

Public Document Pack

TENDRING DISTRICT COUNCIL

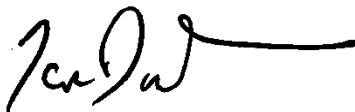
Committee Services
Town Hall
Station Road
Clacton-on-Sea
Essex
CO15 1SE

10 July 2020

Dear Councillor

I HEREBY SUMMON YOU to attend the extra-ordinary meeting of the Tendring District Council to be held at **4.00 p.m.** on Tuesday 21 July 2020 when the business specified in the accompanying Agenda is proposed to be transacted. The meeting will be held in accordance with the relevant provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ian Davidson', followed by a horizontal line extending to the right.

Ian Davidson
Chief Executive

TENDRING DISTRICT COUNCIL

AGENDA

For the meeting to be held on Tuesday, 21 July 2020

1 Apologies for Absence

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

2 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.

3 Report of the Chief Executive - A.1 - Change in Membership of Political Groups (Pages 1 - 2)

To inform Council of a change in the membership of the UKIP and Conservatives political groups on Tendring District Council.

4 Report of the Assistant Director (Governance) & Monitoring Officer - A.2 - Approval of Members' Non-Attendance at Meetings (Pages 3 - 6)

To enable Council to decide whether to approve the reason for Members' non-attendance at meetings of the Council etc.

5 Report of the Assistant Director (Governance) & Monitoring Officer - A.3 - Annual Review of the Council's Constitution (Pages 7 - 70)

The Council is asked to consider the recommended changes to the Constitution put forward by the Cabinet following an annual review undertaken by the Corporate Finance and Governance Portfolio Holder through a Working Party constituted for this purpose.

6 Report of the Assistant Director (Governance) & Monitoring Officer - A.4 - Programme of Meetings for the Period August 2020 to April 2021 (Pages 71 - 78)

To enable Council to give consideration to a proposed programme of meetings for the period August 2020 to April 2021.

7 Report of the Assistant Director (Finance & IT) & Section 151 Officer - A.5 - Annual Capital and Treasury Strategy for 2020/21 (including the Prudential and Treasury Indicators) (Pages 79 - 118)

To enable the Council to review and approve the Annual Capital and Treasury Strategy for 2020/21 (including the Prudential and Treasury indicators).

8 Report of the Assistant Director (Partnerships) - A.6 - Pay Policy Statement 2020/21 (Pages 119 - 134)

Council's approval is sought in respect of the Pay Policy Statement for 2020/21.

COUNCIL

21 JULY 2020

REPORT OF CHIEF EXECUTIVE

A.1 **CHANGE IN MEMBERSHIP OF POLITICAL GROUPS**

(Report prepared by Ian Ford)

I formally advise you that, on 21 February 2020 and pursuant to Regulation 10(b) of the Local Government (Committees and Political Groups) Regulations 1990, Councillor Alex Porter served formal notice on the Council that he no longer wished to be treated as a member of the UKIP political group.

I further advise you that Councillor Porter, also on that date and pursuant to Regulation 9(b) of the Local Government (Committees and Political Groups) Regulations 1990, served formal notice on the Council that he wished to be treated as a member of the Conservative political group. That notice had been duly counter-signed by the Leader of the Conservative Group (Councillor Neil Stock OBE).

Councillor Stock informed Officers that he did not wish to exercise his right under 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 to have a review of the allocation of seats to political groups carried out at that time.

This item is submitted for **INFORMATION ONLY**.

IAN DAVIDSON
CHIEF EXECUTIVE

COUNCIL

21 JULY 2020

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

A.1 CHANGE IN MEMBERSHIP OF POLITICAL GROUPS

Notice of a Wish to no longer be treated as a Member of a Political Group (UKIP), signed by Councillor Porter and dated 21 February 2020.

Notice of Wish to be treated as a Member of a Political Group (Conservative) signed by Councillor Porter and dated 21 February 2020.

COUNCIL

21 JULY 2020

REPORT OF ASSISTANT DIRECTOR (GOVERNANCE) & MONITORING OFFICER

A.2 APPROVAL OF MEMBERS' NON-ATTENDANCE AT MEETINGS

(Report prepared by Ian Ford and Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To approve the reasons for Members' non-attendance at meetings of the Council etc. during the current public health emergency caused by the Covid-19 coronavirus.

EXECUTIVE SUMMARY

Council will be aware that if a Councillor does not attend any meeting of the Council (or any of its Committees or Sub-Committees) for a consecutive period of six months, Section 85 of Part V of the Local Government Act 1972 disqualifies them unless the Full Council approves the reason for non-attendance before the end of that period.

Sub-section (2A) refers to Council's operating executive arrangements and if a member of the executive of that local authority, fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the executive, they shall, unless the failure was due to some reason approved by the local authority before the expiry of that period, cease to be a member of the local authority.

Due to the ongoing public health emergency caused by the Covid-19 coronavirus there has been a significant disruption to the ordinary conduct of the Council's democratic business and several of the Council's Committees have not been able to meet and are unlikely to do so before September 2020 at the earliest.

As a result there are a number of Members who have not been able to attend a meeting for some time and are in danger of being disqualified from office under Section 85 of the Local Government Act 1972 through no fault of their own.

There is therefore a very real danger that a number of seats on the Council will fall vacant and Council will be aware that, under the provisions of Regulation 5 of The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020, no by-elections can currently be held to fill vacant local authority seats until, at the earliest, 6 May 2021. This would undoubtedly result in a serious detrimental effect on the Council's ability to conduct its democratic decision making business and also leave a significant number of the District's residents with reduced or even no Ward Member representation on the Council.

Members will have noted that a later report on this agenda seeks approval for a programme of meetings to be approved for the period August 2020 to April 2021. Included within that programme of meetings is a proposed meeting of the Full Council to be held on Tuesday 15 September 2020.

It is therefore proposed that Council approves the reasons (namely illness and/or cancellations of meetings due to the Covid-19 public health emergency) for non-attendance for those Councillors listed in the Appendix to this report who would otherwise be disqualified from office in the period 22 July 2020 up to and including 15 September 2020 due to a failure to attend meetings for a six

month period.

In the event that Council approves the relevant recommendation set out below, those Councillors would gain a further six months' period of grace, from 21 July 2020, in which they would need to attend a meeting of Council, or a Council Committee, before its' expiry in order to remain a Councillor (or otherwise be subject to a fresh approval of absence by Council prior to that date).

The Council's Portfolio Holder Constitution Review Working Party is considering how to record attendance of an elected member at a formal meeting by remote access if they are not participating and this will be included within a future report to Full Council.

Please note that this report does not cover Councillor Overton's period of absence which has already been extended until 7 October 2020 under a previous decision by the Chief Executive, in accordance with urgency provisions, following consultation with all Members prior to the new remote meeting regulations being in force.

RECOMMENDATION(S)

That the Council approves the reasons (namely illness and/or cancellations of meetings due to the Covid-19 public health emergency) for non-attendance for those Councillors listed in the Appendix to this report who would otherwise be disqualified from office in the period 22 July 2020 up to and including 15 September 2020 due to a failure to attend meetings for a six month period.

BACKGROUND PAPERS

The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020.

The Local Government Act 1972.

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020

APPENDIX

List of Councillors who would otherwise be disqualified from office in the period 22 July 2020 up to and including 15 September 2020 due to a failure to attend meetings for a six month period.

A.2 APPENDIX

List of Councillors who would otherwise be disqualified from office in the period 22 July 2020 up to and including 15 September 2020 due to a failure to attend meetings for a six month period.

Joy BRODERICK
John CHITTOCK
K T KING
Fiona KNOWLES
Dan LAND

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COUNCIL

21 JULY 2020

REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) & MONITORING OFFICER

A.3 ANNUAL REVIEW OF THE COUNCIL'S CONSTITUTION

(Report prepared by Ian Ford)

PURPOSE OF THE REPORT

To approve the recommended changes to the Constitution put forward by the Leader of the Council (on behalf of the Cabinet) following a review undertaken by the Corporate Finance and Governance Portfolio Holder through a Working Party constituted for this purpose.

BACKGROUND

Council will be aware that the Cabinet was due to have considered at its scheduled meeting on 20 March 2020 a report of the Corporate Finance and Governance Portfolio Holder which would have requested it 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 constituted for this purpose.

The report was published with the agenda of Cabinet for that meeting in March 2020 which unfortunately then had to be cancelled in response to the COVID-19 public health emergency.

However, the recommendations contained therein were subsequently approved by the Leader of the Council (acting on behalf of the Cabinet) who exercised urgent powers granted to him under the Council's Constitution.

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

The Portfolio Holder's Report and accompanying Appendices which were due to have been considered by Cabinet at its meeting on 20 March 2020 are attached as Appendices.

The Leader of the Council's decision on behalf of the Cabinet which was taken on 24 April 2020 was as follows:-

"1. 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 (with the exception of Appendix S which relates to executive functions);
- (b) that all changes come into effect from the date on which they are approved by Full Council;
- (c) that Group Leaders be commended to strongly urge that all Members attend planning and licensing training events which would both increase the number of named

substitutes that Group Leaders would have at their disposal as well as providing Members with greater knowledge of the workings of the Council that will prove useful to them in their Ward and wider representational roles; and

- (d) *that the Monitoring Officer be requested to undertake a review of the public speaking scheme for the Planning Committee in accordance with Council Procedure Rule 40, as amended.*

2. *That Cabinet **resolves:***

- (a) *that the proposed changes to the Scheme of Delegation (Schedule 3 – Responsibility for Executive Functions), as set out in Appendix S, be approved;*
- (b) *that the Head of Democratic Services & Elections and the Head of Legal and Governance Services & Monitoring Officer, in consultation with the Deputy Leader of the Council, the Chairmen of the overview and scrutiny committees, the Chairman of the Audit Committee and one other Portfolio Holder (to be decided by the Deputy Leader), be authorised to draft a formal Executive-Scrutiny Protocol for this Council and to submit this to the Overview and Scrutiny Committees and Cabinet for adoption;*
- (c) *that the Head of Legal and Governance Services & Monitoring Officer, in conjunction with the Head of People, Performance and Projects, be requested to review the Council's Whistleblowing Policy in order to make sure that it is robust and report any necessary amendments to the Human Resources and Council Tax Committee; and*
- (e) *that the Head of Democratic Services & Elections be requested to incorporate within the Member Development Scheme regular training on overview and scrutiny matters (including, for example, on the clear division of responsibilities between the Council's scrutiny function and its audit function)."*

Council will recall that Cabinet, at its meeting held on 29 May 2020, subsequently considered a report and appendices of the Corporate Finance and Governance Portfolio Holder in relation to recommended changes to the Constitution in consequence of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. Contained within that report, inter alia, were further recommended changes to one of the Appendices attached to the previous Constitution Review Report that was published for the agenda of Cabinet for its cancelled meeting in March 2020.

The proposed changes to the Constitution highlighted in Appendix E to the March Constitution Review report drew the distinction between the functions of the Executive, which still has responsibility for strategic planning outside of the Local Plan process and other matters in accordance with the Functions and Responsibilities Regulations. Unfortunately, a minor correction was required to that Appendix because express reference to Supplementary Planning Documents (SPDs) in paragraph 8, 15 and 16 had not been amended. In accordance with the Functions and Responsibilities Regulations the Planning Policy and Local Plan Committee can only recommend SPDs onto Cabinet for approval.

Cabinet, at its meeting held on 29 May 2020, decided, inter alia:-

"that Appendix G, as attached to this report, be submitted to Full Council as a replacement to Appendix E to the March 2020 Constitution review report, which was then subsequently

approved by the Leader of the Council (on behalf of the Cabinet) for submission to Full Council.”

The other changes to the Constitution as approved by Cabinet at its meeting held on 29 May 2020 will be considered by Council at a later date.

RECOMMENDATION

That Council resolves that:

- (a) the Council’s Constitution be amended to reflect the proposed changes, as set out in the appendices attached hereto this report;
- (b) all changes come into effect from the date on which they are approved by Full Council;
- (c) Group Leaders be commended to strongly urge that all Members attend planning and licensing training events which would both increase the number of named substitutes that Group Leaders would have at their disposal as well as providing Members with greater knowledge of the workings of the Council that will prove useful to them in their Ward and wider representational roles; and
- (d) the Monitoring Officer be requested to undertake a review of the public speaking scheme for the Planning Committee in accordance with Council Procedure Rule 40, as now amended.

BACKGROUND PAPERS

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

APPENDICES

A.3

| | | |
|---|--------|--|
| APPENDIX A | Part 2 | Article 4 – The Full Council |
| APPENDIX B | Part 2 | Article 6 – Overview and Scrutiny Function |
| APPENDIX C | Part 2 | Article 7 – The Cabinet (Executive) |
| APPENDIX D | Part 2 | Article 12 - Officers |
| APPENDIX E (as amended by Cabinet on 29/05/20) | Part 3 | Scheme of Delegation – Planning Policy & Local Plan Committee |
| APPENDIX F | Part 3 | Scheme of Delegation – HR Sub-Committee |
| APPENDIX G | Part 4 | <u>Council Procedure Rules – Section One</u> Rule 1 – Annual Meeting of the Council & Rule 16 – Rules of Debate |
| APPENDIX H | | Rule 2 – Budget & Council Tax Setting |
| APPENDIX I | | Rule 4 – Extraordinary Meetings |
| APPENDIX J | | Rule 11 – Questions by Members & Rule 3 – Ordinary Meeting |
| APPENDIX K | | Rule 12 – Motions on Notice |
| APPENDIX L | | Rule 17 – State of Tending Statement |

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| APPENDIX M | | Rule 19 - Voting |
| APPENDIX N | Part 4 | <u>Council Procedure Rules – Section Two</u> Rule 40 – Public Speaking Scheme |
| APPENDIX O | Part 5 | Overview & Scrutiny Procedure Rules |
| APPENDIX P | Part 5 | Procurement Procedure Rules |
| APPENDIX Q APPENDIX R | Part 5 Part 4 | Petitions Scheme; and Council Procedure Rule 30 - Petitions |
| APPENDIX S | | Report of the Corporate Finance and Governance Portfolio Holder as published for the meeting of the Cabinet due to have been held on 20 March 2020 and which had to be cancelled due to the Covid-19 public health emergency |

A3 APPENDIX A

ARTICLE 4 – THE FULL COUNCIL

4.01 Meanings

(a) Policy Framework

The policy framework means those statutory policies and plans which must be approved or adopted by the full Council and are, for the time being, the following:

- Council's Corporate Plan;
- Community Strategy;
- Crime and Disorder Reduction Strategy (Sections 5 and 6 of the Crime and Disorder Act 1998);
- Plans and strategies which together comprise the Local Development Plan Documents (Section 15 of the Planning and Compulsory Purchase Act 2004);
- The plan and strategy which comprise the Housing Investment Programme (HRA Business Plan and Housing Strategy);
- Statement of Licensing Policy (Licensing Act 2003);
- Statement of Licensing Policy (Gambling Act 2005) **(on the recommendation of the Cabinet who will have considered a referral from the Licensing and Registration Committee);**

Other plans and strategies which the Council may decide from time to time are to be adopted by the Council as a matter of local choice as part of the policy framework, including but not limited to:

- IT Strategy and Information Governance
- Procurement Strategy

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A3 APPENDIX B

ARTICLE 6 – OVERVIEW AND SCRUTINY FUNCTION

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 meetings every two months 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
- Leisure and Tourism (except matters relating to budgets)
- Housing Strategy and Homeless Service (except the Housing Revenue Account)
- Emergency Planning

(ii) Resources and Services Overview and Scrutiny Committee

- ~~To be chaired by~~ **The Chairman and the Vice-Chairman of the Committee will normally be** ~~a Members~~ **Members** 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.~~ **The Committee will 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 Forecast

Budget setting and monitoring (including General Fund & Housing Revenue Account)

Service Delivery and Performance (where not delegated to the Community Leadership Overview and Scrutiny Committee)

Procurement and Contract Management

Transformation and Digital Strategies

Customer Service and Standards

A3 APPENDIX C

ARTICLE 7 – THE CABINET (ALSO REFERRED TO AS THE EXECUTIVE)

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~~ **any political group** 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~~ **a** 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 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.

A3 APPENDIX D

ARTICLES OF THE CONSTITUTION - ARTICLE 12 – OFFICERS

Article 12.01 Management Structure

(c) Head of Paid Service, Monitoring Officer and Chief Financial Officer (Section 151 Officer):

The Council has designated the following posts to fulfil a specific statutory position as shown:

| Designation | Post |
|---|---|
| Head of Paid Service | Chief Executive |
| Monitoring Officer | Head of Governance and Legal Services |
| Chief Financial Officer (section 151 Officer) | Head of Finance, Revenues and Benefits Services |

These posts will have the functions described in paragraphs 12.02-12.05 below.

(d) Scrutiny Officer

The Council has designated the post of Head of Democratic Services and Elections to fulfil the role of the Council's Scrutiny Officer. The role is to:

- promote the role of the Council's overview and scrutiny committees;**
- provide support to those committees and its members; and**
- provide support and guidance to Members and Officers relating to the functions of the overview and scrutiny committees.**

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Part 3 Delegated Powers - Schedule 2 Responsibility for Council (Non-Executive) Functions

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| <p>Planning Policy and Local Plan Committee</p> | <p>To exercise the Council’s functions relating to overseeing the preparation of the Local Plan* and ensuring it meets the “tests of soundness” from national and planning policy.</p> <p>The exercise of the Council’s functions, powers and duties in relation to the following:</p> <ol style="list-style-type: none"> 1. To oversee the preparation of the new Tendring District Local Plan* to ensure that it meets the “tests of soundness” set out in the National Planning Policy Framework. 2. To ensure that the Local Plan* is “positively prepared”, based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development. 3. To ensure the Local Plan* is “justified”, promoting the most appropriate strategy for growth, when considered against reasonable alternatives, based on proportionate evidence. 4. To ensure that the Local Plan* is “effective”, being deliverable over the plan period and based on effective joint working on cross- boundary strategic priorities. | |
| | <ol style="list-style-type: none"> 5. To ensure that the Local Plan* is “consistent with national policy” enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework. 6. To ensure that the Council effectively complies with the statutory duty to co-operate. | |

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| | <p>7. To consider and recommend the content of the Local Plan*, in consultation with the Cabinet, for consideration and formal approval by Full Council for either public consultation (preferred options or pre-submission versions), submissions to the Secretary of State (to be examined by a Planning Inspector), or final adoption (following receipt of the Planning Inspector's report).</p> <p>8. To formally approve recommend Supplementary Planning Documents (SPDs) and other planning documents to Cabinet for public consultation and final adoption.</p> <p>9. To approve the preparation, commissioning and subsequent publication of studies, surveys and other technical documents that form part of the "evidence base" needed to justify the content of the Local Plan*, Supplementary Planning Documents (SPDs) and other planning documents.</p> <p>10. To scrutinise, note and understand the recommendations and conclusions of the "evidence base" to ensure that it provides a robust platform upon which to base policies and proposals in the Local Plan*, SPDs and other planning documents.</p> <p>11. To approve the publication of the Annual Monitoring Report (AMR) each year and to consider whether or not it highlights development trends that may or may not require changes to policies or proposals in the Local Plan*, SPDs or other planning documents.</p> <p>12. To consider representations submitted in response to public consultation exercises on the Local Plan*, SPDs or other planning documents and consider the need for any changes.</p> | |
| | <p>to these documents in response to any issues that they raise.</p> <p>13. To consider and agree responses to consultation exercises on national, regional and sub-regional planning policy issues and on other authorities' planning documents.</p> | |

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| | <p>14. Approve the work programme required for the Committee to undertake its functions effectively and in a timely manner.</p> <p>15. Refer to Cabinet any recommendations in respect of the Council's overall strategy, policies and guidance, where functions are referred to the responsibility of the Cabinet, such as Supplementary Planning Documents.</p> <p>16. Approve for recommendation of non-statutory planning policy and guidance to be considered by the Council, the Planning Committee, Cabinet (for executive functions), officers in the discharge of its statutory planning functions, including (but not limited to) avoiding detriment to local neighbourhoods (as long as they are not contrary to the National Planning Policy Framework) .</p> <p><i>*The Local Plan can consist of one or more "Development Plan Documents" which could include one document for the majority of the Tendring District and a separate document, if necessary, prepared jointly with Colchester Borough Council, for any major development crossing the Tendring/Colchester border</i></p> | |
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A3 APPENDIX F

Part 3 Delegated Powers - Schedule 2 Responsibility for Council (Non-Executive) Functions

| 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 normally consisting of: <ul style="list-style-type: none"> • a member of Cabinet being the relevant Portfolio Holder for the service concerned a Portfolio Holder, as determined by the Leader of the Council. (unless that Portfolio Holder requires the The Leader will have the right to appoint a substitute for them the Portfolio Holder because if they will be unable to attend or if otherwise necessary); • Chairman or Vice-Chairman of the Human Resources Committee; and • a named committee member from an a political group that is not represented on the Cabinet 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. 5. The Panel will notify the Head of People, Performance and Projects of the name of the person to whom the post is to be offered and any other matter relevant to the appointment. | <p>Head of People, Performance and Projects:</p> <ul style="list-style-type: none"> • Notify all members of Cabinet of the name of the person to whom the post is to be offered and any other matter relevant to the appointment. |

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| | <p>6. The Panel will determine whether any objection received from Cabinet through the Leader is valid and the offer of appointment should be made.</p> <p>7. In the case of the Chief Executive and Monitoring Officer, the Panel will recommend to Council to approve the appointment before an offer is made.</p> | <ul style="list-style-type: none"> • Receive any objection from Cabinet through the Leader to the appointment within the 3 day period for objections. |
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A3 APPENDIX G

COUNCIL PROCEDURE RULES - SECTION 1 – COUNCIL MEETINGS

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and Business

In a year when there is an ordinary election of councillors, the annual meeting will take place on the third Tuesday after the elections. In any other year, the annual meeting will take place in April or May. No business except that identified below in this Rule and Rule 1.2 will be included on the Agenda of the Annual Council meeting and all other Council Procedure Rules shall be construed accordingly.

