevant amendments to this scheme of delegation should be made in the Constitution as soon as practicable.

4.1 THE CABINET COLLECTIVELY

The following details the broad principles of issues that are the responsibility of the Cabinet and which shall be considered by the Cabinet collectively at public meetings:

TERMS OF REFERENCE

To be responsible for Community Leadership for the District of Tendring. To lead the preparation of the District Council's policies and budget. To take decisions on resources and priorities together with other stakeholders and community partners as appropriate, and to deliver and implement the budget and policies decided by full Council. To be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

1. Developing and making recommendations to the Council in respect of the plans and strategies that form the Council's policy framework.
2. Formulations of budgets and other statutory financial requirements for submission to Council.
3. Monitoring the Council's budgetary and overall financial position.

(Green)

Part 3.30

4. Decisions as required by the Council's Financial and Procurement Procedure Rules including transactions in respect of the Final Accounts.
5. Decisions outside of the Budget or Policy Framework in accordance with the Procedure Rules.
6. The approval of strategies, policies, plans and guidance which are the responsibility of Cabinet and are not delegated elsewhere within the Constitution.
7. Consideration and approval of the acquisition and disposal of property in accordance with the Property Dealing Procedure, legislation and specific consents.
8. Consideration, approval and determination of objections, under Section 123 of the Local Government Act 1972, received in respect of proposed disposals of land used as public open space. All such consideration and determination to be at a public meeting of the Cabinet.
9. Power to consider objections received and then determine proposed Traffic Regulation Orders under the Road Traffic Regulations Act 1984 (as amended). All such objections to be determined at a public meeting of the Cabinet.
10. Issues delegated to individual Portfolio Holders that in their opinion a collective decision by the Cabinet is required.
11. Issued delegated to an Officer that in the opinion of the Management Team a collective decision by the Cabinet is required.
12. Reviewing from time to time the Council's Constitution.

4.2 INDIVIDUAL MEMBERS OF THE CABINET (PORTFOLIO HOLDERS)

4.2.1 Responsibilities

The Leader of the Council has delegated overall strategic responsibilities for service areas to members of the Cabinet, known as Portfolio Holders, which are set out in the table below:

Portfolio Holder	Overall strategic responsibilities	
Leader	<ul style="list-style-type: none"> • Corporate Vision • Community Leadership • Countywide Leadership role • Representative role at County, Regional and National Level 	
Finance and Corporate Resources	Overall strategic responsibility for	
	Finance	<ul style="list-style-type: none"> • Annual budget strategy • Budget management • Accountancy • Exchequer • Insurance • Treasury management and banking • Procurement strategy and central purchasing • Internal Audit

(Green)

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		<ul style="list-style-type: none"> • Big Society Scheme • Corporate Health and Safety
	Broadband	<ul style="list-style-type: none"> • Broadband
	Corporate Asset Management	<ul style="list-style-type: none"> • Overview of the Property Programme • Overview and formulation of Assets Management Plan, Property Strategy and Property Office Procedures • Property Service providing property advice and support to service areas
		<ul style="list-style-type: none"> • Initiation and authorisation of property transactions in accordance with the Property Dealing Procedure
	ICT Services	<ul style="list-style-type: none"> • ICT contract and strategy • Networks and system support • Data Protection • Information Management • Internet • FOI/EIR requests for information
	Legal Services	<ul style="list-style-type: none"> • Legal advice and support to Council (re: executive and non-executive functions) • Legal services to departments • Regulation of Investigatory Powers Act 2000 – policy (compliance and co-ordination)
	Committee Services	<ul style="list-style-type: none"> • Council, Cabinet and Committee Services • Corporate Administration including programming meetings
	Human Resources and Business Management	<ul style="list-style-type: none"> • Performance management • Intranet • Public Service Reform • Career Track <p>(NB other Human Resources functions are non-executive and are delegated to the Human Resources and Council Tax Committee)</p>
	Management and Members Support	<ul style="list-style-type: none"> • Corporate Plan • Community Leadership • Member support • Corporate complaints • Ombudsman issues • Outside bodies appointments and

(Green)

Part 3.30

		support • Equality and Diversity
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Environment	Environment	<ul style="list-style-type: none"> • Household waste minimisation and collection • Recycling maximisation and collection • Street cleansing • Dog Warden Service • Pest Control • Food, safety and hygiene • Water safety/quality • Pollution • Animal welfare • Public protection • Environmental health • Abandoned vehicles • Port health • Unlawful car sales
	Open Spaces and Bereavement	<ul style="list-style-type: none"> • Crematorium and cemeteries • Horticultural services • Open spaces • Recreation grounds • Children's play areas • Public halls • Sports clubs • Fleet management and vehicle workshops
Housing	Strategic Housing (Private Sector Housing)	<ul style="list-style-type: none"> • Financial assistance for private sector housing • Houses in Multiple Occupation • Private Sector Housing – regulation and improvement • Tenants Redress Scheme • Private Sector Housing conditions enforcement and advice • Gypsy/Traveller liaison • Home energy efficiency and fuel poverty • Jaywick Team
	Strategic Housing (Housing Options and Allocations)	<ul style="list-style-type: none"> • Housing strategy and development • Homelessness policy and advice and assistance to homeless persons and in housing need • Housing allocation scheme
	Building Services and Facilities Management	<ul style="list-style-type: none"> • Maintenance of housing assets including sheltered schemes • Housing investment programme • Dangerous structures • Buildings advisory service • Council office and buildings policy including facilities management and