The annual meeting will:

- (i) Receive a report from the Returning Officer on the return of Members elected (if it is the annual meeting following the District Council Elections);
- (ii) Receive apologies for absence;
- (iii) Elect a person to preside if the Chairman and Vice-Chairman of the Council are not present;
- (iv) Receive any announcements from the retiring Chairman of the Council;
- (v) Elect the Chairman of the Council for the ensuing year;
- (vi) Elect the Vice-Chairman of the Council for the ensuing year;
- (vii) Receive any announcements from the Chairman and/or the Chief Executive;
- (viii) Receive notification of memberships of political groups and the names of the Group Leaders and their Deputies (if it is the annual meeting immediately following the District Council Elections);
- (ix) Elect the Leader of the Council (if it is the annual meeting immediately following the District Council Elections);
- ~~(x) Fix the allowances for the Chairman and Vice-Chairman and Members for the municipal year;~~
- (xi) Selection of Councillors on Committees etc in accordance with Council Procedure Rule 1.2;
- (xii) Reaffirm the Council's Constitution;
- (xiii) Approve a programme of ordinary meetings of the Council and Committees for the year;
- (xiv) Approve the work programmes for the overview and scrutiny committees in accordance with Overview and Scrutiny Procedure Rule 7; and

- (xv) Appoint up to four Members, with each Member being a Member Authority Representative to serve on/at the General Assembly of the Local Government Association. Two of the Members appointed will always be the Leader and Deputy Leader of the Council. Up to two further names can be put forward to Council by the Leader of the Council, following consultation with Group Leaders; and
- (xvi) Consider any other business set out in the notice convening the meeting.

16. RULES OF DEBATE

16.5 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and either be:
 - (i) to refer the matter to the Cabinet or relevant Committee for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words

as long as the effect of (ii), (iii) or (iv) is not to negate the motion or introduce a new subject matter into the motion before the Council.

- (b) Any amendment proposed to be made to the Cabinet's budget proposals must have been submitted to the Council's Section 151 Officer at least two working days before the Budget Full Council meeting(s) to enable them to consider the implications for the budget.
- (c) **Any Member wishing to move an amendment or alternative recommendation to those made by the Independent Remuneration Panel in respect of the Members' Scheme of Allowances must have submitted their proposals to the Council's Section 151 Officer and the Monitoring Officer at least two working days before the relevant Full Council meeting to enable them to consider the legal and financial implications. Any such amendment or alternative recommendation must be accompanied by the reasons for departing from the IRP's recommendations. Once deemed to be valid by the Monitoring Officer it will be immediately circulated by email to all Members of the Council. Copies of such amendment or alternative recommendation(s) will also be placed on Members' tables prior to the commencement of the Council meeting.**
- (c)(d) Only one amendment may be moved and discussed at any one time. Subject to Rule 16.10 no further amendment may be moved until the amendment under discussion has been disposed of. However the Chairman may permit a

Member to give formal notice of the terms of any further amendment which he proposes to move at a later stage in the proceedings.

- (d)(e) A member may withdraw their proposed amendment with the consent of the seconder.
- (e)(f) If an amendment is not carried, other amendments to the original motion may be moved.
- (f)(g) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (g)(h) After an amendment has been carried, the Chairman will read out the substantive motion before accepting any further amendments, or if there are none, put it to the vote.

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COUNCIL PROCEDURE RULES - SECTION 1 – COUNCIL MEETINGS

2. BUDGET AND COUNCIL TAX SETTING

At the relevant ordinary meeting of the Council, when the Council's Budget and Council Tax is approved and set, no business except that identified below will be included on the Agenda of the Budget and Council Tax Setting Meeting and all other Council Procedure Rules shall be construed accordingly. The Budget and Council Tax Setting Meeting shall:

- (i) Receive apologies for absence;
- (ii) Elect a person to preside if the Chairman and Vice-Chairman of the Council are not present;
- (iii) Deal with any business required by Statute to be dealt with before any other business;
- (iv) Approve the minutes of the last meeting;
- (v) Receive any announcements from the Chairman and/or the Chief Executive and any Statements from the Leader of the Council and/or members of the Cabinet;
- (vi) Approve and set the Council's Budget and Council Tax;
- (vii) Deal with any business remaining from the last Council meeting; and
- (viii) Consider any Urgent Matters for Debate

Matters which are not on the agenda and which a Member considers should be reported urgently to the Council may, with the consent of, and in a form approved by, the Chairman, be brought before the meeting by way of a short written statement which shall be read by the Chief Executive, Section 151 Officer or the Monitoring Officer, as part of his or her reports and communications. The Member concerned may, by leave of the Chairman, speak on the statement and move a motion unless advised otherwise by the Chief Executive, Section 151 Officer or Monitoring Officer.

Any amendment proposed to be made to the Cabinet's budget proposals must have been submitted to the Council's Section 151 Officer at least two working days before the Budget Full Council meeting(s) to enable them to consider the implications for the budget. **The text and form of any and all such amendments must be emailed to the Committee Services Manager by no later than 5.00 p.m. on the day of the Budget Full Council meeting in order that copies of same can be printed and placed on Members' seats prior to the commencement of the Council meeting.**

In addition, the text of the Leader of the Council's budget presentation speech must also be emailed to the Committee Services Manager by no later than 5.00 p.m. on the day of the Budget Full Council meeting in order that copies of same can be printed and placed on Members' seats prior to the commencement of the Council meeting. The Committee Services Manager will also email the speech to all Members of the Council as soon as possible after they receive it from the Leader of the Council.

A3 APPENDIX I

COUNCIL PROCEDURE RULES - SECTION 1 – COUNCIL MEETINGS

4. EXTRAORDINARY MEETINGS

4.1 Calling Extraordinary Meetings

~~Those listed below may request the Chief Executive to call an Extraordinary Council meeting in addition to ordinary meetings, where such a request is received the meeting will be held within 14 days of the request.~~

- ~~(i) The Chairman of the Council;~~
- ~~(ii) The Council by resolution;~~
- ~~(iii) The Monitoring Officer in circumstances where a Section 5 report is to be presented; and~~
- ~~(iv) Any five members of the Council if they have signed a requisition to the Chairman of the Council and he has refused to request a meeting or has failed to call a meeting to be held within seven clear working days of the requisition.~~

An extraordinary meeting of the Council may be called in the following circumstances:-

- 1. An extraordinary meeting of the Council may be called at any time by the Chairman of the Council.**
 - 2. If the Chairman refuses to call an extraordinary meeting of the Council after a requisition for that purpose, signed by five members of the Council, has been presented to him, or if, without so refusing, the Chairman does not call an extraordinary meeting within seven days after the requisition has been presented to him, then any five members of the Council, on that refusal or on the expiration of those seven days, as the case may be, may forthwith call an extraordinary meeting of the Council.**
 - 3. The Council by resolution; and**
 - 4. The Monitoring Officer in circumstances where a Section 5 report is to be presented.**
- 4.2 Holding Extraordinary Meetings in the corresponding circumstances set out above**
- 1. The Chairman of the Council, in consultation with the Chief Executive, will decide the date of the meeting.**

- 2. Where such a request is received the meeting will be held within 14 days of the receipt of the call for an extraordinary meeting from those five members of the Council.**
- 3. The Council as part of its resolution will fix the date of the extraordinary meeting or will delegate that matter to the Chairman of the Council.**
- 4. Where such a request is received the meeting will be held within 14 days of the receipt of the call for an extraordinary meeting from the Monitoring Officer.**

A3 APPENDIX J

COUNCIL PROCEDURE RULES - SECTION 1 – COUNCIL MEETINGS

11. QUESTIONS BY MEMBERS

11.6 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where a reply cannot conveniently be given orally, a written answer given later to all Members.

The Member giving the response must provide an electronic or written copy of that response to the Committee Services Manager by ~~10.00 a.m.~~ **Noon** on the day of the meeting in order to enable the response to be circulated to the Questioner, the Chairman of the Council, the Leader of the Council and relevant Officers.

11.7 **Supplementary Questions of Clarification**

After the response has been given to a Question on Notice, the Member who asked the question may ask one ~~supplementary~~ question, of which no notice is required. ~~The supplementary~~ **That** question must solely relate to clarifying the response received. No statements **or other form of question** will be allowed. The ruling of the Chairman on the admissibility of the ~~supplementary~~ question is final.

The minutes of the meeting will record that a ~~supplementary~~ question **of clarification** and **a** response was asked and given, without detailing the content.

3. ORDINARY MEETING

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Such programmes shall ensure that the first ordinary meeting is held within 15 working days of the annual meeting of the Council except in a year when there is an ordinary election of Councillors. The order of business at every ordinary meeting of the Council be as follows:

- (i) To receive apologies for absence:
- (ii) To elect a person to preside if the Chairman and Vice Chairman are not present;
- (iii) To deal with any business required by Statute to be dealt with before any other business;

- (iv) To approve the minutes of the last meeting (or in the case of the first ordinary meeting of the municipal year, to approve the minutes of the Annual meeting and the preceding meeting);
- (v) To receive any announcements from the Chairman and the Chief Executive and any statements from the Leader and Members of the Cabinet;
- (vi) To deal with any Petitions;
- (vii) In accordance with Rule 10, to receive questions from, and provide answers to the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;

~~(viii) To receive questions from Members in accordance with Rule 11.2;~~

(ix)(viii) To receive a report from the Leader on any Cabinet decisions taken as a matter of urgency in accordance with Access to Information Procedure Rule 16.2, Budget and Policy Framework Procedure Rule 6(b) and Overview and Scrutiny Procedure Rule 18(i);

(x)(ix) To deal with any business from the last Council meeting;

(xi)(x) To receive the minutes of Committees (with the exception of the Licensing and Registration and Planning Committees) and to receive questions and answers from Councillors on any of those items;

(xii)(xi) To receive reports about and receive questions and answers on the business of joint arrangements and external organisations;

(xiii)(xii) To consider motions (in the order in which notice has been received);

(xiv)(xiii) To consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework, other reports from the Cabinet, reports of the Overview and Scrutiny Committees, or other Committees for debate and reports from Officers for consideration; ~~and~~

(xiv) To receive questions from Members in accordance with Rule 11.2; and

(xv) Urgent matters for Debate

Matters which are not on the Agenda and which a Member considers should be reported urgently to the Council may, with the consent of, and in a form approved by, the Chairman, be brought before the meeting by way of a short written statement which shall be read by the Chief Executive, Section 151 Officer or Monitoring Officer, as part of his or her reports and communications. The Member concerned may, by leave of the Chairman, speak on the statement and move a motion unless advised otherwise by the Chief Executive, Section 151 Officer or Monitoring Officer.

With the exception of items (i) (ii) (iii) and (iv), the order of items may be varied at the discretion of the Chairman or by a resolution passed on a motion (which need not be

in writing) duly moved and seconded, which shall be put without discussion. At the last ordinary meeting of the Council in the municipal year, following item (v) the meeting will receive the annual State of Tending Statement from the Leader.

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A3 APPENDIX K

COUNCIL PROCEDURE RULES - SECTION 1 – COUNCIL MEETINGS

12. MOTIONS ON NOTICE

12.1 Scope

Motions must be about matters for which the Council has a responsibility or which affect the Tendring District.

12.2 Notices of Motion

Except for motions which can be moved without notice under Rule 13, written and signed notice (or notice by personal e-mail) of every motion by the Member or Members submitting it, must be delivered to the Committee Services Manager no later than midday eight working days before the day of the meeting. The Monitoring Officer and/or the Committee Services Manager will decide whether to accept the motion as a valid motion having had regard to the provisions of Rule 14.

No Member shall, under the provisions of this Rule, submit more than one motion for consideration at any ordinary meeting of the Council.

A maximum of ~~three~~ **two** motions shall be accepted for inclusion in an agenda for an Ordinary Meeting of the Council under this Procedure Rule. Motions shall not be submitted to the annual meeting of the Council ~~or to an Extraordinary meeting of the Council~~ or to the Budget and Council Tax setting meeting of the Council.

12.3 Motion Set out in Agenda

Valid motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that he proposes to move it to a later meeting or withdraw it.

At the meeting the Chairman will invite the Member who submitted the motion to formally move it. Thereupon the Chairman will then ask for a seconder for the motion. If there is no seconder then the motion will be declared by the Chairman as having failed and the Chairman will immediately move onto the next business on the agenda.

If the motion is seconded then it will be dealt with in accordance with Rule 12.4 (within the maximum 30 minute time limit **normally** allocated for each motion, **which will only commence at the point the Chairman has decided to allow the motion to be dealt with at the meeting and they then call on the first Member to speak to the motion if it is a motion being considered at an ordinary meeting of the Council**).

If a motion thus set out in the agenda is not moved either by a Member who gave notice thereof or by a Member nominated by him it shall unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

12.4 Consideration of Motions

12.4.1 At an Extraordinary Meeting of the Council any Motion listed on the Agenda will be dealt with at the meeting in accordance with the provisions, as applicable, of Rules 16, 19, 23, 24, 25, 28 and 29.

12.4.2 At an ordinary meeting of the Council ~~the~~ The mover and seconder of the motion will be permitted to ~~explain the purpose of the motion and~~, if they so wish, give reasons why they feel it would be appropriate for the motion to be dealt with at the meeting. They will each have a maximum of three minutes to do so.

The Leader of the Council or the relevant Portfolio Holder or the relevant Chairman of a Committee will then be permitted to respond and they will either agree with the motion being dealt with at the meeting or they will put forward reasons why it would be more appropriate for the motion to stand referred to the appropriate body for further consideration. They will have a maximum of three minutes to do so.

After hearing the representations referred to above together with any necessary professional advice from the Chief Executive and/or the Monitoring Officer and/or the Section 151 Officer, the Chairman will then make a ruling on whether the motion should be dealt with at the meeting or stand referred to the appropriate body.

In making their ruling the Chairman must have regard to the principles of decision making set out in Article 13.02 of the Council's Constitution and the provisions of the Executive Function Regulations. The Chairman must also provide to the meeting a short oral explanation of the reasons for their decision.

If the Chairman decides to refer the motion to the appropriate body then the provisions of Rule 12.5 will apply.

If the Chairman decides to allow the motion to be dealt with at the meeting, then in considering the motion the provisions, as applicable, **of** Rules 16, 19, 23, 24, 25, 28 and 29 will apply.

Regardless of whether the Chairman has decided to allow the motion to be dealt with at the meeting or they have decided to refer the motion to the appropriate body, the mover and seconder of the motion will, at this point in the proceedings, explain the purpose of the motion. They will each have a maximum of three minutes to do so.

~~All speakers on the motion will be allowed three minutes.~~

A maximum of 30 minutes for debate will **normally** be allowed for each motion **the Chairman has decided they will allow to be** dealt with at the meeting. **That 30 minute time period will then commence at this point when the Chairman calls on the first Member to speak to the motion. Following the expiry of that 30 minute period the Mover of the Motion, the mover of an amendment and the Leader/relevant Portfolio Holder/relevant Committee Chairman shall have a right of reply in accordance with the provisions of Council Procedure Rule 16.8.**

All speakers on the motion will be allowed three minutes.

If a valid amendment to the motion is accepted by the Chairman a separate 30 minute period will then normally be allowed to debate the amendment. Following the expiry of that 30 minute period the Mover of the Motion, the mover of an amendment and the Leader/relevant Portfolio Holder/relevant Committee Chairman shall have a right of reply in accordance with the provisions of Council Procedure Rule 16.8.

All speakers on the amendment will be allowed three minutes.

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COUNCIL PROCEDURE RULES - SECTION 1 – COUNCIL MEETINGS

17. STATE OF TENDRING STATEMENT

At the last ordinary meeting before the Annual Council meeting each year, the Leader will make a Statement on the State of the Tendring District. The Chairman may permit debate following the statement.

In addition, the text of the Leader of the Council's Statement on the State of the Tendring District must be emailed to the Committee Services Manager by no later than 5.00 p.m. on the day of the relevant Full Council meeting in order that copies of same can be printed and placed on Members' seats prior to the commencement of the Council meeting. The Committee Services Manager will also email the statement to all Members of the Council as soon as possible after they receive it from the Leader of the Council.

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A3 APPENDIX M

COUNCIL PROCEDURE RULES - SECTION 1 – COUNCIL MEETINGS

19. VOTING

19.4 Recorded Vote

If **11 9** Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

A recorded vote is mandatory on any decision relating to the budget or Council Tax. This includes not only the substantive budget motions agreeing the budget and setting Council taxes, but also on any amendments proposed at the meeting.

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A3 APPENDIX N

COUNCIL PROCEDURE RULES - SECTION 2 – COMMITTEE MEETINGS

40. SCHEMES TO PERMIT MEMBERS OF THE PUBLIC TO SPEAK AT MEETINGS OF THE **PLANNING POLICY & LOCAL PLAN AND PLANNING COMMITTEES**

The **Planning Policy &** Local Plan Committee and the Planning Committee will each have a scheme providing a limited right for speaking by members of the public in relation to applications or other matters of business. The schemes shall be in such a form as the ~~Monitoring Officer determines after consulting with the Head of Planning Services and the Chairman of the relevant Committee.~~ **Full Council determines having considered a recommendation from the relevant Committee.**

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A3 APPENDIX O

OVERVIEW AND SCRUTINY PROCEDURE RULES

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 forthcoming executive decisions in accordance with Rule 13;
 - (iv) Responses of the Cabinet to reports **and/or recommendations (the “recommendations monitoring report”)** of the Overview and Scrutiny Committee;
 - (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) its Work Programme (having due regard to the General Role and Principles as set out in Article 6 of the Constitution); and**
- ~~(vii)~~ **(viii)** The business otherwise set out on the agenda for the meeting.

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.

- (d) **Where resources permit, each Overview and Scrutiny Committee may establish, task and finish groups to undertake the matters in (c) above and to gather the evidence in the ways set out. Likewise, joint task and finish groups (which may be styled panels) may be formed, where necessary, by two Overview and Scrutiny Committee in agreement to examine subjects that are, in part, in both of the terms of reference for those Committees.**

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.~~ **Specific evidence based reports from an Overview and Scrutiny Committee that contain recommendations on proposals for development, will be submitted formally 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.

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A3 APPENDIX P

PROCUREMENT PROCEDURE RULES

6.2 Exemptions from Official Order Rules

Verbal orders, orders that are not accompanied by an official order or not exempt as set out below should only be made in special/exceptional circumstances and only after consultation with the Deputy Chief Executive or their designated officer. In the case of emergencies where an officer needs to take appropriate action to protect the Council's position or its assets then a verbal order can be made but the Deputy Chief Executive must be informed as soon as practical thereafter.

Where verbal orders are made they should be followed up by entering the necessary details on the Council's ordering system in accordance with 6.1 above as soon as possible.

The Deputy Chief Executive or a Corporate Director/Head of Department shall be exempt from the need to raise an official order in the following circumstances:-

| | |
|-----|--|
| (a) | For cash purchases using the Council's Petty Cash system, where ordering using the approved computer system is considered not to be practical. A maximum limit of £50 (excluding VAT) is applicable to each procurement made using the Council's Petty Cash system. |
| (b) | For the periodic payment of rent and National Non Domestic Rates. |
| (c) | For the periodic payment of former public utility supplies. |
| (d) | Where the nature of the goods, works or service requires an appropriate standard form of written contract. |
| (e) | For contract variations where a written contract requires a form of written contract variation, that is not in the format of the Council's standard official order. |
| (f) | For HRA assets where orders for goods, works or services are required to be raised through the Council's authorised Housing Management computer system. |
| (g) | For the engagement of Counsel by the Head of Governance and Legal Services. |
| (h) | Where the Chief Financial Officer has agreed the use of purchase cards or where one of the Council's credit cards is used. However, whenever possible, an Official Order should be raised as soon as possible for audit and recording purposes after the transaction has been made using a corporate credit card. |
| (i) | Any other circumstances as agreed, in advance of the procurement, by the Deputy Chief Executive |
| (j) | Where goods or services are procured in-house. |

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A3 APPENDIX Q

SCHEME FOR DEALING WITH PETITIONS

Tendring District Council recognises the importance of petitions as a means of engaging with local communities, enabling the public to air concerns, and as a mechanism for generating service improvements. These pages set out what a petition is, how the public can submit a petition, how it will be dealt with and what the Council can do to respond to the issues raised.