(Green)

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		<ul style="list-style-type: none"> • maintenance • Depots • Office cleaning • Telephony • Switchboard
	Housing Management	<ul style="list-style-type: none"> • Sheltered housing • Estates management • Housing Revenue Account and business plan • Supporting people contract with Essex County Council • Local supporting people • Partnership with registered providers • Enable new opportunities to address housing need through partnership working
	Revenue and Benefits	<ul style="list-style-type: none"> • Administration of council tax and housing benefit • Business rates (NNDR) and reliefs • Local Council Tax Support Scheme • Cash Collection/Paypoint • Rent collection • Right to Buy and other disposals
	Commercial	<ul style="list-style-type: none"> • Customer services • Careline service • Provision, maintenance and development of CCTV systems • Out of hours service • Tenant relations • Contact centre
Health and Education	Health and Well-being	<ul style="list-style-type: none"> • Health Service Liaison • Health and Well-being • Community Health • Health inequalities • Provision of Emergency Planning
	Partnerships	<ul style="list-style-type: none"> • Education • Community engagement, development and empowerment (including consultations, advice and support) • Relationships with public and third party organisations • Neighbourhood activities
	Community Safety	<ul style="list-style-type: none"> • Community Safety (including police and fire service liaison) • Crime and Disorder Strategy • Business Continuity
Corporate		<ul style="list-style-type: none"> • Corporate Enforcement (excludes

(Green)

Part 3.33

Enforcement	Corporate Enforcement	regulatory functions that are the responsibility of Planning and Licensing Committees)
	Planning	<ul style="list-style-type: none"> • Local Land Charges Services including the setting of appropriate fees • Planning pre-application advice service (including the setting of appropriate fees) • Building Control Service (including the setting of appropriate fees)
	Car Parking	<ul style="list-style-type: none"> • Off street car parking service • Traffic Regulation Orders • Strategic parking advice and on street functions as delegated by the Highway Authority
Inward Investment and Growth	Regeneration and Inward Investment	<ul style="list-style-type: none"> • Strategic Regeneration • Economic Growth Strategy • Inward Investment • Business Support (employment and development) • Town Centres support • Policy and Project development • Funding bids • Skills and apprenticeships • Job Centre Plus partnerships
Leisure and Tourism	Leisure Services	<ul style="list-style-type: none"> • Sports centres and facilities (including in partnership with schools) • Sports initiatives and sports development • Communities of interest (Children and Young People)
	Tourism and Events	<ul style="list-style-type: none"> • Tourism Strategy • Tourism Events • Tourism information and promotion • Princes Theatre management • Arts, entertainment, culture and heritage initiatives and events
	Seafronts	<ul style="list-style-type: none"> • Seafront Management • Beach Huts and beach cleaning • Kiosks
	Coast Protection and Engineering	<ul style="list-style-type: none"> • Coast Protection and flood defence – planning and major schemes • Coast Protection Maintenance • Minor Engineering works • Sewerage and land drainage • Local highways and lighting functions e.g. road closures, street

(Green)

Part 3.33

		naming, numbering and name plates and highways rangers
	Public Conveniences	<ul style="list-style-type: none"> • Transport liaison • Public conveniences

4.2.2 Role of Leader and Individual Portfolio Holders

In addition to the general principles set out in Section 3 above, the role of individual Portfolio Holders with areas of responsibility is as follows:-

1. To have overall responsibility for the development, implementation and review of Strategies and District Council Policy in relation to their portfolios and to be the main Council spokesperson thereon.
2. To monitor service performance regarding progress towards achieving strategies and objectives and delivery of service performance targets within approved budgets.
3. To satisfy themselves as the integrity of financial information and the adequacy of financial controls and risk management arrangements.
4. To represent and speak on behalf of the Cabinet at the Overview and Scrutiny and Audit Committees when they are dealing with issues in their portfolio.
5. To be a member of the Cabinet and exercise collective responsibility in decision making and in making recommendations to the Council.
6. To consult with the Committees, other Members, partners and stakeholders including the public as appropriate in the formulation and development of Council policy within their portfolio.
7. To inform and consult relevant ward Members when making formal decisions.
8. To make decisions in accordance with the Council's Strategies, Policies, Procedures, Protocols and Codes of Conduct or as otherwise required by the Constitution.
- ~~9. To form working parties to examine and advise the Portfolio Holder under specific aspects of the Portfolio Holder's responsibility, for a period limited to delivery of the project. The appointments of Members to serve on working parties will have had regard to the suggestions of the Group Leaders and if necessary, the need to maintain a broad political balance within the membership thereof.~~

4.3 ADDITIONAL SPECIFIC DELEGATIONS TO INDIVIDUAL PORTFOLIO HOLDERS

Finance and Corporate Resources

1. Overseeing implementation of the Property Strategy, Property Programme and Property Office Procedures in accordance with the Property Dealing Procedure.
2. The exercise of functions delegated to the Portfolio Holder by the Property Dealing Procedure.
3. The monitoring and review of the operation of the Council's Constitution and recommending amendments to the Constitution to the Cabinet/Council.

(Green)

Part 3.36

(Amended page - April 2018)

4. To oversee the preparation and recommendation of financial forecasts and annual detailed budget.
5. In consultation with the Chief Financial 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.
6. Overview and presentation of financial monitoring reports to Cabinet.
7. The exercise of functions delegated to the Portfolio Holder by the Financial and Procurement Procedure Rules.
8. The approval of the Council's Council Tax Base and the Government's Annual NNDR Forecast Return.
9. Implementation and Monitoring of the Council's Treasury Management Policy Statement and Treasury Management Practices.

Leisure & Tourism

1. To approve the making of car parking regulation orders when requested by Essex County Council.
2. Proposals for and approve the making of traffic regulation orders where no objections are received.
3. The determination of Hackney Carriage stands under Section 63 of Part 2 of the Local Government (Miscellaneous Provisions) Act 1976.

Housing

1. The authorisation of delegated budgets to formally constituted stakeholder groups subject to adequate provision having been made in the revenue estimates approved by Cabinet.
2. Oversee the preparation of budgets relating to the Housing Revenue Account, Housing Revenue Account Business Plan, Housing General Fund, Housing Benefits and the Housing Investment Programme, including rent setting and review, within policy guidelines as determined by the Cabinet.
3. The development, implementation and amendment, as required, of the Housing Investment Programme in accordance with the annual budget set by Cabinet.
4. The development and review of the Council's Local Council Tax Support Scheme for presentation to Cabinet for recommendation to Council for approval.

Corporate Enforcement

1. Ensuring that there is effective two-way communication between the Executive and the Local Plan and Planning Committees. In particular in relation to the implementation of current Development Plan policies and to drafts of any review of the Development Plan

(Green)

Part 3.36

2. Approval, where permitted, of Master Plans, Conservation Area Management Plans and Development and Design Briefs prepared to support any Development Plan Documents.

Inward Investment & Growth

1. To act as lead portfolio holder in respect of all Transport cross-cutting issues.
2. Engagement with regional and sub-regional partnerships, planning and funding frameworks – including the Haven Gateway Partnership – to promote the interests of the Tendring District and the communities within it.
3. The approval of grants to organisations (including enhanced rate relief and other discretionary benefits).

4.4 DELEGATION OF EXECUTIVE FUNCTIONS TO OFFICERS

1. With the exception of the matters which the Leader of the Council has determined are to be discharged by the Cabinet or individual Portfolio Holders, as detailed in the Cabinet Scheme of Delegation, the Deputy Chief Executive and the Corporate Directors have delegated authority to discharge all executive functions within their respective service areas as set out in Article 12, having authority to act on all such matters. The Chief Executive shall determine from time to time what the service responsibilities of the Deputy Chief Executive and each Corporate Director and Head of Service shall be.
2. The delegation of powers to officers is underpinned by the principle and culture of consultation and liaison with Members, as appropriate and the ability for officers to refer matters to the relevant decision maker i.e. individual Portfolio Holder or a meeting of the full Cabinet, where it is felt that this is appropriate due to the nature of an issue.
3. In all cases of delegations to officers where consultation with the relevant Portfolio Holder is necessary, and in cases where the relevant Portfolio Holder is not available, the Leader of the Council is to be consulted.

In instances, where there is disagreement between the officer and the relevant Portfolio Holder the matter should be referred to Cabinet for consideration and determination.

4. The discharge of all such functions by Officers shall be subject to:-
 - (i) actions being taken in accordance with the Council's Budget and Policy Framework and other Council Policies, Procedures, Protocols and Codes of Conduct;
 - (ii) consultation, as appropriate with relevant Portfolio Holder;
 - (iii) the referral of any required decision or action which is controversial in nature to the appropriate Member decision making individual or body; and
 - (iv) recording the decision in the required format.
5. The Leader of the Council has delegated authority for executive functions to Chief Executive, the Deputy Chief Executive and the Corporate Directors, however any authority granted to the Chief

(Green)

Part 3.36

Executive, Deputy Chief Executive, Corporate Director or Head of Service, unless otherwise indicated, may be exercised by an Officer authorised by the Deputy Chief Executive, Corporate Director or Head of Service in writing for that purpose. The Monitoring Officer will maintain a record of such authorisations which shall be available for inspection.