What Constitutes a Petition

Any communication which is signed by, or sent to the Council by **more** than 30 people who live, work or study within Tendring shall be treated as a petition provided that such communication has a clear message or instruction upon which it would wish the Council to act.

Any communication which is signed by, or sent to the Council by **less** than 30 of the people who live, work or study within Tendring shall not be treated as a petition but, where it relates to a matter for which the Council has responsibility for, it shall be forwarded to the appropriate officer of the Council to acknowledge and advise what action, if any, will be taken.

Signatory Eligibility

The Council is keen to receive feedback from all residents, visitors and from people working or studying in the Tendring area, through various communication channels. However, only those people who are either - (a) permanent residents of Tendring; or (b) non-residents who can be clearly identified as either working or studying in Tendring can trigger a formal petition response.

There is no legislation supporting the minimum age requirement for a person to initiate or support a petition. Accordingly, children and young people have the ability to submit a petition as it is deemed they have the same rights and opportunity for their voices to be heard as well as adults. However, it is recognised that in practice, a teacher or parent would oversee the submission of a petition from school children where such children are under 16 years of age.

Whilst the Council welcomes petitions as a means of highlighting concerns within a local area, the lead petitioner has a responsibility to ensure that any petition submitted is done so under the principle of good faith and be decent, honest and respectful.

Information to be included

~~The Council requests that a~~ Any petition **submitted must** contains the following:

- A clear and concise statement covering the subject of the petition, the area to which the petition relates and what action the petitioners want the Council to take;

-
- The contact details for the petition organiser (lead petitioner) so the Council knows who to contact (where the lead petitioner is not identified, the Council shall correspond with the person named first on the petition);
 - The name, **full** address, postcode and signature of any person supporting a **traditional** paper petition (address details will be checked). **Such a petition must be accompanied by a dated covering letter that identifies the key information outlined in this procedure about the purpose of the petition, what action is called for and contact details for the lead petitioner;**
 - The name, postcode and email address for those persons who sign up to an electronic petition or e-petition; and
 - The date the petition was submitted.

Any petition that does not comply with the above requirements will be deemed invalid.

1. How to Submit a Petition to the Council

Petitions can be submitted to the Council in the following ways:

- E-petition – **The petition must be emailed to democraticservices@tendringdc.gov.uk ~~where~~ no end date to an e-petition is specified, the Council shall set this at three months from the date of receipt of the petition.**
- ~~• A traditional paper petition accompanied by a dated covering letter that identifies the key information outlined in this procedure about the purpose of the petition, what action is called for and contact details for the lead petitioner.~~
- Paper petitions **should must** be sent to **The Committee Services Manager, Tendring District Council, ~~Room 61~~, Democratic Services & Elections, Town Hall, Station Road, Clacton-on-Sea, Essex CO15 1SE.**
- ~~• By e-mailing the relevant documentation to democraticservices@tendringdc.gov.uk~~

2. What happens when a Petition is submitted?

- **Receipt of a ~~Each~~ petition** will be formally acknowledged to the lead petitioner in writing **or by email as appropriate**, within five working days of its receipt.
- The Council will accept any petition on face value but reserves the right to verify the signatures or investigate further, if deemed necessary. The petition must not be vexatious or frivolous **or defamatory or offensive. It must not be substantially the same as a Petition previously received and dealt with by the Council within the past 12 months.**

-
- It must also relate to a matter for which the Council has responsibility for, subject to the exceptions detailed below:

Petitions Received in respect of Planning Applications, the Local Plan making process and other Regulatory Matters (such as licensing applications submitted under the Licensing Act 2003 and the Gambling Act 2005)

Petitions received in respect of planning or licensing applications shall not be treated as petitions for the purposes of this scheme but will be sent to the Council's Planning or Operational Services Departments, as appropriate, and will be considered as representations received in relation to that particular application or planning matter.

Petitions received in respect of the Local Plan making process will be referred to the Planning Policy & Local Plan Committee.

Community Governance Petitions

Community Governance petitions will be considered initially against the relevant provisions of the Local Government and Public Involvement in Health Act 2007. Those petitions that do not meet the criteria under that Act to trigger a Community Governance Review will then be considered against the criteria contained within this Scheme.

Petitions for a Referendum for an Elected Mayor and Cabinet of a Committee System of Local Government

Petitions for a referendum for an Elected Mayor and Cabinet or a return to a Committee System of Local Government will be considered initially against the relevant provisions of the Local Government Act 2000 and related legislation such as the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2011 (as amended). Those petitions that do not meet the criteria under that Act and supporting legislation to trigger a Referendum will then be considered against the criteria contained within this Scheme.

The Head of Democratic Services & Elections (or, in their absence or other unavailability, the Committee Services Manager) will decide whether a petition is valid and/or acceptable. In making their decision those Officers will consult, if necessary, the Monitoring Officer. If the decision made is to reject the petition as being invalid and/or unacceptable the Head of Democratic Services and Elections (or Committee Services Manager) will inform the Lead Petitioner accordingly, explaining the reasons why the petition cannot be accepted under this scheme and, if appropriate, informing the petitioner that the petition will be forwarded to the relevant department together with a request that they respond directly to the petitioner on the matters raised.

-
- If the issue contained within the petition is not something which the Council would ordinarily consider in public (~~e.g. a matter relating to the personal or financial affairs of an individual~~), **as it would require the disclosure of confidential or exempt information (as defined in local government law)** the lead petitioner will be informed accordingly, explaining the reasons why the petition cannot be accepted under this scheme and where appropriate, referring the petitioner to the relevant department and advising them as to how their views can be expressed via alternative means.
 - If the issue contained within the petition does not relate to any functions or responsibilities of the District Council, but does relate to a matter for which Essex County Council or other body or partner is responsible, the petition will be forwarded to that organisation and the lead petitioner advised accordingly.
 - Each petition received shall be based on a tiered system whereby:
 - (a) A valid petition containing 30 to **249 500** signatures from Tendring residents or non-residents who can be clearly identified as either working or studying in Tendring, will be reported to Council for information. It will ~~then~~ **also** be presented ~~at~~ **to** the ~~next~~ **first practicable** meeting of the Cabinet and then, if requested, a report will be brought back to Cabinet for consideration;
 - (b) A valid petition containing **250 501**, or more signatures from Tendring residents or non-residents who can be clearly identified as either working or studying in Tendring, will be reported to Council to advise that the petition has been received. Once it has been investigated, a report will be prepared and presented with the petition at the next meeting of the Council for consideration. **If it relates to a matter that is an Executive function under the law the petition will also be presented to the first practicable meeting of the Cabinet and any views, comments or recommendations made by Cabinet will be incorporated into the aforementioned report to Council.**
 - (c) The appropriate Ward Member(s) will be informed of receipt of a petition and any action to be taken.

*Note: Where the subject of a petition requires urgent action (i.e. it cannot wait until the following meeting of the Council) it is proposed that the petition be investigated and a report be presented to the **next first available** meeting of the Council **(or Cabinet if it relates to a matter that is an Executive function under the law)**.*

In the period immediately before an election or referendum the Council may need to deal with petitions differently. If this is the case, the **Council Head of Democratic Services &**

Elections, having consulted the Monitoring Officer, will explain, in writing, the reasons to the Lead Petitioner and discuss inform them of the revised timescale that will apply.

- When a petition is being considered by Cabinet or Council, following investigation and a report being brought back, the lead petitioner will be invited to address the Cabinet or Council, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will ~~be given the opportunity to present this information~~ **have a time limit of three minutes for their speech** and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead **signatory petitioner**, present the petition to Cabinet or Council on behalf of the relevant petitioners.
- Should two petitions be received on the same issue (**including if one is** in support and one opposing a course of action) then both lead petitioners will be invited to address Cabinet or Council at the same time.
- The relevant Ward Member(s), Cabinet Member(s) and officers will be informed when a valid petition covering their Wards and areas of responsibility is received and when and how the petition will be considered.
- The lead petitioner will be informed, in writing, of the Cabinet or Council's decision and this information will also be published on the Council's website **via the Minutes of the relevant meeting at which the petition was dealt with**. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and **will also** be given the opportunity to attend and address ~~the~~ **that** meeting and if appropriate, answer any questions posed at the meeting.
- Relevant Officers will be required to attend any meeting to assist in the scrutiny and investigation of issues raised in the petition. As a general principle, the relevant Officers should be at a Head of Service level or above.
- Where possible, the consideration of a petition will be held in public but, in exceptional circumstances, it may be necessary for an issue to be considered as a "exempt" item under the Local Government Act 1972, the Access to Information Act 1985 and other relevant legislation. In such circumstances, the lead petitioner, public and press will be excluded from the meeting (or part of it) but the reasons for their exclusion will be clearly communicated **to them and will also be included in the Minutes of that meeting..**
- ~~A schedule will be compiled and maintained for all petitions received and will be available for public inspection on request and the name (but not contact details) of the lead signatory will be listed on the schedule.~~

Petitions Received in Respect of Planning, the Local Plan making process and other Regulatory Matters

~~Petitions received in respect of planning or licensing applications shall not be treated as petitions for the purposes of this scheme but will be sent to the Council's Planning or Operational Services Departments and considered as representations received in relation to that particular application or planning matter.~~

~~Petitions received in respect of the Local Plan making process will be referred to the Local Plan Committee.~~

3. What happens after a Petition has been considered?

There are several courses of action available to the Cabinet or the Council (as appropriate) once a petition has been considered, including:

- No action (with reasons as to why no action is proposed)
- Taking the action requested in the petition
- Undertaking research into the matters raised (this could include referring the matter to the relevant Portfolio Holder, or officer of the Council) and holding a meeting with the petitioners.
- Referring the petition to the appropriate Overview and Scrutiny Committee **or other Committee or Cabinet**
- Holding a public meeting
- Holding an inquiry
- Providing a written response to the lead petitioner setting out the Council's views on the request in the petition
- Considering the petition at a future Cabinet or Council meeting
- Calling for a referendum (subject to costs)

A3 APPENDIX R

COUNCIL PROCEDURE RULES - SECTION 1 – COUNCIL MEETINGS

30. PETITIONS

Petitions will be dealt with in accordance with the scheme approved by Council, contained within Part 5 of the Constitution.

The rules of debate will be in accordance with the Council Procedure Rules.

The length of speeches by presenters of petitions shall not exceed ~~five~~ **three** minutes.

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| | | | |
|-------------------------------|-----------|-----------------------------|------------|
| Key Decision Required: | NO | In the Forward Plan: | YES |
|-------------------------------|-----------|-----------------------------|------------|

A.3 APPENDIX S

CABINET

20 MARCH 2020

REPORT OF THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER

A.5 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 for Corporate Finance and Governance through a Working Party constituted for this purpose.

The main proposals cover a number of miscellaneous amendments to the Council and Overview and Scrutiny Procedure Rules, changes required to comply with legislation, revised statutory guidance 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

Cabinet, at its meeting held on 8 March 2019 (Minute 131 refers), in considering whether to recommend to Council certain revisions to Part 4 of the Council's Constitution (i.e. the Council Procedure Rules Sections 1 and 2) decided, inter alia, that:-

“(b) a mandatory review of the revised arrangements be undertaken, commencing six months from 1st May 2019.”

Following a delay caused, in large part, by the calling of the Parliamentary General Election in late Autumn 2019, the Review of the Constitution Portfolio Holder Working Party (CRWP) was re-established in January 2020 to conduct the review outlined above and to also consider other various matters that had arisen during the course of the summer and autumn of 2019.

The CRWP's membership included the Portfolio Holder and Councillors Allen, Barry, Broderick, Coley, I J Henderson, Newton, M E Stephenson, Talbot and Wiggins. The subject areas reviewed were requested by the Overview and Scrutiny Committees following their consideration of the new statutory guidance, the Standards Committee, the Leader of the Council, other Councillors or Officers; with proposed changes being discussed and advised upon with suggested alterations being reconsidered prior to full agreement by the CRWP.

A summary of the proposed changes compared to the existing Parts of the Constitution is 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 both Members and Officers and also to ensure it is in accordance with legislation, where necessary.

Following the conclusion of the Chief Executive's senior management restructure, which is due to take effect from April 2020, a number of revisions will be required to the Constitution and Scheme of Delegation to ensure that officer titles and responsibilities are correctly reflected. The Monitoring Officer will make these minor changes to the Constitution in accordance with the authority provided to her within Article 15.

RECOMMENDATION

1. 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 (with the exception of Appendix S which relates to executive functions);**
- (b) that all changes come into effect on 1st April 2020;**
- (c) that Group Leaders be commended to strongly urge that all Members attend planning and licensing training events which would both increase the number of named substitutes that Group Leaders would have at their disposal as well as providing Members with greater knowledge of the workings of the Council that will prove useful to them in their Ward and wider representational roles; and**
- (d) that the Monitoring Officer be requested to undertake a review of the public speaking scheme for the Planning Committee in accordance with Council Procedure Rule 40, as amended.**

2. That Cabinet resolves:

- (a) that the proposed changes to the Scheme of Delegation (Schedule 3 – Responsibility for Executive Functions), as set out in Appendix S, be approved;**
- (b) that the Head of Democratic Services & Elections and the Head of Legal and Governance Services & Monitoring Officer, in consultation with the Deputy Leader of the Council, the Chairmen of the overview and scrutiny committees, the Chairman of the Audit Committee and one other Portfolio Holder (to be decided by the Deputy Leader), be authorised to draft a formal Executive-Scrutiny Protocol for this Council and to submit this to the Overview and Scrutiny Committees and Cabinet for adoption;**
- (c) that the Head of Legal and Governance Services & Monitoring Officer, in conjunction with the Head of People, Performance and Projects, be requested to review the Council's Whistleblowing Policy in order to make sure that it is robust and report any necessary amendments to the Human Resources and Council Tax Committee; and**
- (e) that the Head of Democratic Services & Elections be requested to incorporate within the Member Development Scheme regular training on overview and**

scrutiny matters (including, for example, on the clear division of responsibilities between the Council's scrutiny function and its audit function).

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 15 also provides authority to the Monitoring Officer to make minor changes to the Constitution arising from changes to the organisational structure of the Council.

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.

None

PART 3 – SUPPORTING INFORMATION

CURRENT POSITION

The CRWP 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 now submitted):

(a) The Full Council (Article 4)(Part 2):

4.01 Meanings (a) Policy Framework (Part 2.7)

To reflect the fact that the Statement of Licensing Policy (Gambling Act 2005) must, under Schedule 3 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, be considered by the Cabinet before it is submitted to Full Council.

*Proposed changes to Article 4 The Full Council are shown attached as **Appendix A**.*

(b) Overview and Scrutiny Function (Article 6)(Part 2):

6.02 Terms of Reference (ii) Resources and Services Overview & Scrutiny Committee (Part 2.13)

To ensure that, going forward, the Vice-Chairman of this Committee will normally be a member of a political group that is not represented on the Cabinet reflecting the practice adopted at Annual Council in May 2019.

*Proposed changes to Article 6 Overview and Scrutiny Function are shown attached as **Appendix B**.*

(c) The Cabinet (also referred to as The Executive)(Article 7)(Part 2):

7.08 Cabinet Procedure Rules – 1.5(ii) Who May Attend? (Part 2.17)

To reflect the fact that the Leader (or Deputy Leader) of any political group can attend Cabinet meetings, removing reference to ‘Opposition’.

*Proposed changes to Article 7 – The Cabinet (also referred to as The Executive) are shown attached as **Appendix C**.*

(d) Officers (Article 12)(Part 2):

12.01 Management Structure – New section d) Scrutiny Officer (Part 2.35)

To make clear that although the Council is not required to designate a Statutory Scrutiny Officer, it has designated the post of Head of Democratic Services & Elections to fulfil the role of the Council’s Scrutiny Officer.

*Proposed changes to Article 12 – Officers are shown attached as **Appendix D**.*

(e) Scheme of Delegation (Non-Executive Functions) – Committees etc. (Part 3):

Planning Policy & Local Plan Committee (Part 3.12 – 3.14)

To draw the distinction with the functions of the Executive, which still has responsibility for strategic planning outside of the Local Plan process and other matters in accordance with the Functions and Responsibilities Regulations.

*Proposed changes to the Planning Policy & Local Plan Committee’s terms of reference are shown attached as **Appendix E**.*

(f) Scheme of Delegation (Non-Executive Functions) – Committees etc. (Part 3):

Human Resources Sub-Committee (Part 3.19):

To permit the Leader of the Council to determine which Portfolio Holder serves on the Sub-Committee (rather than automatically being the relevant portfolio holder for the service concerned) and to also permit the Leader to appoint a substitute for that Portfolio Holder if they were unable to attend or as otherwise necessary.

*Proposed changes to the Human Resources Sub-Committee's terms of reference are shown attached as **Appendix F**.*

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

4.1 The Cabinet Collectively (Part 3.29 – 3.30)

New paragraph 10 to make clear the approval of planning policy matters that are the responsibility of the Executive such as Local Development Orders and Neighbourhood Plans (including statutory public consultations thereon).

4.3 Additional Specific Delegations to Individual Portfolio Holders (Part 3.35 – 3.37)

Corporate Finance & Governance Portfolio Holder – new paragraph 10 to allow the Portfolio Holder to agree the Annual Capital & Treasury Strategy for consultation with the Resources and Services Overview & Scrutiny Committee.

Leader of the Council – new paragraph 3 to allow the Leader to consider and agree responses to consultation exercises on national, regional and sub-regional planning policy issues and on other authorities' planning documents.

4.4.1 General Responsibilities Delegated to Officers (Part 3.39)

New paragraph 8 to authorise all Heads of Service, in consultation with the relevant Portfolio Holder, Management Team Member and the Head of Finance, Revenues and Benefits, to decide the level of the annual discretionary fees and charges for their service (including any in-year changes that may be required) for inclusion within the Council's corporate schedule of fees and charges.

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

(h) Council Procedure Rules – Section 1 (Full Council)(Part 4.1 to 4.23):

Rule 1 – Annual Meeting of the Council

To delete from Rule 1.1 the requirement that the allowances for Members must be considered at the Annual Meeting of the Council as this is not required by statute and therefore the Independent Remuneration Panel's report on the Members' allowances can be submitted to an Ordinary meeting of Council within the municipal year. Where possible, Council should approve the Members' Allowance Scheme for the forthcoming year, prior to setting the annual Budget.

Rule 2 – Budget and Council Tax Setting:

To incorporate a requirement that any proposed amendments to the Cabinet's budget proposals are tabled at the start of the Council meeting and also to incorporate a further requirement that copies of the Leader of the Council's budget presentation speech are also tabled at the start of the Council meeting (and is also circulated by email to all Members of the Council as soon as it is available).

Rule 4 – Extraordinary Meetings

Proposed changes in order to comply with paragraph 3 of Schedule 12 of the Local Government Act 1972 and to generally make the wording of this Rule clearer.

Rule 11– Questions by Members & Rule 3 – Ordinary Meeting:

Proposed changes to Rule 11.6 to amend the deadline for the Portfolio Holder's response to be given to the Questioner in advance of the meeting from 10.00 a.m. to Noon and to Rule 11.7 to refer now to questions of Clarification rather than Supplementary Questions.

Consequential amendment to Rule 3 to move Questions from Members to later in the Agenda.

Rule 12 – Motions on Notice:

A maximum of 2 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 and any and all amendments to also have a maximum of 30 minutes debate. Such time period will not now include the Opening or Closing Speeches referred to in Rule 12.4.

Any motion listed on the Agenda for an Extraordinary meeting of the Council will automatically be dealt with at the meeting in accordance with Rules 16, 19, 23, 24, 25, 28 and 29, as applicable.

Rule 16 – Rules of Debate

To incorporate within Rule 16.5 a requirement that any amendment proposed to be made to the recommendations made by the Independent Remuneration Panel (IRP) in respect of the Members' Scheme of Allowances must have been submitted to the Council's Section 151 Officer and the Monitoring Officer at least two working days before the relevant Full Council meeting to enable them to consider the legal and financial implications together with the documented reasons for departing from the IRP's recommendations. Any such amendment then deemed to be valid by the Monitoring Officer will be immediately circulated by email to all Members of the Council. Copies of such amendment(s) will also be placed on Members' tables prior to the commencement of the Council meeting.

Rule 17 – State of Tendring Statement:

To incorporate a requirement that copies of the Leader of the Council's Statement on the State of the Tendring District are tabled at the start of the relevant Council meeting (and is also circulated by email to all Members of the Council as soon as it is available).

Rule 19 – Voting

To amend Rule 19.4 (Recorded Vote) to reflect proportionately the recent reduction in the overall number of Tendring District Councillors from 60 to 48.