6. The Deputy Chief Executive and the Corporate Directors are Designated Officers for the purposes of legislation within their respective service areas as set out in Article 12 of the Constitution and have the power to designate Officers of the authority as an authorised person for purposes relating to legislation falling within their areas of responsibility as set out in Article 12.
7. Any authority which can statutorily only be discharged by Officers with a specific level of qualification must only be conferred to and discharged by such Officers. Furthermore, where the matter relates to a statutory power or duty conferred or imposed directly on an Officer of the Council, only that Officer may discharge the function.
8. The Chief Executive has authority to exercise any executive function delegated to Officers, except where an Officer with appropriate qualifications must only discharge such a delegation or where the matter relates to a statutory power or duty conferred or imposed directly on an Officer of the Council as referred to in paragraph 6.
9. The delegations to Officers include the normally accepted powers and duties of Officers to deal with matters of routine occurrence falling within the scope of their departmental and service responsibilities. This includes all present and future legislation relating to the functions of the service and nothing in this schedule shall derogate from any statutory power or duties conferred or imposed directly on an Officer of the Council.
10. In accordance with the legislative requirements, any Officer making a decision in connection with the discharge of an executive function under their delegated powers shall be responsible for maintaining a record of such decisions and arranging for this to be published on the Council's website.

(Green)

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11. Where functions, which are the responsibility of the Cabinet, are delegated to Officers, the Cabinet remain accountable to the Council, through overview and scrutiny committees for the discharge of those functions. That is to say, the Cabinet will be held to account for both its decision to delegate a function and the way that the function is being carried out. Officers may be requested to attend an Overview and Scrutiny Committee, if an Officer's decision is called in.
12. The Monitoring Officer shall determine in any case of uncertainty whether any matter falls within the remit of the Council, the Cabinet, a Committee or an Officer of the Council. Such a determination will be having taken account of relevant legislation.

4.4.1 General Responsibilities delegated to Officers:

1. The Deputy Chief Executive and all Corporate Directors have the authority to incur expenditure (with the exception of external legal resources) in accordance with the Budget and Policy Framework, Financial Procedure Rules and Procurement Procedure Rules. Instructing external legal resources remains the responsibility of the Head of Governance and Legal Services.
2. The Deputy Chief Executive and all Corporate Directors are authorised to apply for planning permission in respect of land and/or buildings owned by or within the control of the Council and held in respect of the functions of a Portfolio Holder. In such instances, consultation with the relevant Portfolio Holder is mandatory.
3. In consultation with the Deputy Chief Executive all Corporate Directors are authorised to deal with the assignment of leases and granting, variation and renewal of licences up to a maximum duration of 12 months including annual rights of way within their respective service areas of responsibility.
4. The management and maintenance of all the land holdings occupied or within the control of the service area remit, including health and safety inspections.
5. The Deputy Chief Executive and all Corporate Directors are authorised to issue and serve notices under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 in respect of functions under the control of a Portfolio Holder.
6. All Corporate Directors are authorised in consultation with the Deputy Chief Executive to take all steps in connection with any legal proceedings, in respect of any function under the jurisdiction of a Portfolio Holder including the commencement or defence of, withdrawal, settlement or compromise of any such proceedings.
7. The Deputy Chief Executive and all Corporate Directors are authorised in consultation with the Head of Governance and Legal Services to appear on the Council's behalf in any legal proceedings, under the jurisdiction of a Portfolio Holder, before all courts, tribunals and inquiries.

(Green)

Part 3.38

A3 APPENDIX I

Committee	Functions and Terms of Reference	Delegated Functions
Planning Committee	<p><i>The discharge of the Town and Country Planning and Conservation functions as specific in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p>Additional roles and functions of the Committee are as set out below:</p> <ol style="list-style-type: none"> 1. Any formal comment or view on applications or proposals to be determined by Essex County Council, any Statutory Body and government departments relating to matters within the remit of the Committee. 	<p>All planning and conservation matters delegated to the Head of Planning except in relation to the determination of certain planning applications as detailed below for determination by the Committee:</p> <ol style="list-style-type: none"> (i) Officer recommendations for approval materially contrary to national or local policy. (ii) Officer recommendation of approval contrary to a previous refusal by the Planning Committee, where the policies remain substantially unchanged. (iii) Office recommendation of approval and the application should be
		<p>referred to the Secretary of State under a Direction(s) or "call in".</p> <ol style="list-style-type: none"> (iv) The applicant is the Council or someone acting as applicant on the Council's behalf or in respect of Council owned land. (v) The applicant is a Member of the Council, Planning Officer or a Senior Officer and there is an Officer recommendation for approval. (vi) Within 28 days of the commencement of

		<p>formal consultation, a written request is received from a District Councillor in accordance with the Member Referral Scheme (*) requesting that the application should be brought before the Planning Committee for determination giving material planning reasons for that request.</p> <p>(*) Scheme to be agreed by the chairman of the Planning committee in consultation with the Portfolio Holder for Planning, Head of Planning and Monitoring Officer.</p> <p>(vii) Any application which the Head of Planning in their professional opinion, taking into account the written representations received, plans and policies and other material considerations to be referred to the Planning Committee because it raises more than significant local issues.</p>
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Committee	Functions and Terms of Reference	Delegated Functions
Human Resources Sub-Committee	<ol style="list-style-type: none"> 1. Forms part of the recruitment, dismissal and disciplinary process for the appointment of Senior Officers, which includes the following posts: <ul style="list-style-type: none"> • Chief Executive; • Section 151 Officer; • Monitoring Officer; • Chief Officers (Deputy Chief Executive/ Corporate Directors); and • All Deputy Chief Officers (Heads of Service) 2. Form a panel to undertake interview of applicants for Senior Officer posts who have successfully been shortlisted and undertaken necessary technical interviews and assessments. 3. The Panel will be comprised of 3 members consisting of: <ul style="list-style-type: none"> • a member of Cabinet being the relevant Portfolio Holder for the service concerned (unless that Portfolio Holder requires the Leader to appoint a substitute for them because they will be unable to attend); • Chairman or Vice-Chairman of the Human Resources Committee; and • a named committee member from an opposition group. 4. The Panel must take into account the views and professional advice given by the relevant officers before an offer of appointment can be made. 	