*The proposed changes to the Council Procedure Rules (Section 1) are shown attached as **Appendices G to M.***

(i) Council Procedure Rules – Section 2 (Committees)(Part 4.24 to 4.29):

Rule 40 – Schemes to Permit Members of the Public to Speak at Meeting of the Planning Policy & Local Plan Committee and the Planning Committee:

To amend this Rule in order that, going forward, the content of these Schemes will be determined by the Full Council rather than by the Monitoring Officer (in consultation

with the Head of Planning and the relevant Committee Chairman).

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

(j) Overview and Scrutiny Procedure Rules (Part 5):

Rules 10, 11 and 12 (Part 5.21 to 5.24):

Minor amendments proposed in order to more accurately reflect the current working practices of the Council's two overview and scrutiny committees.

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

(k) Procurement Procedure Rules (Part 5):

The Chief Financial Officer/Section 151 Officer has suggested the following amendment for the reason set out:

Procurement Procedure Rule 6.2: Exemption from Official Order Rules (Part 5.79):

Amend paragraph (h) to ensure that, whenever possible, an official order is raised for audit and recording purposes once a corporate credit card has been used.

Proposed changes to the Procurement Procedure Rules are shown attached as **Appendix P**.

(l) Scheme for Dealing with Petitions (Part 5 – Part 5.85 – 89) & Council Procedure Rule 30 (Petitions) (Part 4.22 – 4.23):

The Scheme has been substantially amended and revised in the light of recent operational experience. CPR 30 has been amended to reflect the revised Petitions Scheme, which includes changes to the numbers in the tiered referral mechanism, early referral to the Cabinet (if the petition relates to an executive function under the law) and a provision that any rejected will, if appropriate, be referred to the relevant department for a direct response to the lead petitioner on the issues raised.

Proposed changes to the Petitions Scheme are shown attached as **Appendix Q**.

Proposed changes to Council Procedure Rule 30 are shown attached as **Appendix R**.

OTHER MATTERS CONSIDERED:

A. Statutory Guidance on Overview and Scrutiny

The CRWP considered the following listed areas for review arising from the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities issued by the Ministry of Housing, Communities and Local Government during 2019:

1. ensuring a clear division of responsibilities between the scrutiny function and the audit function;
2. reporting findings of independent whistle blowing investigations to O & S for them to consider their wider implications;
3. consider whether TDC should voluntarily appoint/designate a statutory scrutiny officer (or equivalent);
4. consider electing the Chairmen of O & S Committees by taking the vote by secret

ballot;

5. *consider establishing a formal co-option scheme for O & S Committees. Also consider issue of Technical Advisers (independent local experts); and*
6. *consider creating an Executive-Scrutiny Protocol to be formally integrated into the Constitution.*

It was agreed by the CRWP that the Portfolio Holder's final report to Cabinet -

- (a) seeks a delegated authority for the Head of Democratic Services & Elections and the Head of Legal and Governance Services & Monitoring Officer, in consultation with the Deputy Leader of the Council, the Chairmen of the overview and scrutiny committees, the Chairman of the Audit Committee and one other Portfolio Holder (to be decided by the Deputy Leader), to draft a formal Executive-Scrutiny Protocol and to submit that to the Overview and Scrutiny Committees and Cabinet for adoption;
- (b) requests the Head of Legal and Governance Services & Monitoring Officer, in conjunction with the Head of People, Performance and Projects, to review the Council's Whistleblowing Policy in order to make sure that it is robust;
- (c) seeks an amendment to Article 12 (Officers) of the Constitution in order to reflect the fact that the Head of Democratic Services & Elections is the Council's scrutiny officer **[see Appendix D]**; and
- (d) requests the Head of Democratic Services & Elections to incorporate within the Member Development Scheme regular training on overview and scrutiny matters (including for example on the division of responsibilities between the Council's scrutiny function and its audit function).

B. Substitute Members for Planning Committee and Miscellaneous Licensing Sub-Committee

The CRWP discussed the current lack of trained Members who could act as substitute Members of the Planning Committee and the Miscellaneous Licensing Sub-Committee and the potential adverse impact that this could have on the consistency of decision making and the Council's reputation. The CRWP had been requested by the Standards Committee to consider a 'pool' of substitutes across political groups. After due consideration, the CRWP decided not to recommend use of 'pooled substitutes'.

It was agreed by the CRWP however, that the Portfolio Holder's final report to Cabinet recommends to Council that Group Leaders strongly urge that all Members attend planning and licensing training events which would both increase the number of named substitutes that Group Leaders would have at their disposal as well as providing Members with greater knowledge of the workings of the Council that will prove useful to them in their Ward and wider representational roles.

C. Independent Remuneration Panel (IRP) Consultation Process

The CRWP discussed the role of Members in shaping the IRP's recommendations to Council on the Members' Scheme of Allowances.

It was agreed by the CRWP that the Portfolio Holder for Corporate Finance and Governance propose to the IRP, during its current consultation on the Members' Allowances Scheme that Section 1.2 of the Members' Allowances Scheme is amended in order to reflect in greater detail the current custom and practice (which has previously

been followed in respect of the consultation arrangements) in order to document these within the review process.

D. Public Speaking Scheme for the Planning Committee

The CRWP discussed the order of speakers within the public speaking scheme for the Planning Committee and whether it should be changed, for example, in order to allow the relevant Ward Member(s) to speak last.

It was agreed by the CRWP that the Portfolio Holder's final report to Cabinet recommends to Council that the Monitoring Officer be requested to undertake a review of the public speaking scheme for the Planning Committee in accordance with Council Procedure Rule 40, as amended.

E. Matters the Working Party agreed were not to be taken forward

The following matters are those that, after consideration, the Working Party agreed that they were not to be taken forward:-

1. Chairman and/or Vice-Chairman of the Community Leadership Overview & Scrutiny Committee should be a Member from a political group that is not represented on the Cabinet.
2. Introduction of restrictions on political parties/organisations asking questions at Council meetings under Council Procedure Rule 10 (Questions by the Public).
3. Rescind the current requirement that the Minutes of the meetings of certain Committees are included for receiving and noting on the agendas for Ordinary Meetings of the Council.
4. Introduction of a provision whereby a political Group (or Deputy Group) Leader (in the event that a trained substitute member from their own group was not available) might appoint a trained substitute member from another political group on the Council to substitute for their Group's appointed member at meetings of the Planning Committee and the Miscellaneous Licensing Sub-Committee.
5. Changing the start time of Full Council meetings from 7.30 p.m. to 7.00 p.m.

BACKGROUND PAPERS

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

APPENDICES

A.Z

| | | |
|-------------------|---------------|--|
| APPENDIX A | Part 2 | Article 4 – The Full Council |
| APPENDIX B | Part 2 | Article 6 – Overview and Scrutiny Function |
| APPENDIX C | Part 2 | Article 7 – The Cabinet (Executive) |
| APPENDIX D | Part 2 | Article 12 - Officers |
| APPENDIX E | Part 3 | Scheme of Delegation – Planning Policy & Local Plan Committee |
| APPENDIX F | Part 3 | Scheme of Delegation – HR Sub-Committee |
| APPENDIX G | Part 4 | <u>Council Procedure Rules – Section One</u> Rule 1 – Annual Meeting of the Council & Rule 16 – Rules of Debate |
| APPENDIX H | | Rule 2 – Budget & Council Tax Setting |

| | | |
|--|------------------|--|
| APPENDIX I APPENDIX J APPENDIX K APPENDIX L APPENDIX M | | Rule 4 – Extraordinary Meetings Rule 11 – Questions by Members & Rule 3 – Ordinary Meeting Rule 12 – Motions on Notice Rule 17 – State of Tending Statement Rule 19 - Voting |
| APPENDIX N | Part 4 | <u>Council Procedure Rules – Section Two</u> Rule 40 – Public Speaking Scheme |
| APPENDIX O | Part 5 | Overview & Scrutiny Procedure Rules |
| APPENDIX P | Part 5 | Procurement Procedure Rules |
| APPENDIX Q APPENDIX R | Part 5 Part 4 | Petitions Scheme; and Council Procedure Rule 30 - Petitions |
| APPENDIX S | Part 3 | Scheme of Delegation (Executive Functions) |

COUNCIL

21 JULY 2020

REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) & MONITORING OFFICER

A.4 PROGRAMME OF MEETINGS FOR THE PERIOD AUGUST 2020 TO APRIL 2021 (Report prepared by Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable Council to give consideration to a proposed programme of meetings for the period August 2020 to April 2021.

EXECUTIVE SUMMARY

Members will be aware that the Cabinet, is required by the Constitution, to submit for formal approval to the Annual Meeting of the Council a programme of meetings for the forthcoming Municipal Year. However, due to the outbreak of Covid-19 and the ensuing global public health emergency, meetings of the Council (including the Annual Meeting), its Committees and the Cabinet were unable to take place during March, April and early May 2020. Legislation was passed that permitted Councils not to hold an Annual Meeting in 2020 and this Council has decided that it will forgo an Annual Meeting this year.

In addition, Parliament enacted The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (the “Regulations”) which enable local authorities to hold meetings by ‘virtual means’ such as video conferencing and to ‘live stream’ those meetings to enable the public to watch, and/or listen to, the proceedings.

With the approval of the relevant Chairmen, two Cabinet meetings, three Planning Committee meetings, one Planning Policy & Local Plan Committee meeting and two Resources and Services Overview and Scrutiny Committee meetings have been arranged and successfully held under the new Regulations.

It was therefore considered timely that a full programme of meetings for the remainder of what would have been the 2020/21 municipal year be submitted for Cabinet’s endorsement at its meeting held on 26 June 2020 in order that it could then be submitted for approval to this meeting of the Full Council.

RECOMMENDATION(S)

- (a) That the programme of meetings for the Council and Committees, as set out in the Appendix to this report, be approved; and**
- (b) That the proposed dates for All Member Briefings be noted.**

PART 2 – SUPPORTING INFORMATION

BACKGROUND

Further to minute 22 of the meeting of the Cabinet held on 26 June 2020 a draft programme of meetings for the period August 2020 to April 2021 is set out as an Appendix to this report. (The dates of meetings from September 2020 onwards are the same dates as were included within the published agenda for the March 2020 Cabinet meeting though Members will be aware, of course, that that meeting had to be cancelled due to the country going into 'lockdown' for the Covid-19 emergency.)

At that meeting Cabinet decided that :-

“(a) the programme of meetings for the Council and Committees, as set out in the Appendix to item A.2 of the Report of the Corporate Finance and Governance Portfolio Holder, be approved, in principle, and be submitted to the Full Council for formal approval; and

(b) the proposed dates for All Member Briefings be noted.”

The meetings of the Full Council, the Community Leadership Overview and Scrutiny Committee, the Human Resources and Council Tax Committee, the Licensing and Registration Committee and the Resources and Services Overview and Scrutiny Committee will normally commence at 7.30 p.m.

Meetings of the Planning Committee and the Planning Policy and Local Plan Committee will normally commence at 6.00 p.m. Meetings of the Planning Policy and Local Plan Committee will be arranged as and when required.

Meetings of the Standards Committee will normally commence at 10.00 a.m.

Meetings of the Audit Committee will normally commence at 10.30 a.m.

It is expected that all meetings will continue to be held by virtual means in accordance with the Regulations for the foreseeable future.

If it does prove possible to hold 'physical' meetings either in whole or in part then meetings of the Full Council will usually be held in the Princes Theatre, at the Town Hall, Clacton-on-Sea. Meetings of the above-mentioned Committees will usually be held in the Council Chamber at the Council Offices, Thorpe Road, Weeley (though please refer to the section on the Council Offices, Weeley included below) with the exception of the Audit Committee which normally meets in the Connaught Room, at the Town Hall, Clacton-on-Sea.

Members will be aware that Cabinet meetings are fixed by the Leader of the Council in accordance with Article 7.08 Cabinet Procedure Rules sub-section 1.1 of the Council's Constitution and therefore the scheduling et cetera may change. If able to be held in a physical location then the public meetings of the Cabinet listed will normally commence at 10.30 a.m. in the Essex Hall, at the Town Hall, Station Road, Clacton-on-Sea.

The programme does not show meetings of the Sub-Committees, which are arranged either at meetings of the relevant Sub-Committee or from time to time when required.

Dates for All Member Briefings have been included in order to assist Members in keeping

their diaries up-to-date.

Closure of the Council Offices at Thorpe Road, Weeley

Cabinet will be aware that, as part of the “Transforming Tendring” project, the Council Offices at Weeley will be closed and the site disposed of, with the departments currently based at Weeley being moved to Clacton-on-Sea. This will obviously mean that the current Council Chamber at Weeley would then no longer be available for Committee etc. meetings.

BACKGROUND PAPERS FOR THE DECISION

None.

APPENDICES

Programme of Meetings for the period August 2020 to April 2021.

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TIMETABLE OF MEETINGS – 2020/2021 MUNICIPAL YEAR

2020

| Body | Time | Day | Date | Notes |
|---------------------------------|-----------|---------|---------|--------|
| COUNCIL (Already agreed) | 7.30 p.m. | Tuesday | 21 July | Note 1 |

| | | | | |
|--|------------|-----------|--------------|--------|
| Cabinet | 10.30 a.m. | Friday | 24 July | |
| Planning Committee | 6.00 p.m. | Tuesday | 11 August | Note 1 |
| Resources and Services Overview & Scrutiny Committee | 7.30 p.m. | Thursday | 13 August | Note 1 |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 19 August | |
| Planning Committee | 6.00 p.m. | Wednesday | 2 September | Note 7 |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 9 September | |
| Cabinet | 10.30 a.m. | Friday | 11 September | |
| COUNCIL | 7.30 p.m. | Tuesday | 15 September | |

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| Resources and Services Overview & Scrutiny Committee | 7.30 p.m. | Monday | 21 September | |
| Planning Committee | 6.00 p.m. | Tuesday | 22 September | |
| Community Leadership Overview & Scrutiny Committee | 7.30 p.m. | Monday | 28 September | |
| Audit Committee | 10.30 a.m. | Thursday | 1 October | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 7 October | |
| Cabinet | 10.30 a.m. | Friday | 9 October | |
| Standards Committee | 10.00 a.m. | Wednesday | 14 October | |
| Planning Committee | 6.00 p.m. | Tuesday | 20 October | |
| Human Resources & Council Tax Committee | 7.30 p.m. | Wednesday | 21 October | |
| Licensing & Registration Committee | 7.30 p.m. | Wednesday | 28 October | |
| Cabinet | 10.30 a.m. | Friday | 13 November | |
| Resources and Services Overview & Scrutiny Committee | 7.30 p.m. | Monday | 16 November | |
| Planning Committee | 6.00 p.m. | Tuesday | 17 November | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 18 November | |
| COUNCIL | 7.30 p.m. | Tuesday | 24 November | |

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| Community Leadership Overview & Scrutiny Committee | 7.30 p.m. | Monday | 30 November | |
| Planning Committee | 6.00 p.m. | Tuesday | 15 December | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 16 December | |
| Cabinet | 10.30 a.m. | Friday | 18 December | |

2021

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| Resources and Services Overview & Scrutiny Committee | 9.30 a.m. | Tuesday | 5 January | Note 2 |
| Resources and Services Overview & Scrutiny Committee (PROVISIONAL) | 9.30 a.m. | Monday | 11 January | Note 2 |
| Community Leadership Overview & Scrutiny Committee | 7.30 p.m. | Monday | 18 January | |
| Planning Committee | 6.00 p.m. | Tuesday | 19 January | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 20 January | |
| COUNCIL | 7.30 p.m. | Tuesday | 26 January | |

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| Licensing & Registration Committee | 7.30 p.m. | Wednesday | 27 January | |
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| Audit Committee | 10.30 a.m. | Thursday | 28 January | |
| Cabinet | 10.30 a.m. | Friday | 29 January | |
| Resources and Services Overview & Scrutiny Committee | 7.30 p.m. | Monday | 1 February | |
| Standards Committee | 10.00 a.m. | Wednesday | 3 February | |
| COUNCIL | 7.30 p.m. | Tuesday | 16 February | Note 3 |

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| Planning Committee | 6.00 p.m. | Wednesday | 17 February | Note 4 |
| Cabinet | 10.30 a.m. | Friday | 19 February | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 24 February | |
| Human Resources & Council Tax Committee | 7.30 p.m. | Thursday | 25 February | Note 5 |
| COUNCIL (PROVISIONAL) | 7.30 p.m. | Monday | 1 March | Note 6 |
| COUNCIL | 7.30 p.m. | Tuesday | 16 March | |

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| Planning Committee | 6.00 p.m. | Wednesday | 17 March | Note 4 |
| Cabinet | 10.30 a.m. | Friday | 19 March | |
| Community Leadership Overview & Scrutiny Committee | 7.30 p.m. | Monday | 22 March | |
| Audit Committee | 10.30 a.m. | Thursday | 25 March | |
| Resources and Services Overview & Scrutiny Committee | 7.30 p.m. | Monday | 29 March | |
| Planning Committee | 6.00 p.m. | Tuesday | 13 April | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 14 April | |
| Standards Committee | 10.00 a.m. | Wednesday | 21 April | |
| Human Resources & Council Tax Committee | 7.30 p.m. | Wednesday | 21 April | |
| Licensing & Registration Committee | 7.30 p.m. | Thursday | 22 April | |
| Cabinet | 10.30 a.m. | Friday | 23 April | |
| ANNUAL MEETING OF THE COUNCIL | 7.30 p.m. | Tuesday | 27 April | |

2021/2022 MUNICIPAL YEAR

(Provisional dates for early cycles of meetings in 2021/2022 – for information only, subject to change)

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| Community Leadership Overview & Scrutiny Committee | 7.30 p.m. | Monday | 10 May | |
| Planning Committee | 6.00 p.m. | Tuesday | 11 May | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Thursday | 13 May | |
| COUNCIL | 7.30 p.m. | Tuesday | 18 May | |

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| Cabinet | 10.30 a.m. | Friday | 21 May | |
| Resources and Services Overview & Scrutiny Committee | 7.30 p.m. | Monday | 24 May | |
| Planning Committee | 6.00 p.m. | Tuesday | 8 June | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 16 June | |
| Cabinet | 10.30 a.m. | Friday | 18 June | |
| Resources and Services Overview & Scrutiny Committee | 7.30 p.m. | Monday | 5 July | |
| Planning Committee | 6.00 p.m. | Tuesday | 6 July | |
| Human Resources & Council Tax Committee | 7.30 p.m. | Wednesday | 7 July | |
| COUNCIL | 7.30 p.m. | Tuesday | 13 July | |

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| Licensing & Registration Committee | 7.30 p.m. | Wednesday | 14 July | |
| Cabinet | 10.30 a.m. | Friday | 16 July | |
| Community Leadership Overview & Scrutiny Committee | 7.30 p.m. | Monday | 19 July | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 21 July | |
| Standards Committee | 10.00 a.m. | Wednesday | 28 July | |

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|---------------------|------------|-----------|--------------|--------|
| Audit Committee | 10.30 a.m. | Thursday | 29 July | |
| Planning Committee | 6.00 p.m. | Tuesday | 3 August | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 18 August | |
| Planning Committee | 6.00 p.m. | Wednesday | 1 September | Note 7 |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 8 September | |
| Cabinet | 10.30 a.m. | Friday | 10 September | |
| COUNCIL | 7.30 p.m. | Tuesday | 14 September | |

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| Resources and Services Overview & Scrutiny Committee | 7.30 p.m. | Monday | 20 September | |
| Community Leadership Overview & Scrutiny Committee | 7.30 p.m. | Monday | 27 September | |
| Planning Committee | 6.00 p.m. | Tuesday | 28 September | |
| Cabinet | 10.30 a.m. | Friday | 8 October | |
| Human Resources & Council Tax Committee | 7.30 p.m. | Wednesday | 20 October | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Thursday | 21 October | |
| Planning Committee | 6.00 p.m. | Tuesday | 26 October | |
| Standards Committee | 10.00 a.m. | Wednesday | 27 October | |
| Audit Committee | 10.30 a.m. | Thursday | 28 October | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 17 November | |
| ALL MEMBER BRIEFING | 6.00 p.m. | Wednesday | 15 December | |

Notes

1. These meeting dates have already been agreed by the relevant Chairmen.
2. Meeting arranged on Tuesday 5 January 2021 to allow the Resources and Services Committee to consider and then formally comment on the Cabinet's Financial Forecast and initial budget and special expenses proposals. Monday 11 January 2021 meeting provisionally arranged to allow the Committee to discuss those proposals with Portfolio Holders (if so desired). Portfolio Holders are requested to reserve this date (11 January) in their diaries in the likelihood that the meeting will take place. Portfolio Holders will be notified if this meeting does not go ahead.
3. Meeting of the Council to approve the Cabinet's budget proposals and set the Council Tax but excluding County, Fire and Police Council Tax calculations.
4. Meeting scheduled to be held on the Wednesday due to the Full Council meeting on the Tuesday.
5. Meeting to formally confirm the implications of the County, Fire and Police precepts on the Council's Collection Fund and for each Council Tax band in the parished and unparished areas of the District.
6. Provisional extra meeting of the Council arranged in order to allow the Council to meet and consider the Cabinet's revised budget proposals or the Cabinet's disagreement with the Council's budget objections (which may arise following the Council meeting referred to in note 3 above.)
7. Meeting scheduled to be held on the Wednesday as the Monday of that week is a Bank Holiday.