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BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**1. The Framework for Cabinet Decisions**

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

2. Process for Developing the Policy Framework

The process by which the Policy Framework shall be developed is:

- (a) The Cabinet will publicise in the Forward Plan a timetable for making proposals to the Council for the adoption of any plan or strategy that forms part of the Policy Framework, and the Cabinet's arrangements for consultation after publication of those initial proposals. The Chairman of each Overview and Scrutiny Committee will also be notified. The consultation period shall in each instance be not less than 3 weeks.
- (b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If an Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. The Cabinet will take any response from an Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.

Proposals from the Cabinet shall include recommendations regarding any aspects of the proposed plan or strategy that they consider full Council should delegate to the Cabinet the ability to vary.

- (c) Once the Cabinet has approved firm proposals, the appropriate Corporate Director will report them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, substitute its own proposals in their place or, with the exception of proposals in relation to the Corporate Plan, refer them back to the Cabinet for further consideration.
 - (i) If the Council decides not to adopt the Cabinet's proposals, the Council must inform the Leader of the objections which it has to the draft plan or strategy and instruct the Leader to require the Cabinet to reconsider the draft plan or strategy in the light of those objections.
 - (ii) Where the Council gives instructions in accordance with Rule 2(d)(i), it must specify a period of at least five working days beginning on the day after the

date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

- (1) Submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”), with the Cabinet’s reasons for any amendments made to the draft plan or strategy, to the Committee Services Manager for consideration; or
 - (2) Inform the Committee Services Manager of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such disagreement.
- (e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision that has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) The decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader.
- (g) An in-principle decision will automatically become effective on the expiry of the period specified in Rule 2(d)(ii) unless the Leader has submitted in writing to the Committee Services Manager a revision of the plan or strategy or informed them in writing of any disagreement that the Cabinet has with the Council in accordance with Rule 2(d)(ii).
- (h) In that case, the Chairman of the Council will call a Council meeting to be held on a date within 10 working days of receipt of the Leader’s written submission. The Council will be required to re-consider its decision taking into account the written submission provided by the Leader (which may either include a revised draft plan or strategy with reasons or the reasons for the Cabinet disagreeing with the Council’s objections to the draft plan or strategy). The Council may:-
 - (i) approve the Cabinet’s recommendation by a simple majority of votes cast at the meeting; or
 - (ii) approve a different decision that does not accord with the recommendation of the Cabinet by a simple majority; or
 - (iii) approve the Cabinet’s proposed plan or strategy (whether in the form of a draft of revised draft) by a simple majority of votes cast at the meeting; or
 - (iv) approve a different decision that does not accord with the proposed draft or revised draft plan or strategy of the Cabinet by a simple majority.

(Cream)

- (i) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.
- (j) In approving the Policy Framework, the Council will also specify the degree of in-year changes to the Policy Framework that may be undertaken by the Cabinet, in accordance with paragraph 7 of these Rules. Any other changes to the Policy Framework are reserved to the Council.

3. Process for Developing the Budget

Subject to Rule 4 of these Procedure Rules, the process by which the Budget shall be developed is:

- (a) The Cabinet will publicise in the Forward Plan a timetable for making proposals to the Council for the adoption of the budget and the Cabinet's arrangements for consultation after publication of those proposals. The Chairman of each Overview and Scrutiny Committee will also be notified.
- (b) Prior to making any budget proposals in paragraph 3(a) above, the Cabinet will draw up a draft Financial Strategy/Forecast setting out the basis on which the budget proposals are intended to be formulated. The Cabinet shall consult the relevant Overview and Scrutiny Committee on the draft Financial Strategy/Forecast. The consultation period in this instance shall be not less than 3 weeks. At the end of that period the Cabinet shall agree the Financial Strategy/Forecast having regard to the response from that Overview and Scrutiny Committee.
- (c) The Cabinet shall draw up and consult on proposals for the budget having regard to the draft or agreed Financial Strategy/Forecast. If the relevant Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. The consultation period shall be not less than 2 weeks.
- (d) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses for that consultation. The Cabinet will take any response from an Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (e) Once the Cabinet has approved the firm proposals, the Deputy Chief Executive will report them at the earliest opportunity to the Council for decision.
- (f) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, or substitute its own proposals in their place.