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COUNCIL

21 JULY 2020

REPORT OF THE ASSISTANT DIRECTOR (FINANCE & IT) & SECTION 151 OFFICER

A.5 ANNUAL CAPITAL AND TREASURY STRATEGY FOR 2020/21 (INCLUDING PRUDENTIAL AND TREASURY INDICATORS)

(Report prepared by Richard Barrett, Wendy Borgartz and Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable the Council to review and approve the Annual Capital and Treasury Strategy for 2020/21 (including the Prudential and Treasury indicators).

EXECUTIVE SUMMARY

On 7 February 2020, the Corporate Finance and Governance Portfolio Holder agreed the Annual Capital and Treasury Strategy for 2020/21 (including the Prudential and Treasury Indicators) for consultation with the Resources and Services Overview and Scrutiny Committee.

The Resources and Services Overview and Scrutiny Committee considered the Strategy at its meeting on 17 February 2020 and had no comments to make to Cabinet.

Members will be aware that the Strategy was included within the published agenda for the meeting of the Cabinet due to have been held on 20 March 2020. However, due to the outbreak of Covid-19 and the ensuing global public health emergency, that meeting of the Cabinet was unable to take place.

Subsequently on 24 April 2020 and in accordance with the procedures contained in the Note on Decision Making Business Continuity Arrangements issued by the Monitoring Officer (Lisa Hastings) on Friday 20 March 2020 the Leader of the Council exercised his delegated power as set out in the Council's Constitution in Part 3, Schedule 3 (Responsibility for Executive Functions) - Section 3 (General Principles Regarding Decision Making by the Cabinet) – Principle 4b [Part 3.28] and made the following decision on behalf of the Cabinet:

- (a) *That the outcome from the meeting of the Resources and Services Overview & Scrutiny Committee held on 17 February 2020 be noted; and*
- (b) *That the Annual Capital and Treasury Strategy for 2020/21 (including Prudential and Treasury Indicators) be submitted to Council for approval in accordance with the procedures contained the Note on Decision Making Business Continuity Arrangements issued by the Monitoring Officer (Lisa Hastings) on Friday 20 March 2020.*

A copy of the published Corporate Finance and Governance Portfolio Holder's report, together with the Annual Capital and Treasury Strategy 2020/21 are attached as appendices to this report.

RECOMMENDATIONS

That Council approves the Annual Capital and Treasury Strategy for 2020/21 (including Prudential And Treasury Indicators).

BACKGROUND

The Local Government Act 2003 and supporting regulations require the Council to set out its treasury strategy for borrowing, and to prepare an annual Investment strategy (as required by Investment Guidance subsequent to the Act) that sets out the Council's policies for managing its investments and for giving priority to the security and liquidity of those investments, "having regard" to the Chartered Institute of Public Finance and Accountancy's (CIPFA) Prudential Code and the CIPFA Treasury Management Code of Practice. Revised editions of both documents were issued in December 2017.

From 2019/20 the Capital Strategy has been combined with the Treasury Strategy into one document, which is required to be updated/approved annually.

The proposed Annual Capital and Treasury Strategy for 2020/21 is set out in an Appendix to this report.

The Capital Strategy element of the combined document covers the various elements surrounding capital investment decisions and the key criteria that investment decisions should be considered against.

The Treasury Strategy element of the combined document covers the various elements that satisfy the requirements of the various codes that govern the borrowing and investment activities of the Council and has been prepared in the light of advice received from the Council's Treasury advisors and reflects the latest codes and guidance.

Prudential and Treasury indicators are included as an Annex to the combined strategy and are therefore included within an Appendix to this report.

Under the Prudential Code the Council has freedom over capital expenditure as long as it is prudent, affordable and sustainable. The Prudential Indicators either measure the expected activity or introduce limits upon the activity, and reflect the underlying capital appraisal systems and enable the Council to demonstrate that it is complying with the requirements of the Prudential Code.

The Council's investments will be undertaken in accordance with its Treasury Management Practices. These were expanded to include use of non-specified investment in property to yield both rental income and capital gains from 2016/17. If credit ratings remain at their current low levels it is likely that a significant proportion of the Council's investments will continue to be in government securities such as Treasury Bills or with other Local Authorities. The Council is also exploring the use of property investment funds as part of its wider investment portfolio from 2020/21, but due to risks, such as the potential impact on revenue resources from the accounting treatment that may be required, any associated decision would be subject to advice from the Council's external advisors and a separate Member decision. Other 'quality' investment opportunities will also be explored in consultation with the Council's external advisors to maximise returns on investments within a continuing and overall risk-averse approach.

BACKGROUND PAPERS FOR THE DECISION

Note on Decision Making Business Continuity Arrangements issued by the Monitoring Officer (Lisa Hastings) on Friday 20 March 2020.

Published Executive Decision taken by the Leader of the Council, on behalf of the Cabinet on 24 April 2020.

APPENDICES

Published Report of the Corporate Finance and Governance Portfolio Holder for the cancelled meeting of the Cabinet due to have been held on 20 March 2020.

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| Key Decision Required: | Yes | In the Forward Plan: | Yes |
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**CABINET
20 MARCH 2020**

REPORT OF CORPORATE FINANCE AND GOVERNANCE PORTFOLIO HOLDER

A.6 ANNUAL CAPITAL AND TREASURY STRATEGY FOR 2020/21 (INCLUDING PRUDENTIAL AND TREASURY INDICATORS)

(Report prepared by Richard Barrett and Wendy Borgartz)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To agree the Annual Capital and Treasury Strategy for 2020/21 (including Prudential And Treasury Indicators) for submission to Council on 31 March 2020.

EXECUTIVE SUMMARY

- The Annual Capital and Treasury Strategy for 2020/21, including Prudential and Treasury Indicators, was approved by the Corporate Finance and Governance Portfolio Holder on 5 February 2020 for consultation with the Resources and Services Overview and Scrutiny Committee.
- The Resources and Services Overview and Scrutiny Committee considered the Strategy at its meeting on 17 February 2020 and had no comments to make to Cabinet.
- The Local Government Act 2003 and supporting regulations require the Council to set out its treasury strategy for borrowing, and to prepare an annual Investment strategy (as required by Investment Guidance subsequent to the Act) that sets out the Council's policies for managing its investments and for giving priority to the security and liquidity of those investments, "having regard" to the Chartered Institute of Public Finance and Accountancy's (CIPFA) Prudential Code and the CIPFA Treasury Management Code of Practice. Revised editions of both documents were issued in December 2017.
- From 2019/20 the Capital Strategy has been combined with the Treasury Strategy into one document, which is required to be updated/approved annually.
- The proposed Annual Capital and Treasury Strategy for 2020/21 is set out in **Appendix A**. *(For completeness, **Appendix A** also includes the report considered by the Corporate Finance and Governance Portfolio Holder that was considered when approving the strategy on 5 February 2020 for consultation with the Resources and Services Overview and Scrutiny Committee).*
- The Capital Strategy element of the combined document covers the various elements surrounding capital investment decisions and the key criteria that investment decisions should be considered against.
- The Treasury Strategy element of the combined document covers the various elements that satisfy the requirements of the various codes that govern the

borrowing and investment activities of the Council and has been prepared in the light of advice received from the Council's Treasury advisors and reflects the latest codes and guidance.

- Prudential and Treasury indicators are included as an Annex to the combined strategy and are therefore included within **Appendix A**.
- Under the Prudential Code the Council has freedom over capital expenditure as long as it is prudent, affordable and sustainable. The Prudential Indicators either measure the expected activity or introduce limits upon the activity, and reflect the underlying capital appraisal systems and enable the Council to demonstrate that it is complying with the requirements of the Prudential Code.
- The Council's investments will be undertaken in accordance with its Treasury Management Practices. These were expanded to include use of non-specified investment in property to yield both rental income and capital gains from 2016/17. If credit ratings remain at their current low levels it is likely that a significant proportion of the Council's investments will continue to be in government securities such as Treasury Bills or with other Local Authorities. The Council is also exploring the use of property investment funds as part of its wider investment portfolio from 2020/21, but due to risks, such as the potential impact on revenue resources from the accounting treatment that may be required, any associated decision would be subject to advice from the Council's external advisors and a separate Member decision. Other 'quality' investment opportunities will also be explored in consultation with the Council's external advisors to maximise returns on investments within a continuing and overall risk-averse approach.

RECOMMENDATIONS

That Cabinet notes the outcome from the Resources and Services Overview and Scrutiny Committee on the 17 February 2020 and agrees that the Annual Capital and Treasury Strategy for 2020/21 (including Prudential And Treasury Indicators) attached within Appendix A be submitted to Council for approval.

APPENDICES

Appendix A – Annual Capital and Treasury Strategy for 2020/21 *(including Prudential and Treasury Indicators and the covering report considered by the Corporate Finance and Governance Portfolio Holder on 5 February 2020)*

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| Key Decision Required: | Yes | In the Forward Plan: | Yes |
|------------------------|-----|----------------------|-----|

CORPORATE FINANCE AND GOVERNANCE PORTFOLIO HOLDER

5 FEBRUARY 2020

A.1 ANNUAL CAPITAL AND TREASURY STRATEGY FOR 2020/21 (INCLUDING PRUDENTIAL AND TREASURY INDICATORS)

(Report prepared by Richard Barrett and Wendy Borgartz)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek the agreement of the Portfolio Holder for Corporate Finance and Governance to the Annual Capital and Treasury Strategy for 2020/21 (including the Prudential and Treasury indicators) for consultation with the Resources and Services Overview and Scrutiny Committee.

EXECUTIVE SUMMARY

- The Local Government Act 2003 and supporting regulations require the Council to set out its treasury strategy for borrowing, and to prepare an Annual Investment Strategy (as required by Investment Guidance subsequent to the Act) that sets out the Council's policies for managing its investments and for giving priority to the security and liquidity of those investments, "having regard" to the Chartered Institute of Public Finance and Accountancy's (CIPFA) Prudential Code and the CIPFA Treasury Management Code of Practice. Revised editions of both documents were issued in December 2017.
- From 2019/20 the Capital Strategy has been combined with the Treasury Strategy into one document, which is required to be updated / approved annually.
- The proposed Annual Capital and Treasury Strategy for 2020/21 is set out in **Appendix A**.
- The Capital Strategy element of the combined document covers the various elements surrounding capital investment decisions and the key criteria that investment decisions should be considered against.
- The Treasury Strategy element of the combined document covers the various elements that satisfy the requirements of the various codes that govern the borrowing and investment activities of the Council and has been prepared in the light of advice received from the Council's Treasury advisors and reflects the latest codes and guidance.
- Prudential and Treasury indicators are included as an Annexe to the combined strategy and are therefore included within **Appendix A**.
- Under the Prudential Code the Council has freedom over capital expenditure as long as it is prudent, affordable and sustainable. The Prudential Indicators either measure the expected activity or introduce limits upon the activity, and reflect the underlying capital appraisal systems and enable the Council to demonstrate that it is complying with the requirements of the Prudential Code.

- The Council's investments will be undertaken in accordance with its Treasury Management Practices. These were expanded to include use of non-specified investment in property to yield both rental income and capital gains from 2016/17. If credit ratings remain at their current low levels it is likely that a significant proportion of the Council's investments will continue to be in government securities such as Treasury Bills or with other Local Authorities. The Council is also exploring the use of property investment funds as part of its wider investment portfolio from 2020/21, but due to risks, such as the potential impact on revenue resources from the accounting treatment that may be required, any associated decision would be subject to advice from the Council's external advisors and a separate Member decision. Other 'quality' investment opportunities will also be explored in consultation with the Council's external advisors to maximise returns on investments within a continuing and overall risk-averse approach.

RECOMMENDATIONS

That the Portfolio Holder for Corporate Finance and Governance approves the Annual Capital and Treasury Strategy for 2020/21 (including Prudential and Treasury Indicators) for consultation with the Resources and Services Overview and Scrutiny Committee.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The adoption of the Capital and Annual Treasury Strategy for 2020/21 will ensure that the Council's Investment and Treasury Management activities are carried out and managed in accordance with best practice, thereby safeguarding money held by the Council and making an appropriate contribution to the Council's overall financial position.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

Treasury and Capital Management Strategies and procedures will ensure that the Council's investments and borrowing will be undertaken in such a way as to minimise the Council's exposure to risk. At the same time they will seek to maximise income from investments and minimise the costs of borrowing within the Council's accepted level of risk.

Risk

The placing of investments involves a number of risks. These risks and how the Council will manage them are set out in the Council's Treasury Management Practices.

LEGAL

The Local Authorities (Capital Financing and Accounting) (England) Regulations 2003 include the requirement for local authorities to have regard to CIPFA guidance. By adopting / approving an Annual Treasury Strategy and a Capital Strategy based on the requirements of the relevant and updated codes, the Council is complying with the regulations.

At its meeting on 24 January 2020, Cabinet agreed a delegation to the Portfolio Holder for Corporate Finance and Governance to approve the Capital and Treasury Strategy 2020/21 for consultation with the Resources and Services Overview and Scrutiny Committee.

OTHER IMPLICATIONS

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

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

There are no other implications.

PART 3 – SUPPORTING INFORMATION

BACKGROUND AND CURRENT POSITION

The Annual Capital and Treasury Strategy for 2020/21 is set out in **Appendix A** and is based on the most up to date Treasury Management Code of Practice and the revised Prudential Code, both of which were published by CIPFA in December 2017.

No significant changes are proposed in the Annual Capital and Treasury Strategy for 2020/21 with limited amendments in areas such as the general economic outlook and interest rate forecasts along with reflecting the revised project management approach adopted by the Council in 2019/20 and the commitment to be carbon neutral by 2030 – the changes made to the strategy since last year are shaded in grey and are in italic font.

In respect of CIPFA's Treasury Management Code of practice, the most recent and fundamental revision to the code was in 2017 which has been incorporated within this Annual Treasury Strategies where relevant. By approving the Annual Treasury Strategy for 2018/19, the Council adopted the latest CIPFA Code of Practice for Treasury Management in the Public Services. (the '2017 code').

Although not specified within the Treasury Strategy, the need to borrow money may arise in future years to reflect the Council's current commitment to the Garden Communities project. This project will be subject to separate decision making processes as necessary and any borrowing requirements will need to be considered within the overall Treasury Strategy framework.

The Council maintains a very low risk appetite approach to its treasury activities. Given the low interest rate environment, even if the Council were to increase the level of risk it would be willing to accept, the increased returns would only be marginal and therefore would not provide a credible / alternative option at the present time. However, officers will be exploring opportunities to maximise investment returns, within this overall context, via the potential use of property funds / unit trusts in 2020/21. As set out within the strategy and within Part 2 Annex 2, if it was proposed to purchase property unit trusts, advice would be sought from the Council's external advisors and it would be subject to a separate Member decision.

Draft Prudential Indicators are set out in Annex 1 to Part 2 of the Capital and Treasury Strategy. Annex 2 to Part 2 of the Treasury Strategy sets out the specified and Non-Specified investments the Council may use in 2020/21, which now includes reference to property funds / unit trusts as mentioned above.

In accordance with the relevant codes, the Capital and Treasury Strategy is subject to consultation with the Resources and Services Overview and Scrutiny Committee before being recommended to Council for approval before the start of each financial year.

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| BACKGROUND PAPERS FOR THE DECISION |
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| APPENDICES |
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| Appendix A - Annual Capital and Treasury Strategy 2020/21 |
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Tendring
District Council



**ANNUAL CAPITAL AND
TREASURY STRATEGY
2020/21**

PART 1 – CAPITAL STRATEGY 2020/21 to 2022/23

1. Introduction

SECTION A - Achieving Outcomes / Delivering Against Priorities

2. Corporate Priorities and Links to Other Key Strategies
3. Roles and Responsibilities in Respect of the Capital Strategy and the Formulation and Monitoring of the Capital Programme

SECTION B - Capital Investment and Sources of Funding

4. Capital Investment Considerations
5. Sources of Funding

Part 1 Annex 1 – Quick Reference Guide – Information Expected to be Included in Capital Investment Decisions Where Relevant

Part 1 Annex 2 – General Fund and Housing Revenue Account Capital Programmes 2020/21 to 2023/24

PART 2 – TREASURY STRATEGY FOR 2020/21

1. Introduction
2. Treasury Limits for 2020/21 to 2022/23
3. Prudential and Treasury Indicators for 2020/21 to 2022/23
4. Current Portfolio Position
5. Borrowing Requirement
6. Economic Position
7. Interest Rates
8. Borrowing strategy
 - 8.1 External v internal borrowing
 - 8.2 Gross and Net Debt Positions
 - 8.3 Policy on borrowing in advance of need
9. Debt Rescheduling
10. Annual Investment Strategy
 - 10.1 Investment Policy
 - 10.2 Creditworthiness Policy
 - 10.3 Credit Limits
 - 10.4 Country Limits
 - 10.5 Investment Strategy
 - 10.6 Allocation of Investment returns between GF and HRA.
 - 10.7 End of year investment report

Part 2 Annex 1 – Proposed Prudential Indicators 2019/20 revised, 2020/21 and forecasts for 2021/22 to 2022/23

Part 2 Annex 2 – Specified and non-specified investments

PART 1 – CAPITAL STRATEGY

INTRODUCTION

The Capital Strategy is an overarching document that sets out the Council's approach to Capital Investment and how it seeks to deliver value for money against the following underlying key principle, which is subject to review by the Council's External Auditor each year:

The Council has put in place 'proper arrangements' to secure economy, efficiency and effectiveness on its use of resources which comprises of:

1. *Taking informed decisions;*
2. *Deploying resources in a sustainable manner; and*
3. *Working with partners and other third parties.*

Against this backdrop, the Capital Strategy is divided into two sections:

Section A provides an introduction and sets out the context for the Capital Strategy. It sets out how the plan links to corporate priorities and shows how they link to other key resource strategies and the related roles and responsibilities of members and officers.

Section B covers the framework within which capital financing decisions are considered and provides background to the funding sources available to meet the costs of capital projects that are included within the Capital Programme.

The Capital Programme is the term used for the Council's rolling plan of investment in assets. The programme spans a number of years and contains a mix of individual schemes.

Investment can include expenditure on:

- *Infrastructure such as open spaces, coast protection*
- *New build*
- *Enhancement of buildings through renovation or remodelling;*
- *Major plant, equipment and vehicles;*
- *Capital contributions to other organisations enabling them to invest in assets that contributes to the delivery of the Council's priorities.*

The Capital Programme is distinct from the Council's revenue budget which funds day-to-day services, but they are both linked and are managed together.

There is a strong link with the Treasury Management Strategy set out in PART 2 that provides a framework for the borrowing and lending activity of the Council.

The Council has set a de-minimus level of £10,000, below which expenditure is not classed as capital expenditure, but is charged instead to the revenue account.

SECTION A - ACHIEVING OUTCOMES/DELIVERING AGAINST PRIORITIES

CORPORATE PRIORITIES

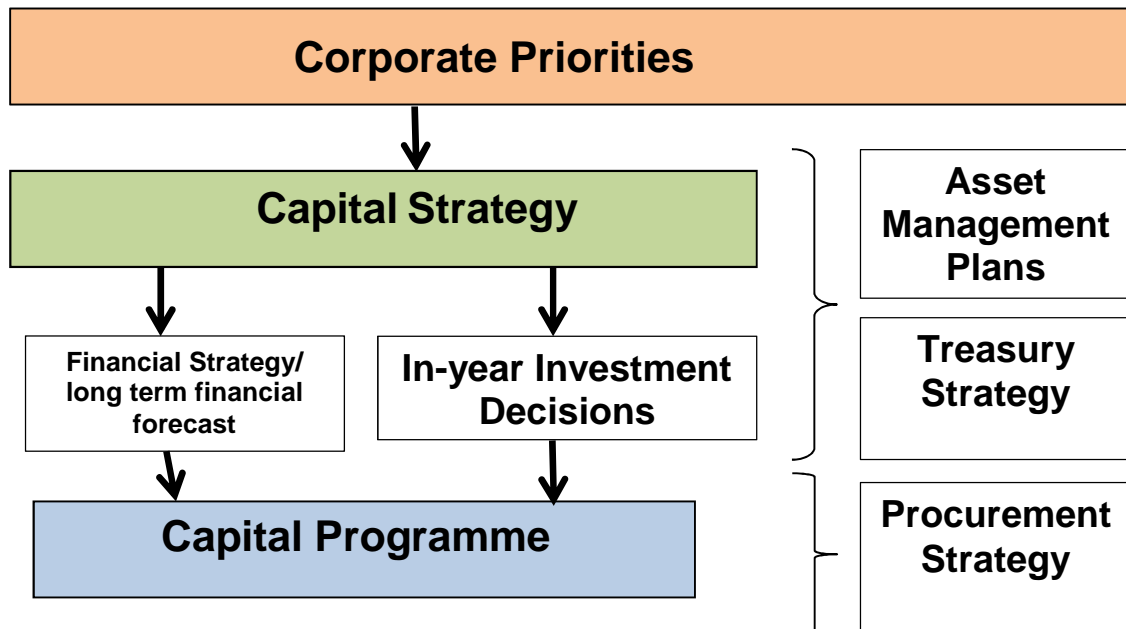
The Capital Strategy is subject to ongoing review and has a key role in supporting the delivery of the Council's Corporate Priorities

The Capital Strategy aims to set out the arrangements and processes in place to manage capital resources, the relationship with the Council's other key resource strategies and the practical/sustainable outcomes of those arrangements and processes by:

1. Setting out how schemes are evaluated and prioritised within the resources available.
2. Ensuring that any investment decision is prudent, sustainable and affordable in accordance with the prudential code and therefore represents value for money.
3. Setting out the performance processes in place to ensure that projects are delivered on time and within budget.
4. Ensuring that expected outcomes are delivered and lessons learnt from previous investment decisions.