- (g) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision that has immediate effect. Otherwise, it may only make an in-principle decision, **unless the Leader of the Council having consulted the Chief Financial Officer indicates at the meeting Cabinet's acceptance of the amended budget. The Chairman of the Council will adjourn the meeting to allow the relevant consultation to take place.** In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (h) Where the Council makes an in-principle decision, the **Committee Services Manager** ~~Deputy Chief Executive~~ shall immediately inform the Leader of any objections which it has to the Cabinet's proposals and shall give him instructions requiring the Cabinet, within 5 working days beginning on the day after the date on which the Leader receives those instructions, to reconsider in the light of those objections, the proposals submitted to it.
- (i) An in-principle decision will automatically become effective at the end of 5 working days beginning on the day after the date on which the Leader receives those instructions referred to in sub-paragraph (h) above, unless within that time the Leader:
 - (a) submits to the Committee Services Manager in writing a revision of the proposals as amended by the Cabinet ("the revised proposals") together with the Cabinet's reasons for any amendments made to the proposals; or
 - (b) informs the Committee Services Manager in writing of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- (j) In that case, the Chairman of the Council will call a Council meeting to be held on a date within 6 working days of receipt of the revised proposals or the Cabinet's disagreement. The Council will be required to re-consider its decision and to take into account the revised proposals, the Cabinet's reasons for any amendments made to the proposals, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

The Council may by a simple majority of votes cast at the meeting:-

- (i) confirm its original decision; or
- (ii) adopt (with or without modification) the original proposal or, if there is one, the revised proposal; or
- (iii) amend the original proposal or, if there is one, the revised proposal; or
- (iv) substitute its own proposals.

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- (k) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.
 - (l) In approving the budget, the Council will also specify the extent of virement within the budget that may be undertaken by the Cabinet. Any other changes to the budget are reserved to the Council.

4. Submission of Budget Proposals before 8th February

In the event of the Cabinet submitting their firm proposals for the budget to Council before 8 February in any financial year and the Council has any objections to those proposals, the actions set out in Schedule 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 shall be followed.

5. Decisions outside the Budget or Policy Framework

- (a) Subject to the provisions of Rule 3(l) the Cabinet, individual members of the Cabinet and any officers discharging Cabinet functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 6.
- (b) If the Cabinet, individual members of the Cabinet and any officers discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 6 shall apply.

6. Urgent Decisions outside the Budget or Policy Framework

- (a) The Cabinet, an individual member of the Cabinet or Officers discharging Cabinet functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
 - (i) If it is not practical to convene a quorate meeting of the full Council; and
 - (ii) If the Chairman of the relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the

absence of the Chairman of that Overview and Scrutiny Committee, the consent of the Vice-Chairman of that Overview and Scrutiny Committee will suffice. In their absence the Chairman of the Council's consent will suffice, and in their absence the consent of the Vice-Chairman of the Council.

- (b) Following the decision, the Leader will provide a full report to the next practicable ordinary meeting of the Council explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

7. Virement

The Council's budget can only be varied by the Council except as provided for in the Financial Procedure Rules. These rules make provision for:

- (a) Virements – the transfer of sums between budgetary heads
- (b) Supplementary Estimates – the provision from reserves or from a specific provision of sums to increase the overall budget or the approval of negative Supplementary Estimates for the specific purpose of reducing the Council's net expenditure.

These rules specify the limits and procedures governing approval of these budget variations and may be varied from time to time by the Council to meet changing service and portfolio operational needs.

8. In-Year Changes to Policy Framework

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, an individual member of the Cabinet or Officers discharging Cabinet functions must be in line with it. No changes to any plan or strategy that make up the Policy Framework may be made by those bodies or individuals except those:

- (a) which will result in the closure or discontinuance of a service or part of a service to meet a budgetary constraint; or
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance; or
- (c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration; or
- (d) relating to aspects of any plan or strategy where full Council has delegated to the Cabinet the ability to vary.

9. Call-in of Decisions outside the Budget or Policy Framework

- (a) Where an Overview and Scrutiny Committee is of the opinion that either a proposed decision or a decision which has been called-in under the Overview and Scrutiny Procedure Rules is or would be, contrary to the Council's Budget and Policy Framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- (b) The call-in procedures set out in Rules 13 and 17 of the Overview and Scrutiny Procedure Rules must be adhered to.
- (c) If, having had regard to the advice of the Monitoring Officer and/or Chief Financial Officer, which will be summarised within the Report, the Overview and Scrutiny Committee considers the decision is contrary to the Budget or Policy Framework; the Committee may refer the matter to the next practicable meeting of the Council, subject to the provisions of the Council Procedure Rules.
- (d) Council will receive a written report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:
 - (i) endorse a decision or proposal of the decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
 - (ii) amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
 - (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Chief Financial Officer.

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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 to 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 of 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.

- 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 Corporate Resources 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 Corporate Resources 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 the 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 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;
- (b) Any change to a service set out in (a) 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) below 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 appropriate recommendations will be made to Council.

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- (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.