LINKS TO OTHER KEY STRATEGIES

The ability of the Council to undertake capital investment to deliver its corporate objectives will be influenced or have direct links to a number of strategies, with the key 'links' set out below:



The above sets out the strategies/processes that are more closely aligned to the capital investment decision but are by no means exhaustive. Although subject to changes over the life of this Strategy, other key strategies and

policies may also need to be reflected in the investment decision such as those associated with workforce/staff capacity and ICT delivery. Decision making must therefore reflect these requirements where relevant/necessary.

In respect of ICT within the Council, associated strategies or requirements set out how the Council intends to use technology to support service delivery and transform the way it delivers its services. ICT is therefore recognised as a key enabler in supporting capital investment and delivering sustainable outcomes.

The **long term financial forecast** plays a pivotal role in developing and delivering capital investment. The long term financial forecast not only determines the financial resources available to fund capital investment, both in terms of the initial investment and any revenue consequences of the capital investment itself, it also provides a framework for the consideration and prioritisation of capital projects. It is however recognised that to remain flexible to take advantage of investment opportunities that may arise during the year decisions may be required in line with the Council's Financial Procedure Rules. The long term financial forecast is reported to Cabinet each quarter, which allows this flexibility. To ensure consistency, such decisions should also follow the same requirements set out within the Capital Strategy.

The Treasury Strategy is also highlighted above as a key influence as it sets out the Council's overall approach to debt and borrowing. This approach along with affordability form part of the investment decisions that are brought together via the long term financial forecast process on a rolling basis through the year.

Other significant influences include the Local Development Framework (LDF) which sets out the Council's vision for change and new growth in the Tendring District in the long term which could present the Council with investment opportunities for consideration alongside other investment options.

ROLES AND RESPONSIBILITIES IN RESPECT OF THE CAPITAL STRATEGY AND THE FORMULATION AND MONITORING OF THE CAPITAL PROGRAMME

Management Team – As the most senior officer team of the Council the Management Team approves the Capital /Treasury Strategy for submission to Cabinet and having regard to the Council's priorities, recommends projects for inclusion in the Capital Programme in consultation with Portfolio Holders/ Cabinet (via the long term financial forecast process). Management Team also considers all *significant* investment decisions via a *project initiation / development process* prior to formal reporting to Members, especially those associated with in-year investment decisions.

Departments support Management Team in the above process through the development and investigation of investments opportunities and submitting

reports / *project initiation and development documentation* in support of the associated capital projects.

Cabinet (including Portfolio Holders acting within approved delegations)

– The Cabinet recommends the 5 year capital programme to Council. The Cabinet and the *Corporate Finance and Governance* Portfolio Holder can, within the limits set by the Council's Financial Procedure Rules, approve supplementary estimates or approve virements between schemes during the year as part of separate investment decisions. The Cabinet is required to approve the Capital / Treasury Strategy each year.

Council – Approves the 5 year Capital Programme as part of the budget setting process in February each year and approves the Capital / Treasury Strategy in March each year.

Subject to the limits set out in the Council's Financial Procedure rules, Council may be required to approve supplementary estimates to increase the costs of approved schemes or add new schemes over and above amounts that individually or on aggregation are over and above those amounts ordinarily agreed by Cabinet as part of in-year investment decisions.

CONSULTATION

The views of the local community and stakeholders are an important element in developing the priorities for the Council and identifying capital investment opportunities. This can be achieved in a number of ways depending on the specific investment that is considered, which may include a budget consultation exercise as part of the long term financial forecast process.

Departments are expected to review the need to undertake consultation and the scale of that consultation, as appropriate, as part of the investment decision making process.

MONITORING OF THE CAPITAL INVESTMENT/CAPITAL PROGRAMME

In terms of performance and monitoring the delivery of capital investment, this is primarily achieved through the existing and comprehensive financial processes such as the long term financial forecast and budget setting process, outturn review and the quarterly financial performance reporting. In respect of the quarterly financial performance reports, an update on the delivery of projects and the position against the budget is included, which is reported to both Cabinet and the relevant Overview and Scrutiny Committee during the year. Some capital projects may also form part of the Council's separate Performance Monitoring process that is also reported to Members on a quarterly basis. The decision to include items in the performance report will be based on risk, materiality, scale and associated governance arrangements and will be determined as part of the annual performance plan process that involves Departments, Management Team and Members.

Where capital investment is material, the scheme or project may be subject to review by internal audit which would be at the discretion of the *Internal Audit Manager* as part of the annual Internal Audit Plan or if required by other key stakeholders.

SECTION B – CAPITAL INVESTMENT AND SOURCES OF FUNDING

CAPITAL INVESTMENT CONSIDERATIONS

The Council's capital investments are made in accordance with the Prudential Code, which aims to ensure that the capital investment plans of local authorities are affordable, prudent and sustainable, which should also include where necessary a prioritisation and appraisal process. Under the Code the Council is free to determine the amount it borrows to finance capital investment.

All of the Council's capital investment is managed in accordance with the requirements of the Prudential Code. The prioritisation of capital investment is directly linked to the long term financial forecast and/or in-year budget amendment processes as previously explained, which are undertaken in an open and transparent manner.

Schemes that are agreed but not funded as part of the long term financial forecast process should where relevant/practical be considered a prioritised list which in effect becomes a 'live' schedule of investment opportunities against which further investment opportunities should be considered during the year.

The Council faces ongoing significant financial challenges over the period of this Capital Strategy due to the significant reductions in Government Funding since 2010 and ongoing. The long term financial forecast for *2020/21* to 2026/27 is showing a net budget surplus towards the end of the forecasted period, with the Forecast Risk Fund being used to support the budget position until that time. To deliver the level of efficiencies and transformation that will in turn support the delivery of the long term forecast, the following key principles have been identified which should be a key consideration of capital investment decisions:

Design schemes/projects to limit as far as possible any negative impact on the Council's on-going revenue budget.

Promote capital investment which allows either invest to save outcomes or generates a revenue and/or capital return and/or generates additional external grant (e.g. new homes bonus) or core funding (e.g. Business Rates) whilst clearly setting out how it contributes to the Council's Corporate Priorities

| |
|--|
| Foster effective working relationships with potential funders/partners. |
| Carefully consider value for money and efficiency of projects and associated outcomes. |
| Project risk is fully explored and mitigating actions identified and taken as necessary. |
| Ensure appropriate project management tools <i>and documentation</i> are used and the Council has the capacity to deliver the project. |
| Responsibility for the delivery of the project is clearly defined and understood. |
| <i>How the proposed investment contributes to the Council's commitment to be carbon neutral by 2030.</i> |

Although not always necessarily subject to formal reporting, *as part of the Council's project management processes*, Departments are expected to evidence the outcome from any investment undertaken against the key criteria set out within this Capital Strategy to inform future investment decisions with high level information being available within the usual performance/budget monitoring reports.

To promote consistency, a quick reference guide for detailed information that is expected to form part of any investment decisions is set out as **Annex 1**.

Impact Assessments

Impact assessments may be required depending on the specific capital investment decisions being considered. Therefore, *as part of the Council's project management processes*, Departments are expected to consider whether it is necessary to complete an impact assessment based on the Council's usual processes and documentation at the time a decision is made.

SOURCES OF FUNDING

Capital investment will have to be undertaken within the Council's limited resources and challenging financial environment.

In limited cases the cost of capital investment is supported by external grants/contributions. Any other capital investment the Council wishes to make has to be funded from its own resources or by borrowing (the revenue cost being met entirely by the Council). The Council's Financial Strategy/long term financial forecast includes consideration of a ten-year forecast, taking into account the revenue implications of capital investment plans and the resources available to fund capital investment. The level of capital investment will be constrained by the available resources identified via the long term financial forecast process including revenue contributions or the ability to attract external funding and the generation of capital receipts. Any decision to invest in capital

projects will need to match the available resources against criteria set out above, including how it meets corporate priorities.

In planning any capital investment to contribute towards the achievement of the Council's priorities, the following resources are available:

- a) **Revenue Funding (Including Reserves)** – This continues to be limited each year given the challenging financial environment and on-going government grant reductions. This funding stream will need to be considered within the overall financial planning processes each year, including that for the HRA which operates under a self-financing environment where changes in Government Policy have led to limited revenue contributions being available to support capital investment.
- b) **Capital grants/contributions** – These have contributed significantly to past and current capital projects and many aspects of the Council's and its partners' objectives can only be met if this funding source continues to be pursued. Recent community objectives have been met by successful grant applications. Section 106 money flowing from the planning process is also a significant source of external funding.
- c) **General Fund Capital Receipts** – It is acknowledged that the Council's current property/land holdings are not of significant high value or volume. Nevertheless the Council recognises this important funding source and continually reviews its assets as part of the separate asset management plans which provide the context to consider opportunities to dispose of any assets that are surplus to requirements and/or not contributing to the delivery of the Council's priorities or where they provide alternative investment opportunities.
- d) **Borrowing within the Prudential Framework (Prudential Borrowing)** – The Council has the freedom to borrow to finance its capital expenditure provided it can demonstrate the prudence of the investment and its affordability and sustainability.

CAPITAL STRATEGY CONCLUSIONS

The Capital Strategy sets out the high level arrangements and processes to ensure that capital investment is managed within the Council's overall financial framework. It aims to ensure that its limited resources are applied consistently and effectively towards delivering the priorities of the Council. It links together the capital expenditure implications of various plans and strategies.

PART 1 - ANNEX 1

QUICK REFERENCE GUIDE – Information Expected to be Included in Capital Investment Decisions Where Relevant

| Formal Investment Considerations/Decisions/Business Cases |
|---|
| Link to priorities (<i>including commitment to be carbon neutral by 2030</i>) and/or 'safeguarding' of a Council Asset and what are the measurable benefits of the planned investment |
| Return on Investment/Net Present Value |
| Whole Life Costing/Revenue Consequences |
| Payback Periods |
| Key risks and how they will be managed |
| Alternative Options/Opportunity Costs |
| Sustainability |
| Financial Resources Available/Funding Options |
| Impact assessment where relevant |
| Capacity/Deliverability |
| Other considerations/important information to discuss/share with relevant internal department(s) and/or for inclusion in the formal decision making process if significant |
| Cash Flow Forecasts |
| VAT Arrangements/Implications |
| Insurance issues |
| Risk Management implications |
| Procurement processes |

PART 1 - ANNEX 2

General Fund Capital Programme 2020/21 to 2022/23

| Capital Expenditure - General Fund £000s | 2018/19 Actual | 2019/20 Revised | 2020/21 Estimate | 2021/22 Forecast | 2022/23 Forecast |
|---|---------------------------|----------------------------|-----------------------------|-----------------------------|-----------------------------|
| Total Capital Expenditure | 4831 | 13,767 | 1,024 | 816 | 824 |
| Financing - General Fund | | | | | |
| External contributions | (203) | (67) | - | - | - |
| Section 106 | (168) | (15) | - | - | - |
| Coast protection grant | (2,609) | (2,108) | - | - | - |
| Other Government grants | - | (322) | - | - | - |
| Disabled Facilities Grant | (1,077) | (4,727) | (757) | (757) | (757) |
| Capital receipts | (41) | (907) | - | - | - |
| Direct revenue contributions | (165) | (418) | (55) | (55) | (55) |
| Earmarked reserves | (568) | (5,203) | (212) | (4) | (12) |
| Total Capital Financing | (4,831) | (13,767) | (1,024) | (816) | (824) |
| Net Financing need (External Borrowing) | 0 | 0 | 0 | 0 | 0 |

HRA Capital Programme 2020/21 to 2023/24

| Housing Revenue Account Capital Schemes £000 | 2018/19 Actual | 2019/20 Revised | 2020/21 Estimate | 2021/22 Forecast | 2022/23 Forecast |
|---|---------------------------|----------------------------|-----------------------------|-----------------------------|-----------------------------|
| Total Capital Expenditure | 4,283 | 6,712 | 3,176 | 3,176 | 3,176 |
| Financing - Housing Revenue Account | | | | | |
| Major repairs reserve | (3,224) | (3,754) | (3,176) | (3,176) | (3,176) |
| Direct revenue contributions | (342) | (2,891) | (281) | - | - |
| Capital receipts | (37) | - | - | - | - |
| External contributions | (600) | (67) | - | - | - |
| Government grant | (80) | - | - | - | - |
| Total Capital Financing | (4,283) | (6,712) | (3,457) | (3,176) | (3,176) |
| Net Financing need (External Borrowing) | 0 | 0 | 0 | 0 | 0 |

PART 2 – TREASURY STRATEGY

1. Introduction

The Local Government Act 2003 (the Act) and supporting regulations require the Council to 'have regard to' the CIPFA Prudential Code and the CIPFA Treasury Management Code of Practice to set Prudential and Treasury Indicators for the next three years to ensure that the Council's capital investment plans are affordable, prudent and sustainable. Both CIPFA Codes were revised in December 2017 and this treasury strategy has been drawn up with regard to the revised Codes.

The Act therefore requires the Council to set out its treasury strategy for borrowing and to prepare an Annual Investment Strategy (as required by Investment Guidance issued subsequent to the Act) which sets out the Council's policies for managing its investments and for giving priority to the security and liquidity of those investments.

The Council's risk appetite is low and it takes a risk-averse approach to Treasury Management, with the security and liquidity of the investment the prime concern, and the budget for income from investments being formulated on this basis. The Annual Strategy for 2020/21 is based on this risk-averse approach continuing.

For a number of years the Council has engaged the services of treasury advisors to provide its officers with advice on treasury management issues. The current advisors are Link Asset Services, Treasury solutions. However the final decision and responsibility for the actions taken sits with the Council's own officers after considering that advice.

The details of the delegations and responsibilities for treasury management are contained within the Council's Constitution as follows:-

- Part 3 – delegated powers – The Executive / *Corporate Finance and Governance* Portfolio Holder
- Part 5 – Financial Procedure Rules

2. Treasury Limits for 2020/21 to 2022/23

It is a statutory duty under Section 3 of the Act and supporting regulations for the Council to determine and keep under review how much it can afford to borrow. The amount so determined is termed the "Affordable Borrowing Limit". In England and Wales the Authorised Limit represents the legislative limit specified in the Act.

The Council must have regard to the Prudential Code when setting the Authorised Limit of external debt, which essentially requires it to ensure that total capital investment remains within sustainable limits and, in particular, that the impact upon its future council tax and council rent levels is 'acceptable'. Capital investment must be considered in the light of the overall strategy and

resources available, with decisions made with sufficient regard to the long term financing implications and potential risks.

Whilst termed an “Affordable Borrowing Limit”, the capital plans to be considered for funding must include both external borrowing and other forms of liability, such as credit arrangements. The Authorised Limit is to be set, on a rolling basis, for the forthcoming financial year and two successive financial years. Details of the Authorised Limit can be found in Annex 1 of this part of the report.

The authorised limit reflects the additional borrowing requirement as part of the Housing Revenue Account (HRA) self-financing reforms. The Housing self-financing reforms also set an overall ‘debt cap’ for the HRA which in itself reflects an affordability level based on the Government’s model of how much debt can be supported by the HRA after considering the forecast of income from rents and management and maintenance costs over a 30 year period. The HRA debt cap for Tendring was £60,285,000, but the Government announced the abolition of the HRA debt cap from 29 October 2018.

3. Prudential and Treasury Indicators for 2020/21 to 2022/23

Prudential and Treasury Indicators are relevant for the purposes of setting an integrated Treasury Management Strategy. The latest revisions to the CIPFA Code of Practice on Treasury Management and to the CIPFA Prudential Code are effectively adopted via the approval of this Strategy which reflects the most up to date codes and guidance.

4. Current Portfolio Position

The Council’s treasury position at the end of December 2019 comprised:

- GF borrowing from The Public Works Loan Board (PWLB) of £0.257 million at fixed rates at an average rate of interest of 7.81%
- HRA borrowing from the PWLB of £40.397 million at fixed rates at an average rate of 3.42%
- Investments of cash flow surpluses, which include reserves and capital receipts, on a short-term basis (less than 1 year) totalling £66.494 million at an average rate of interest of 0.84%.

5. Borrowing Requirement

No new, alternative or replacement borrowing is currently reflected in the budgets for both the General Fund and HRA for the period **2020/21** to **2022/23**. This position therefore excludes any assumptions on additional borrowing, which would be subject to further consideration as necessary set against the underlying principle of the Council’s borrowing requirement being kept under on-going review to respond to any new / future burdens or priorities and overall financial position.

6. Economic Position

The Council's Treasury Advisors provide economic updates during the year with the latest position set out as follows:

World economy

World growth fell in 2019 in all economies including the USA, the Eurozone and China. The ongoing trade dispute between the US and China is seen as depressing world growth, and in the EU it is particularly impacting on Germany. However, a phase one deal has been agreed between the US and China to roll back some of the tariffs, which gives some hope of resolving this dispute.

UK economy

The Bank of England Monetary Policy Report (formerly called the quarterly inflation report) issued on 7 November 2019 highlighted increasing concerns about weak global economic growth and the potential for uncertainties around Brexit delaying economic recovery. If global growth does not pick up or Brexit uncertainties intensify, a cut in interest rates becomes more likely, but conversely if risks do recede, then a more rapid recovery of growth will require gradual and limited rate rises. The inflation forecasts were revised down to 1.25% in 2019, 1.5% in 2020 and 2.0% in 2021.

The wage inflation three month average excluding bonuses was 3.6% in September, meaning that wage rates are higher than CPI inflation. As the UK economy is very much services sector driven, an increase in household spending power is likely to feed through into providing some support to the overall rate of economic growth in the coming months.

Investment returns are likely to remain low during 2020/21 and beyond, although the increase in the Bank Rate to 0.75% in August 2018 has led to an increase in investment income, with the base budget for 2020/21 being increased by £50,000 to £386,420. This is based on a general assumption of no change in the Base Rate from the current 0.75%. The policy of avoiding new borrowing by using cash balances has served well over the last few years. However, this needs to be carefully balanced to avoid incurring higher borrowing costs in later times, when authorities may not be able to avoid new borrowing to finance new capital expenditure and/or to refinance maturing debt. The unexpected raise in PWLB interest rates across the board in October 2019 has pushed up the potential cost of this form of borrowing.

7. Interest Rates

The following table gives the Council's External Treasury Advisor's view on Bank Rate movements and their forecast for the PWLB new borrowing rate based on that view. The PWLB rates are based on the 'Certainty Rate' introduced by the Government for local authorities providing improved information and transparency on their locally-determined long-term borrowing and associated capital spending plans. Investment returns are likely to remain low during 2020/21 and beyond.

| | Bank Rate | LIBID (London Interbank Bid Rate)* | | | PWLB Borrowing Rate | | | |
|----------|-----------|------------------------------------|---------|----------|---------------------|--------|--------|--------|
| | | 3 month | 6 month | 12 month | 5 yr. | 10 yr. | 25 yr. | 50 yr. |
| Mar 2020 | 0.75 | 0.70 | 0.80 | 0.90 | 2.30 | 2.50 | 3.00 | 2.90 |
| Jun 2020 | 0.75 | 0.70 | 0.80 | 0.90 | 2.30 | 2.50 | 3.00 | 2.90 |
| Sep 2020 | 0.75 | 0.80 | 0.90 | 1.00 | 2.40 | 2.60 | 3.10 | 3.00 |
| Dec 2020 | 0.75 | 0.80 | 1.00 | 1.10 | 2.40 | 2.60 | 3.20 | 3.10 |
| Mar 2021 | 0.75 | 0.90 | 1.00 | 1.20 | 2.50 | 2.70 | 3.30 | 3.20 |
| Jun 2021 | 1.00 | 1.00 | 1.10 | 1.30 | 2.60 | 2.80 | 3.40 | 3.30 |
| Sep 2021 | 1.00 | 1.00 | 1.20 | 1.40 | 2.70 | 2.90 | 3.50 | 3.40 |
| Dec 2021 | 1.00 | 1.10 | 1.30 | 1.50 | 2.80 | 3.00 | 3.60 | 3.50 |
| Mar 2022 | 1.00 | 1.20 | 1.40 | 1.60 | 2.90 | 3.10 | 3.70 | 3.60 |

* LIBID – the rate at which a bank is willing to borrow from other banks

8. Borrowing Strategy

8.1 External v Internal Borrowing

The main Prudential Indicator relevant to capital investment is the Capital Financing Requirement (CFR). This is the total outstanding capital expenditure that has not yet been funded from either revenue or capital resources and is therefore a measure of the Council's underlying borrowing need after taking into account the provision included in the revenue budgets for the repayment of outstanding debt.

The borrowing to finance the capital expenditure can be either from external sources or the Council can use its own internal resources.

The planned external debt compared to the CFR over 5 years is shown in the following table, the difference between the two being the amount the Council has funded from internal resources. This is also set out separately for the GF and the HRA. This excludes other long term liabilities such as long term creditors and pensions which form part of the separate Financial Strategy process of the Council from a prudential perspective.

Total External Debt

| | Actual 2018/19 | Revised 2019/20 | Estimate 2020/21 | Forecast 2021/22 | Forecast 2022/23 |
|--|-------------------|--------------------|---------------------|---------------------|---------------------|
| | £000's | £000's | £000's | £000's | £000's |
| Debt as at 1 April | 43,898 | 42,076 | 40,313 | 38,592 | 36,921 |
| Estimated change in debt | (1,822) | (1,763) | (1,721) | (1,671) | (2,222) |
| Estimated debt as at 31 March | 42,076 | 40,313 | 38,592 | 36,921 | 34,699 |
| CFR as at 31 March | 47,446 | 45,555 | 43,672 | 41,799 | 39,383 |
| Difference - internally financed | 5,370 | 5,242 | 5,080 | 4,878 | 4,684 |

General Fund External Debt

| | Actual 2018/19 | Revised 2019/20 | Estimate 2020/21 | Forecast 2021/22 | Forecast 2022/23 |
|--------------------------------------|-------------------|--------------------|---------------------|---------------------|---------------------|
| | £000's | £000's | £000's | £000's | £000's |
| Debt as at 1 April | 464 | 306 | 207 | 151 | 144 |
| Estimated repayment of debt | (158) | (99) | (56) | (7) | (8) |
| Estimated debt as at 31 March | 306 | 207 | 151 | 144 | 136 |
| CFR as at 31 March | 5,676 | 5,449 | 5,231 | 5,022 | 4,820 |
| Forecast of internal financing | 5,370 | 5,242 | 5,080 | 4,878 | 4,684 |

HRA External Debt

| | Actual 2018/19 | Revised 2019/20 | Estimate 2020/21 | Forecast 2021/22 | Forecast 2022/23 |
|-------------------------------------|-------------------|--------------------|---------------------|---------------------|---------------------|
| | £000's | £000's | £000's | £000's | £000's |
| Debt as at 1 April | 43,434 | 41,770 | 40,106 | 38,441 | 36,777 |
| Estimated repayment of debt | (1,664) | (1,664) | (1,665) | (1,664) | (2,214) |
| Estimated debt as at 31 March | 41,770 | 40,106 | 38,441 | 36,777 | 34,563 |

| | | | | | |
|--------------------------------|---------------|---------------|---------------|---------------|---------------|
| CFR as at 31 March | 41,770 | 40,106 | 38,441 | 36,777 | 34,563 |
| Forecast of internal financing | 0 | 0 | 0 | 0 | 0 |

In respect of the General Fund, the Council is currently maintaining an under-borrowed position. This means that the capital borrowing need (the Capital Financing Requirement), has not been fully funded with external loans, as cash supporting the Council's reserves, balances and cash flow has been used as a temporary measure. This strategy remains prudent, as investment returns are low and counterparty risk is *relatively* high, and will be continued.

The Council's officers have made an assessment, based on advice from treasury advisors, of the amount of internal resources that it is prudent to use to finance capital expenditure and it is felt, taking into account the Council's financial position, that approximately £4m-£5m would at the present time and over the medium term be an appropriate level of internal borrowing. A maturity loan of £1m fell due for repayment in 2014 but this was not replaced which has led to the current internal borrowing position running just ahead of the £5m level. However given the continuing low return on investments and no *significant increases* in PWLB interest rates in the immediate future, (*although 1% was unexpectedly added to all PWLB rates in October 2019*) it is felt prudent to maintain this position in the short term although this will be kept under review in consultation with the Council's external advisors.

The use of internal resources is only a temporary solution as, in time, these reserves and capital receipts will be utilised to finance service initiatives and capital investment and at that point will not be available. This will need to be balanced against the replacement external borrowing which will be required at some point in the future which may attract higher rates of interest, so timing of such borrowing will need to consider forecasted rates of interest against the various types of borrowing structure to determine the most advantageous approach. Against this approach consideration may be required to borrow in advance of need, as set out in section 8.3 below, so as to reduce the need to borrow when interest rates may be higher.

8.2 Gross Debt v Investments

A comparison between the Council's gross and net borrowing position helps to assess the credit risk that would apply if the Council has surplus resources invested at a low interest rate which could be used to repay existing debt or to negate the need for additional new debt if at higher interest rates than that being achieved on the investments.

The table below sets out the Council's probable position taking account of both the individual GF and HRA debt figures.

| Comparison of gross and net debt positions at year end | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|--|-----------------|-------------------|---------------|---------------|---------------|
| | Actual | Probable out-turn | Estimate | Estimate | Estimate |
| | £'000 | £'000 | £'000 | £'000 | £'000 |
| General Fund external debt (gross) | 306 | 207 | 151 | 144 | 136 |
| HRA external debt (gross) | 41,770 | 40,106 | 38,441 | 36,777 | 34,563 |
| Investments | 59,470 | 55,895 | 15,200 | 15,000 | 15,000 |
| Net debt | (17,394) | (15,582) | 23,392 | 21,921 | 19,699 |

The net debt positions show that the Council does not have underlying excess resources which could be used to repay long term debt – the surpluses and high current investment figures represent carry forwards and the current level of reserves / one-of budgets.

If opportunity arises, external debt will be repaid early, although this is difficult under current arrangements as set out in section 9. If borrowing is required then any requirement will be considered whilst balancing internal resources and forecasted interest rates within the parameters previously set out.

Against this background caution will be ***maintained*** within the 2020/21 treasury operations. Interest rates will be monitored and a pragmatic approach adopted to changing circumstances with appropriate action taken in accordance with the Council's Financial Procedure Rules.

8.3 Policy on borrowing in advance of need

The Council cannot borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be considered carefully to ensure value for money can be demonstrated and that the Council can ensure the security of such funds.

In determining whether borrowing will be undertaken in advance of need the Council will;

- ensure that there is a clear link between the capital programme and maturity profile of the existing debt portfolio which supports the need to take funding in advance of need;
- ensure the ongoing revenue liabilities created, and the implications for the future plans and budgets have been considered;
- evaluate the economic and market factors that might influence the manner and timing of any decision to borrow;
- consider the merits and demerits of alternative forms of funding;

- consider the alternative interest rate bases available, the most appropriate periods to fund and repayment profiles to use;
- consider the impact of borrowing in advance on temporarily (until required to finance capital expenditure) increasing investment cash balances and the consequent increase in exposure to counterparty risk, and other risks, and the level of such risks given the controls in place to minimise them.

9. Debt Rescheduling

Officers together with the treasury advisors examine on a regular basis the potential for undertaking early repayment of some external debt to the PWLB in order to maximise any potential financial advantages to the Council. However, the continuing and significant difference between new borrowing and repayment rates has meant that large premiums would be incurred by such action and cannot be justified on value for money grounds. This situation will be monitored in case the differential is narrowed by the PWLB or repayment rates change substantially.

As short term borrowing rates will usually be cheaper than longer term rates there may be some potential for some residual opportunities to generate savings by switching from long term debt to short term debt. However, these savings will need to be considered in the light of the size of premiums incurred, their short term nature, and the likely cost of refinancing these short term loans once they mature compared to the current rates of longer term debt in the existing portfolio.

Any opportunities for debt rescheduling will be considered if such action would be advantageous to the Council. The reasons for any rescheduling to take place will include:

- the generation of cash savings and/or discounted cash flow savings
- helping to fulfil the strategy outlined above
- enhance the balance of the portfolio

Consideration will also be given to identifying if there is any residual potential left for making savings by running down investment balances to repay debt prematurely as short term rates on investments are likely to be lower than rates paid on current debt.

10. Investment Strategy

10.1 Investment Policy

The Council will have regard to the Department of Communities and Local Government's (CLG) Guidance on Local Government Investments, the latest CIPFA Treasury Management in Public Services Code of Practice and Guidance Notes (the Code) along with any relevant revisions or updates. The Council's investment priorities when investing are: -

- The security of capital and
- The liquidity of its investments.

The Council will also aim to achieve the optimum return on its investments commensurate with these main priorities. It is important to note that the borrowing of monies purely to invest or on-lend and make a return is unlawful.

Investment instruments identified for use in the financial year are listed in Annex 2 under the 'Specified' and 'Non-Specified' Investments categories. Counterparty limits will be as set through the Council's Treasury Management Practices – Schedules.

The majority of the Council's investments will be in Specified Investments although the Council has limited investments in Non- Specified investments.

During 2017/18 the Council purchased an investment property in Clacton, which is a Non-Specified investment. The historic cost (including stamp duty) of this asset was £3.245 million and it is financed from revenue. The property was purchased with the aim of yielding rental income and with the potential for capital gains. This investment does not have a defined maturity date and it is an illiquid investment as the Council would need to sell the underlying asset to redeem the investment.

The property will be subject to annual revaluation to reflect current value under the requirements of the Accounting Code of Practice and this will be reported in the Statement of Accounts. At 31 March 2019 the carrying value of the property was reduced by the Council's external Valuer to £2.300 million. The anticipated return on the property through rental income compared to the historic cost is forecast to remain in line with the figures included in the report to Cabinet where the decision to purchase was made. Although the property is currently not being used for trading, the terms of the lease require payment of the rent until the end of the lease term.

The Council has adopted a Commercial Property Investment Policy which will be maintained as a separate document within the wider Treasury Strategy framework.

The Council does not intend to use derivative instruments as part of its treasury activities during the year.

Given the above commitment relating to seeking the optimum return on its investments within the context of security and liquidity, the Council will be exploring the use of property investment funds in 2020/21. Further information and potential risks of investing in a property fund are set out in Part 2 - Annex 2. If such an investment was proposed during the year, it would be subject to a separate Member decision.

10.2 Creditworthiness Policy and changes to the credit rating methodology

This Council uses credit ratings from all three rating agencies - Fitch, Moodys and Standard and Poors. In determining the appropriate credit rating the Council will use the lowest rating available to determine the investment limits both in terms of amount and period for a particular counterparty. This is in accordance with the recommendations of The Code. Counterparties rated by only one agency will not be used.

One of the credit rating agencies may be more aggressive in giving lower ratings than the other two agencies and this could result in the Council's counterparty list becoming too restrictive. If this happens the position will be discussed with the Council's treasury advisors and the Treasury Management Practices may need to be revised in accordance with delegated powers set out in the Council's Constitution.

- All credit ratings will be monitored daily. The Council is alerted to changes to ratings of all three agencies through its use of the Creditworthiness Service provided by the Council's external advisors which is downloaded from Link Asset Services website each morning and uploaded to the Treasury Management system.
- If a downgrade results in the counterparty/investment scheme no longer meeting the Council's minimum criteria, its further use for a new investment will be withdrawn immediately.

The Code also recommends that credit ratings are not the sole determinant of creditworthiness and therefore the Council will also use available market information from a variety of sources including

1. The Creditworthiness Service utilises movements in Credit Default Swaps against the iTraxx benchmark and other market data on a weekly basis. This creditworthiness service information will be used to confirm the assessed creditworthiness derived from the three ratings agencies. Where the information from this service indicates a lower standing for a particular counterparty than that derived via the credit ratings then the investment limits and length of investments applicable to that counterparty will be adjusted accordingly or the counterparty removed from the list.
2. Market data and information,
3. Information on government support for banks and the credit ratings of that government support

10.3 Credit Limits

Through its approved Treasury Management Practices the Council will set maximum limits for the amount that can be invested with any counterparty. This limit will be determined by reference to the counterparty's credit rating

and other criteria. In addition the amount invested in building societies and Certificates of Deposit is also limited to 50% of the total investment portfolio.

100% of the Council's investments may be in Treasury Bills or Gilts or invested with the Government's Debt Management Office (DMO). Although these sums are very secure the rate of interest is usually lower than the market rate, however Treasury Bills are a valuable tool in providing security and liquidity whilst the DMO offers a variety of investment terms and is a valuable source of investment should credit ratings of other financial institutions result in a reduction in the number of counterparties that meet the Council's minimum credit rating criteria. There is no limit on the amount that can be invested with other local authorities in total, although there is a limit of £6 million with each individual local authority.

10.4 Country Limits

The Council has determined that it will only use approved counterparties from the UK and additionally those countries with a minimum sovereign credit rating of AA or equivalent from the relevant rating agencies.

In a similar way that individual counterparties have a maximum investment limit, countries other than the UK will also have a limit.

10.5 Investment Strategy

The Council's funds are managed in-house and are mainly cash flow based but there is a core balance that could be available for investment for longer periods (2-3 years). Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e. rates for investments up to 12 months) and in respect of commercial property investment, this will be limited to the amount included in the Capital Programme.

The bank rate rose in August 2018 but no further increases are forecast until March 2021 and then to remain unchanged until March 2022 with gradual steady rises from thereon expected (see Section 7). The Council will avoid locking into longer term deals while investment rates are down at historically low levels unless exceptionally attractive rates are available which make longer term deals worthwhile without compromising the Council's priority of security of the investments.

For 2020/21 the Council has budgeted for investment returns based on the principles set out in this strategy including the forecast position on interest rates.

For its cash flow generated balances the Council will seek to utilise its business reserve accounts and short dated deposits (overnight to three months) in order to benefit from the compounding of interest. At the present

time these short dated deposits are paying interest rates below base rate but they provide a good level of liquidity to help manage the Council's cash flow.

10.6 Allocation of Investment returns between GF and HRA

As part of the introduction of HRA Self Financing a policy on the allocation of investments returns across the GF and HRA now forms part of the Annual Treasury Strategy.

The HRA holds balances and would benefit from cash flow advantages, which are amalgamated for the purposes of the overall investment activity of the Council. At the end of each year the transfer to the HRA of its share of the authority's overall investment returns will be agreed by the S151 Officer in consultation with the relevant officers based on the following principles:

- Equity
- Risk Sharing
- Minimising volatility between years

Returns from *directly* investing in commercial property will be allocated to the relevant fund where the Capital Programme / investment were made from.

10.7 End of year investment report

At the end of the financial year the Cabinet will receive a report on its investment activity.

GLOSSARY OF TERMS

Affordable borrowing limit – limit that the Council has to set under the CIPFA Prudential Code that shows how much the Council considers it can afford to borrow taking all its outgoings into consideration and how much income it considers it can generate.

Alternative financing arrangements – how the Council intends to finance its capital expenditure by other means besides borrowing.

Authorised limit – the amount the Council determines is the maximum that can be borrowed that is affordable and has been calculated in accordance with the legislation behind the CIPFA Prudential Code.

Borrowing requirement – how much the Council considers it needs to borrow to fund its spending plans.

CFR – Capital Financing Requirement – this calculation shows how much the Council needs to borrow or finance by some other measure to meet its planned capital spend.

Counterparty – the other party that participates when a loan or investment is placed.

CPI – Consumer Price Index – the Government's preferred measure of inflation, based on a set basket of goods and services. It excludes housing costs such as mortgage interest payments and council tax.

Credit arrangement – any quasi-loan, to ensure the legislation and Code pick up any unusual arrangements to provide funding other than from a straightforward loan

Credit default swap - A swap designed to transfer the credit exposure of fixed income products between parties. A credit default swap is also referred to as a credit derivative contract, where the purchaser of the swap makes payments up until the maturity date of a contract. Payments are made to the seller of the swap. In return, the seller agrees to pay off a third party debt if this party defaults on the loan. A CDS is considered insurance against non-payment. A buyer of a CDS might be speculating on the possibility that the third party will indeed default.

Credit limit – the maximum amount that can be lent to an individual organisation or group of organisations.

Credit rating – provided by one of the three credit rating agencies, an assessment of how likely the organisation is to repay any monies lent to it.

Creditworthiness - An assessment of the likelihood that a borrower will default on their debt obligations. It is based upon factors, such as their history of repayment and their credit score. Lending institutions also consider the availability of assets and extent of liabilities to determine the probability of default.

Debt cap (HRA) – the limit on the amount that can be borrowed by the HRA, set by central government.

Earmarked reserves – reserves that have been set aside for a specified purpose.

GDP – Gross Domestic Product – measures the output from the economy, if it rises then the economy is growing, if it falls the economy is in recession.

iTraxx - A group of international credit derivative indexes that are monitored by the International Index Company (IIC). The credit derivatives market that iTraxx provides allows parties to transfer the risk and return of underlying assets from one party to another without actually transferring the assets. iTraxx indexes cover credit derivatives markets in Europe, Asia and Australia.

Illiquid investment – An investment that cannot easily be sold or exchanged for cash without a substantial loss in value.

Non-specified investment – as defined in Annex 2.

Prudential indicators – a series of calculated figures specified in the CIPFA Prudential Code which are used to assess how affordable and realistic the Council's spending and financing plans are.

PWLB – Public Works Loans Board – central government lending to other public sector bodies, specifically local government.

PWLB Certainty Rate – The PWLB sets various rates for borrowing. From 1 November 2012 the Government reduced the interest rates on loans from PWLB to Councils who provide information as required on their planned long-term borrowing and capital spending by 0.20%. This reduced rate is called the Certainty Rate.

Replacement borrowing – borrowing taken out to replace other borrowing or other forms of credit that have been repaid.

RPI – Retail Price Index – another inflation index, this one includes the cost of housing.

Specified investments – as defined in Annex 2.

Proposed Prudential Indicators 2019/20 revised, 2020/21 and forecasts for 2021/22 to 2022/23

Indicators for Prudence

CAPITAL EXPENDITURE

This is an estimate of the amount of investment planned over the period. As can be seen, not all investment necessarily has an impact on the Council Tax, schemes funded by grants, capital receipts or external contributions mean that the effect on the Council Tax is greatly reduced.

| Capital Expenditure - General Fund | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|--|----------------|-----------------|-----------------|-----------------|-----------------|
| £000s | Actual | Revised | Estimate | Forecast | Forecast |
| Total Capital Expenditure | 4,831 | 13,767 | 1,024 | 816 | 824 |
| Financing - General Fund | | | | | |
| External contributions | (203) | (67) | - | - | - |
| Section 106 | (168) | (15) | - | - | - |
| Coast protection grant | (2,609) | (2,108) | - | - | - |
| Other Government grants | - | (322) | - | - | - |
| Disabled Facilities Grant | (1,077) | (4,727) | (757) | (757) | (757) |
| Capital receipts | (41) | (907) | - | - | - |
| Direct revenue contributions | (165) | (418) | (55) | (55) | (55) |
| Earmarked reserves | (568) | (5,203) | (212) | (4) | (12) |
| Total Capital Financing | (4,831) | (13,767) | (1,024) | (816) | (824) |
| Net Financing need (External Borrowing) | 0 | 0 | 0 | 0 | 0 |

| Housing Revenue Account Capital Schemes | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|--|----------------|----------------|-----------------|-----------------|-----------------|
| £000 | Actual | Revised | Estimate | Forecast | Forecast |
| Total Capital Expenditure | 4,283 | 6,712 | 3,457 | 3,176 | 3,176 |
| Financing - Housing Revenue Account | | | | | |
| Major repairs reserve | (3,224) | (3,754) | (3,176) | (3,176) | (3,176) |
| Direct revenue contributions | (342) | (2,891) | (281) | - | - |
| Section 106 | - | - | - | - | - |
| Capital receipts | (37) | - | - | - | - |
| External contributions | (600) | (67) | - | - | - |
| Government grant | (80) | - | - | - | - |
| Total Capital Financing | (4,283) | (6,712) | (3,457) | (3,176) | (3,176) |
| Net Financing need (External Borrowing) | 0 | 0 | 0 | 0 | 0 |

CAPITAL FINANCING REQUIREMENT

Each year, the Council finances the capital programme by a number of means, one of which could be borrowing. The Capital Financing Requirement (CFR) represents the cumulative amount of borrowing that has been incurred to pay for the Council's capital assets, less amounts that have been set aside for the repayment of debt over the years. The Council is only allowed to borrow long term to support its capital programme. It is not allowed to borrow long term to support its revenue budget.

| CAPITAL FINANCING REQUIREMENT | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|--------------------------------------|----------------|----------------|-----------------|-----------------|-----------------|
| | Actual | Revised | Estimate | Forecast | Forecast |
| | £000 | £000 | £000 | £000 | £000 |
| General Fund | 5,676 | 5,449 | 5,231 | 5,022 | 4,820 |
| Housing Revenue Account | 41,770 | 40,106 | 38,441 | 36,777 | 34,563 |
| Total | 47,446 | 45,555 | 43,672 | 41,799 | 39,383 |

GROSS DEBT AND THE CAPITAL FINANCING REQUIREMENT

This indicator compares the Capital Financing Requirement to the level of external debt and shows how much of the capital programme is financed from internal resources. The capital programme is partially funded in the short to medium term by internal resources when investment interest rates are significantly lower than long term borrowing rates. Net interest payments are, therefore, optimised.

| PRUDENTIAL INDICATOR | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|-------------------------------|---------|---------|----------|----------|----------|
| | Actual | Revised | Estimate | Forecast | Forecast |
| | £000 | £000 | £000 | £000 | £000 |
| Capital Financing Requirement | 47,446 | 45,555 | 43,672 | 41,799 | 39,383 |
| External debt | 42,076 | 40,312 | 38,592 | 36,921 | 34,699 |
| Internal borrowing | 5,370 | 5,243 | 5,080 | 4,878 | 4,684 |

OPERATIONAL BOUNDARY AND AUTHORISED LIMIT

The Council must set an operational boundary and authorised limit for external debt. The operational boundary is based on the Council's estimate of most likely, i.e. prudent, but not worst case scenario for external debt. It reflects the decision on the amount of debt needed for the Capital Programme for the relevant year. It also takes account of other long term liabilities, which comprise finance leases, Private Finance Initiative and other liabilities that are not borrowing but form part of the Council's debt. The Council has none of these at present.