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 Corporate Resources 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 Corporate Resources 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 the Finance and Corporate Resources Portfolio Holder to exceed £1,000,000 for General Fund Services (capital or revenue) or £1,000,000 in respect of 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 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 Corporate Resources Portfolio Holder or Cabinet. Cabinet must recommend to Council any request for supplementary estimates that requires the approval of 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 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 need 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 below.
- (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 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.

6.3.5 Virement Limits and Approvals

- (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 Corporate Resources 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 have approved the filling of that post	The Chief Financial Officer with the approval of the Management Team, Finance and Corporate Resources Portfolio Holder and Cabinet.

- (b) (a) 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.

(e)(b) General Fund Revenue and HRA

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, together 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 Corporate Resources 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)(c) 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 Corporate Resources 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)(d) 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 Required
(i) Increase in an approved Capital 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>
(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.

(Cream)

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 an increase to the General Fund revenue costs	A supplementary estimate or virement must be obtained in accordance with these Financial Procedure Rules.

- 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 Corporate Resources 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.
- 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 the approval of the Finance and Corporate Resources Portfolio Holder 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 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 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 Finance and Corporate Resources Portfolio Holder in 8.1 above. Any further decisions that may be required following the outturn process, such as allocating money brought forward from the prior year will be made by Cabinet at a subsequent meeting.
- 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.
- 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 who 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 Works, 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 Certificate 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 relevant 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 confirms 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 ordering 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 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 invoices 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 or 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 the 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:-

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- (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, agreement 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 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 the 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 either be 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
Debt due to the Council where the amount owing is a Council Tax, NNDR or Housing Benefit and Rents debt which is either:- 1. A ceased account and the debt is equal to the amount charged as summons costs making the debt uneconomical to collect, or	

<p>2. Not a ceased amount but the amount owed is less than the cost of second class postage</p> <p>3. The debt due to the Council is less than £10</p> <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>	The relevant Corporate Director
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Item for Potential Write-off	Authority to Write-off Delegated To
<p>Specific debtors where:-</p> <p>(a) There is a personal bankruptcy, company insolvency, Individual/Company Voluntary Arrangement or a Debt Relief Order.</p> <p>(b) The Recovery Enforcement Agents has been unable to obtain payment and has returned the debt as "nulla bona" and insufficient assets to satisfy the debt.</p> <p>(c) The company has been struck off by Companies House.</p> <p>(d) The death of a debtor who dies insolvent and the claim against the estate has been made.</p> <p>(e) Death of a debtor who has died with 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>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>

(i) The committal to prison of the debtor in respect of the non-payment of the debt or associated debt.	
(j) The abscondment of a debtor where a tracing or other appropriate agency has failed to make a trace.	

ANY OTHER DEBTS	
Individual debts not exceeding £5,000	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.
Individual debts exceeding £5,000 but below £25,000	The Finance and Corporate Resources 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 where reasonably practicable identify if the specific debtor is still receiving goods or services from the Council.
Individual debts of £25,000 and above	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 should also 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.

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

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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 on 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 Deputy Chief Executive 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 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 stock are checked at least once in every financial year.
- 12.3.5** Each Head of Department shall furnish the Chief Financial Officer with a certificate showing the value of stocks 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 Deputy Chief Executive or Corporate Directors (where relevant) are 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 a 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 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, **including also non-treasury investments.**
- (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 **and Guidance from central Government**, 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 the Resources and Services Overview and Scrutiny Committee, approve an Annual Treasury Strategy for the forthcoming year. The Annual Treasury Strategy will include an investment strategy, **a capital strategy** and a borrowing strategy. The investment strategy will include a schedule of those instruments the Council will consider using for investments in

FINANCIAL PROCEDURE RULES

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. **The Capital Strategy will include a projection of external debt and use of internal borrowing to support capital expenditure, provision for the repayment of debt over the life of the debt, the authorised limit and operational boundary for the following year and the approach to treasury management, including due processes, due diligence and defining the Council's risk appetite.**

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 Resources and Services Overview and Scrutiny Committee.

14.3 The Council's 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 TMPs. The Finance and Corporate Resources 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.

15. LAND AND PROPERTY TRANSACTIONS

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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 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 identify 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 Innovation and Skills).
- 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 regulations 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 and financial records must separately identify any aid given.

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PROPERTY DEALING PROCEDURE [PART 5.62]

1. NEGOTIATION OF PROPERTY DEALS

- 1.1** Property Deal means the acquisition or disposal by the Council of any interest in land, including freehold, leasehold, by way of tenancy, any rent review, lease variation, lease renewal or any other dealing or proposed dealing with an interest in land or licence to use land.
- 1.2** Members must not engage in negotiations of any kind relating to any Property Deal or proposed Property Deal.
- 1.3** Every request to the Council from any party for a deal within this procedure shall be referred to the Head of Property Services, or, by the Chief Executive, to the Deputy Chief Executive or a Corporate Director.
- 1.4** Every Property Deal shall be conducted in accordance with the Property Dealing Procedure, excluding the sale of dwellings under right-to-buy legislation, ~~and the sale and purchase of Shared Equity and DIYSO properties,~~ **and arrangements for utilities to be provided on Council owned land.**
- 1.5** Any Property Deal will be dealt with by appropriate officers in accordance with the Property Office Procedures to be agreed from time to time by the Head of Property Services with the Council's Section 151 and Monitoring Officers. The Property Office Procedures set out the practice to be followed by any Officer acting under delegated powers.

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A.3 APPENDIX M

PROCUREMENT PROCEDURE RULES

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 should 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) 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 **for £25,000 and above**. 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 quotation 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 Deputy Chief Executive/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 quotation 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 Deputy Chief Executive/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 Deputy Chief Executive/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.

(Cream)

Schedule 4 - Schedule of Proper Officers and Related Provisions

Part 3.43

STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and final determination of 'Need to Know'			
Regulations 2, 7, 10, 12, 13, 14, 15, 16 & 20 and Common Law position	Access to Information Procedure and Recording of Decisions	Monitoring Officer	Deputy Monitoring Officer

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COUNCIL

27 NOVEMBER 2018

REPORT OF CHIEF EXECUTIVE

A.4 **NON-ATTENDANCE AT MEETINGS**

(Report prepared by Ian Ford)

Council will recall that at its meeting held on 27 March 2018 (Minute 143 refers) it considered a motion, submitted by Councillor Calver pursuant to Council Procedure Rule 12, in relation to Members' attendance at meetings.

Having considered the motion, Council resolved that –

“Article 2 of the Council’s Constitution, ‘Members of the Council’, be amended to include as an additional paragraph –

“2.06 Attendance

It is a requirement that if a Member exceeds four months without attending a meeting of the Council or attending a meeting of a committee or sub-committee of the Council either as an appointed member of a committee/sub-committee or as a substitute member of a committee/sub-committee that shall be reported to the next Council meeting.”

In accordance with Article 2.06 of the Council's Constitution I formally report that Councillors Andy Massey and Giles Watling MP have exceeded four months without attending a meeting of the Council or attending a meeting of a committee or sub-committee of the Council either as an appointed member of a committee/sub-committee or as a substitute member of a committee/sub-committee.

The last meeting that Councillor Massey attended was the meeting of the full Council held on 3 July 2018.

The last non-executive meeting that Councillor Watling MP attended was the meeting of the full Council held on 9 May 2017.

Since that date Councillor Watling MP has attended meetings of the Cabinet held on 26 May 2017, 14 July 2017, 15 December 2017, 19 January 2018 and 15 June 2018.

This item is submitted for **INFORMATION ONLY**.

IAN DAVIDSON
CHIEF EXECUTIVE

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COUNCIL

27 NOVEMBER 2018

JOINT REPORT OF THE MONITORING OFFICER AND HEAD OF LEADERSHIP SUPPORT AND COMMUNITY

A.5 APPOINTMENT OF INDEPENDENT PERSONS AND INDEPENDENT REMUNERATION PANEL

(Report prepared by Lisa Hastings and Karen Neath)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To approve the recommendations from the Interview Selection Panel to appoint Mrs Clarissa Gosling, Mrs Jane Watts, Mr David Irvine and Mrs Susan Gallone as the Council's Independent Persons and Independent Remuneration Panel.

All of the recommended appointments to be for the period expiring at the Annual Council meeting in 2023.

EXECUTIVE SUMMARY

Independent Persons

The Localism Act 2011 requires each local authority to appoint an Independent Person to work with the Council's Monitoring Officer within the Standards Framework.

Independent Remuneration Panel

The Council is required by legislation to consider recommendations on the members' scheme of allowances from an Independent Remuneration Panel consisting of a minimum of three people.

Members' Interview Selection Panel

On the 14th November 2018, a Panel consisting of Councillors Heaney, Bray and Bucke together with the Council's Monitoring Officer and Head of Leadership Support and Community interviewed 5 candidates for the dual role. As a result of the interviews the Panel recommends to Council the appointments set out below.

The existing Independent Remuneration Panel and Independent Persons are currently appointed until Annual Council in May 2019. However, in order to allow the new Independent Remuneration Panel to commence work on preparing a scheme of allowances to be presented to the Annual Council in May 2019 it is recommended that the new appointments be agreed with immediate effect with the existing appointees (Rev Dr William Lock and John Wolton) being retained on a consultative basis. This will also allow time for the new Independent Persons to be fully trained before the existing Independent Persons' term ends ensuring that the Council has sufficient Independent Persons it can call on to undertake this role.

Currently the Independent Remuneration Panel consists of three people, two of which serve as Independent Persons. It is recommended that four people are now appointed to the Independent Remuneration Panel and that these four are all also appointed as

Independent Persons. The Selection Panel felt that each of the recommended candidates would bring a particular range of skills to the dual role.

RECOMMENDATION(S)

It is recommended that:-

(a) the Independent Remuneration Panel consists of four people and that there are four Independent Persons and that the relevant procedures and protocols be updated to reflect this number accordingly;

(b) the appointment of Clarissa Gosling, Jane Watts, David Irvine and Susan Gallone for the Independent Remuneration Panel and as the Council's Independent Persons be agreed with immediate effect;

(c) all the appointments are until Annual Council in 2023.

By virtue of paragraph(s) 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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