The authorised limit is the affordable borrowing limit determined in compliance with the Local Government Act 2003. It is the maximum amount of debt that the Council can legally owe. The authorised limit provides headroom over and above the operational boundary for unusual cash movements.

| PRUDENTIAL INDICATOR | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|----------------------------------|---------|---------|----------|----------|----------|
| | Actual | Revised | Estimate | Forecast | Forecast |
| | £000 | £000 | £000 | £000 | £000 |
| Operational boundary - borrowing | 67,861 | 67,704 | 67,525 | 67,469 | 68,012 |
| Authorised limit - borrowing | 80,505 | 76,455 | 76,156 | 76,112 | 76,821 |

Indicators for Affordability

RATIO OF FINANCING COSTS TO NET REVENUE STREAM

This is an indicator of affordability and highlights the revenue implications of existing and proposed capital expenditure by identifying the proportion of the revenue budget required to meet financing costs, net of investment income.

| ESTIMATE OF THE RATIO OF FINANCING COSTS TO NET REVENUE | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|---|---------|---------|----------|----------|----------|
| | Actual | Revised | Estimate | Forecast | Forecast |
| | % | % | % | % | % |
| General Fund | -1.91 | -0.64 | -1.61 | -1.19 | -1.26 |
| Housing Revenue Account | 47.89 | 46.23 | 45.05 | 43.90 | 46.55 |

INTEREST RATE EXPOSURE

Tendring District Council currently has all its borrowings at fixed rate and usually has a mixture of fixed and variable rate investments. This indicator is set to control the Council's exposure to interest rate risk.

| PRUDENTIAL INDICATOR | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|--|---------|---------|----------|----------|----------|
| | Actual | Revised | Estimate | Forecast | Forecast |
| | £000 | £000 | £000 | £000 | £000 |
| Upper limit for Fixed Interest Rates on debt | 47,446 | 45,555 | 43,672 | 41,799 | 39,383 |
| Upper limit for Variable Interest Rates on debt (based on 30% of the fixed rate limit) | 14,234 | 13,667 | 13,102 | 12,540 | 11,815 |

TOTAL PRINCIPAL SUMS INVESTED FOR PERIODS LONGER THAN 364 DAYS (excluding property)

Interest rate risk is also affected by the proportion of the investments invested at fixed rates for longer periods, especially in a period when rates are expected to rise.

| PRUDENTIAL INDICATOR | 2018/19 | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|---|---------|---------|----------|----------|----------|
| | Actual | Revised | Estimate | Forecast | Forecast |
| | £000 | £000 | £000 | £000 | £000 |
| Limits on the total principal sum invested to final maturities longer than 364 days | 3,500 | 3,500 | 3,500 | 3,500 | 3,500 |

MATURITY STRUCTURE OF FIXED RATE BORROWING

This indicator is set to control the Council's exposure to refinancing risk. The limits are set for each age range to ensure that the Council avoids too many fixed rate loans being matured at one time and spreads the maturity across several periods. The percentages for the upper and lower limits do not add up to 100% as they do not represent an actual allocation.

| PRUDENTIAL INDICATOR | Upper limit | Lower limit | Estimated outstanding debt maturity % at | | | |
|--------------------------------|-------------|-------------|--|------------|------------|------------|
| | % | % | 31/03/2020 | 31/03/2021 | 31/03/2022 | 31/03/2023 |
| Under 12 months | 25 | 0 | 4.27% | 4.33% | 6.02% | 4.10% |
| 12 months and within 24 months | 30 | 0 | 4.15% | 5.76% | 3.85% | 7.56% |
| 24 months and within 5 years | 60 | 0 | 15.55% | 16.76% | 20.22% | 17.10% |
| 5 years and within 10 years | 75 | 0 | 20.13% | 17.57% | 14.76% | 14.60% |
| 10 years and above | 95 | 25 | | | | |
| 10-20 years | | | 16.89% | 15.76% | 14.52% | 13.41% |
| 20-30 years | | | 1.82% | 0.95% | 18.96% | 25.94% |
| >30 years | | | 37.21% | 38.87% | 21.67% | 17.29% |

TREASURY INDICATOR - EXPOSURE TO CREDIT RISK

The Council has adopted a voluntary measure of its exposure to credit risk by monitoring the value-weighted average score of its investment portfolio. This is calculated by applying a score to each investment (AAA=1, AA+=2, etc.) using the rating applicable when it is taken out and taking the arithmetic average, weighted by the size of each investment. Investments in government instruments such as DMO, treasury bills and in local authorities are scored as 1.

| TREASURY INDICATOR | 2018/19 Actual | 2019/20 to 31/12 | 2020/21 Upper limit |
|--------------------------------------|-------------------|---------------------|------------------------|
| Average credit score for investments | 1.43 | 1.31 | 2.00 |

SPECIFIED AND NON-SPECIFIED INVESTMENTS

This schedule sets out the specified and Non-Specified investments the Council may use in 2020/21.

Investments may be in the form of direct deposits, Certificates of Deposits (CDs), property (including property funds) or the purchase of financial instruments such as Treasury Bills, Bonds and Gilts.

SPECIFIED INVESTMENTS:

An investment is a Specified Investment if all of the following apply

1. The investment is denominated in sterling and any payments or repayments in respect of the investment are payable only in sterling
2. The investment is not a long term investment which is one that is due to be repaid within 12 months of the date on which the investment is made or one which the local authority may require to be repaid within that period.
3. The investment is not defined as capital expenditure by regulations
4. The investment is made with a body or in an investment scheme of high credit quality or the investment is made with the following public sector bodies.
 - a. UK Government
 - b. Local authority
 - c. Parish council or community council

Where an investment is being made with a UK nationalised or part nationalised bank this will be treated for the purposes of classification as a Specified or Non-specified investment as being invested with the UK Government.

High credit quality

For a counterparty to meet the high credit quality criteria for specified investments, that counterparty must meet as a minimum the ratings of the three credit rating agencies listed below, and not be the subject of any adverse indications from the following sources.

- Credit Default Swap index
- The quality financial press
- Market data
- Information on government support for banks and
- The credit ratings of that government support

| Ratings | Fitch | Moody's | Standard & Poors |
|------------|-------|---------|------------------|
| Short term | F1 | P-1 | A-1 |
| Long term | A- | A3 | A |

NON SPECIFIED INVESTMENTS

A maximum of £3.5m may be held, in aggregate, in Non-Specified Investments

The only Non-Specified investments that the Council will use in 2020/21 are investments for periods of longer than 12 months with any institution or investment instrument that would have been classed as a Specified Investment if the investment had been for less than 12 months or property. The Council currently holds an investment property in Clacton. The historic cost of this property (including stamp duty) is £3.245 million, but this was revalued at 31 March 2019 at £2.300 million by the Council's external valuer. The purchase of the property was financed from revenue resources.

The Council is also exploring the use of property funds / unit trusts as part of its wider investment portfolio. To manage the risks of holding property fund investments, they should be viewed as a longer term investment and hence a non-specified investment.

As with all property related investments, there is a risk that such an investment could go down as well as up in value. The accounting standards relating to such investments require that they be classified in such a way that any increase or decrease in the value of the fund during an individual year would be a direct charge to the General Fund revenue balance.

However, there is currently a statutory regulation issued by the Ministry for Housing, Community and Local Government (MHCLG) in force until 31 March 2023 which states that these charges should not go directly to the General Fund balance but be reversed out through the Movement in Reserves Statement to a unuseable reserve and held until such time as the investment is sold – by managing the overall liquidity of its overall investment portfolio, the Council would remain in control of when to sell its property unit trust holding(s) and would not look to do so until there was net gain in value rather than a loss. (at which point the cumulative gains or losses then fall to the General Fund). It is not known whether MHCLG would extend this regulation in 2023, although it was issued to allow authorities to make an orderly withdrawal from such funds, or whether from that date forwards the charge would go straight in year to the General Fund and have to be directly financed.

The use of a property fund can be deemed capital expenditure, and as such will be a spending of capital resources. Given the risks and potential complexities of investing in unit trusts, any decision to enter into a property fund investment would therefore be made after further consultation with the Council's external advisors, undertaking of appropriate due diligence, and would be subject to a separate Member decision, which would include approval to increase the current £3.5m limit for non-specified investments highlighted above.

COUNCIL

21 JULY 2020

REPORT OF ASSISTANT DIRECTOR (PARTNERSHIPS)

A.6 PAY POLICY STATEMENT 2020/21

(Report prepared by Anastasia Simpson and Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To present the Pay Policy Statement for 2020/21.

EXECUTIVE SUMMARY

The Localism Act 2011 Section 38(1) requires the District Council to prepare a pay policy statement each year. The pay policy statement must articulate the Council's approach to a range of issues relating to the pay of its workforce, particularly its senior staff (or 'chief officers') and its lowest paid employees.

The matters that must be included in the statutory Pay Policy Statement are as follows:

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

This statement will be published on the Council's website following each review and approval by Full Council.

The Human Resources and Council Tax Committee reviewed the Pay Policy Statement and report at its meeting held on 24 February 2020. The Committee recommended that Full Council adopted the Pay Policy Statement set out in Appendix A to this report.

The Pay Policy Statement 2020/21 has been designed to give an overview of the Council's framework regarding pay and rewards for staff within the Council. This framework is based on the principle of fairness and that rewards should be proportional to the weight of each role and each individual's performance. The framework aims to ensure the ability of the Council to recruit talented individuals whilst reassuring the citizens of Tendring that their money is being used efficiently.

A major pay assimilation exercise was carried out by the Council in 2018/19, to move across to the new nationally agreed pay bands for 2019/20, this resulted in multiple inflationary variations across the pay scale. This exercise was successfully completed following negotiations between the Council and Regional union officials.

RECOMMENDATION(S)

IT IS RECOMMENDED TO FULL COUNCIL -

That the Pay Policy Statement 2020/21, as set out at Appendix A, be approved and adopted.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Council's annual consideration and formal approval of a Pay Policy Statement is part of the Council's governance arrangements and provides transparency for the citizens of Tendring.

FINANCE, OTHER RESOURCES AND RISK

The Council has a statutory and contractual obligation to adopt the NJC pay spine. Negotiations for the inflationary award for 2020/21 were suspended in 2019 due to the General Election. Currently the national unions are requesting a 10% inflationary award, the majority of Councils across the region are budgeting for a 2% inflationary award, including Tendring. On 23 January 2020, the National Employers wrote to local authorities confirming that discussions had recommenced however it was very unlikely that a deal would be agreed for implementation by 1 April 2020. It was also noted that the deal anticipated for 2020/21 is likely to be a one year deal, not a multiple year deal as seen in previous years.

LEGAL

The Council has an obligation to implement the NJC pay spine alongside the approval and publication of an annual Pay Policy Statement in accordance with the provisions of the Localism Act 2011 (Section 38).

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 pay spine for 2020/21 has yet to be agreed. The Council still has a statutory duty to produce and publish an updated annual Pay Policy with effect from the 1st April 2020.

PART 3 – SUPPORTING INFORMATION

BACKGROUND – PAY ASSIMILATION 2019/20

In April 2019 all employees moved across to a new national pay spine (which ensured compliance with the anticipated increase in the legal national minimum wage by 2020).

The Conditions of Employment with Tendring District Council in the main, conform to those established for local government generally by the NJC, commonly known as the 'Green Book'. Agreements reached by the NJC are 'collective agreements' and if they are incorporated into employees' contracts of employment, then the changes take effect automatically. The new spine in 2019 replaced entirely the pay spine and accordingly employees assimilated across from their current SCP to the new corresponding SCP in April 2019.

Other Key Changes implemented in April 2019

- A bottom rate of £9.00 per hour (£17,364) on new Spinal Column Point (SCP) 1 (equivalent to old SCP's 6 & 7).
- 'Pairing off' old SCP's 6-17 incl. to create new SCP's 1-6 incl.
- Equal steps of 2.0% between each new SCP's 1 to 22 incl. (equivalent to old SCP's 6-28 incl.)
- By creating equal steps between these pay points, new SCP's 10, 13, 16, 18 and 21 are generated to which no old SCP's will assimilate.
- On new SCP's 23 and above (equivalent to old SCP's 29 and above), 2.0% increase on 2018 rate.

PAY POLICY STATEMENT 2020/21 - BACKGROUND

Introduction

In the 2020/21 Pay Policy Statement there are a few minor updates, particularly relating to Allowances. Allowances are subject to the inflationary award across the Council. In 2019 it was found that the allowances for the roles of Monitoring Officer and Section 151 Officer have not previously been subject to any inflationary award, which appears to be an oversight at the time of the Fundamental Service Reviews. Therefore the Pay Statement 2020/21 ensures that these allowances, going forward from 1 April 2020, are now subject to the NJC national inflationary increases, in the same way as all other allowances.

The Pay Policy Statement 2020/21 introduces a new allowance for the Deputy Chief Executive duties, this is to ensure that the Council maintains resilience when the Chief Executive is undertaking duties external to the Council.

Across the Council there are very few subsistence claims made by Officers (16 during 2019), however it is proposed to move to HMRC subsistence allowances, which aligns with the Council's mileage payments. This also has some additional benefits as P11Ds are not required and staff will not have to pay tax on claims within the HMRC guidelines. At the current time if a member of staff is working outside of the District and claims breakfast at the rate of £6.88 (NJC maximum rate) as this is above the £5 HMRC rate of reimbursement, then they are liable to pay tax. The

HMRC guidelines allow for employees to claim based on time away from the work location as follows:

5 hours - £5
10 hours - £10
15 hours - £25

Mandatory gender pay reporting was introduced in April 2017, following the introduction of the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.

The Off-Payroll changes to working in the public sector (IR35) which were fully implemented in 2017 continue to have little impact on the Council in relation to resourcing specialist skills.

Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017

To meet the requirements of the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017, the Council has a statutory duty to publish a snapshot of data including the following:

- The mean gender pay gap
- The median gender pay gap
- The mean bonus gender pay gap
- The median bonus gender pay gap
- The proportion of males and females receiving a bonus payment
- The proportion of males and females in each quartile band

This information is published annually on the Council's website as well as a designated government website. Three of the above questions, are not applicable, as the Council does not operate bonus schemes for any Officers. The challenge within Tendring District Council and across Great Britain is to eliminate any gender pay gap. If any gaps are determined, as the Council interprets data, an action plan will be prepared.

Early data collation for 2020, indicates the following across the Council:

Mean Difference Across Gender

The difference between the male and female mean hourly rate is £0.63. The male mean hourly rate is 5.00% higher than the female mean hourly rate.

Median Difference Across Gender

The difference between the male and female median hourly rate is. £0.63 The female median hourly rate is 6.09% higher than the male median hourly rate.

The difference in mean hourly rates is primarily a result of the apprentices employed at the organisation. 75% of apprentices are female, this therefore reduces the mean female hourly rate. Evidence of this factor can also be seen in the median hourly rate difference where the female hourly rate is greater than male hourly rate.

During 2020 the Council will be working with EELGA to determine alternatives to EPayCheck which is used as the Council's benchmarking tool. With effect from April 2020 EELGA have confirmed that the current system is to be disbanded.

UNISON has been consulted on the above.

Council will be aware that the Committee Services Manager, shortly after the introduction of restrictions on meetings as a result of the Covid-19 public health emergency initiated, by email on 23 March 2020, a consultation with Members on the approval of the 2020/21 Pay Policy Statement with a view to the Statement then being approved by the Chief Executive using his "urgency/emergency" delegated powers under the Constitution.

However, the Council's Monitoring Officer then advised that this would not be appropriate, for good governance and perception reasons, for an Officer to make the decision on matters which effect Officers' pay. In addition, Section 42 of the Localism Act 2011 prohibits these functions from being exercised by Cabinet or being delegated to a Committee or Officer. This is why the Statement is now before Full Council for Members' approval.

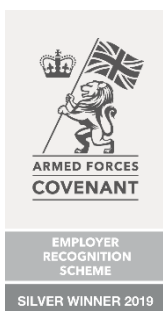
Council may be interested to know that, of the Members who responded to the abandoned consultation, no Member indicated that they were opposed to the approval of the Pay Policy Statement. 85.7% of respondents indicated that they were in favour of the Statement being approved and 14.3% indicated that they wished to abstain on the matter.

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| BACKGROUND PAPERS FOR THE DECISION |
| None |
| APPENDICES |
| APPENDIX A - PAY POLICY STATEMENT 2020/21 |

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Tendring District Council Pay and Reward Policy

2020/21



Introduction

Section 38(1) of the Localism Act 2011 requires local authorities to produce an annual pay policy statement. The provisions within the Act do not seek to change the right of each local authority to have autonomy on pay decisions, however it emphasises the need to deliver value for money for local taxpayers.

This statement is approved by Full Council and published on the Council's website at the earliest opportunity.

Tendring District Council recognises, in the context of managing public resources, remuneration at all levels needs to be adequate to secure and retain high quality employees, dedicated to the service of the public; but at the same time needs to avoid being unnecessarily excessive. The Council's vision includes the provision to adopt a reward strategy that is modern, sustainable, fair and transparent and rewards people appropriately for their contribution to the Council.

The Council follows the transparency requirements on remuneration as set out in the Local Government Transparency Code 2015, published by the Department for Communities and Local Government in February 2015, and the Local Transparency Guidance issued on 30 November 2015 by the Local Government Association.

Part of the Code includes publishing information relating to senior salaries within a local authority. A full list of senior salaries and also monthly expenditure on pay across all pay bands is available and published on the Council's website www.tendringdc.gov.uk.

The Council's Statement of Accounts includes details of all Chief Officers pay.

The HR Committee has responsibility for the terms and conditions of service for all staff and ensures that remuneration is set within the wider pay context giving due consideration to the relationship between the highest and lowest paid in the organisation.

The matters that must be included in the statutory Pay Policy Statement are as follows:

- A local authority's policy on the level and elements of remuneration for each Chief Officer (for Tendring District Council this includes the Chief Executive, Corporate Directors/Head of Department, Monitoring Officer and the Section 151 Officer).
- A local authority's policy on the remuneration of its lowest-paid employees (together with its definition of "lowest- paid employees" and its reasons for adopting that definition).
- A local authority's policy on the relationship between the remuneration of its Chief Officers and other Officers.
- A local authority's policy on other aspects of Chief Officers' remuneration: remuneration on recruitment increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.
-

Purpose of the Statement

The Pay Policy Statement 2020/21 has been designed to give an overview of the Council's framework regarding pay and rewards for staff within the Council. The framework aims to ensure the ability of the Council to recruit talented individuals whilst reassuring the citizens of Tendring that their money is being used efficiently.

Tendring District Council needs to have high calibre leaders within the organisation to deliver high quality public services, especially in difficult fiscal conditions. At the same time taxpayers are right to demand value for money from public resources and an assurance that their money is not being wasted on excessive senior salaries. The primary aim of the Pay Policy is to set a framework to attract, retain and motivate staff so that the organisation can perform at its best. Research shows that individuals are attracted, retained and engaged by a range of both financial and non-financial rewards so a coherent link between reward and the overall approach to people management leads to the best possible outcome.

Managing Remuneration

Tendring District Council has a fair, equitable and transparent approach to remuneration, following equal pay legislation. This includes incremental progression based on length of service and more proactively on:

- Achieving annual performance levels
- Development progression against defined frameworks (Career Progression for many posts)

The Council also benchmarks and reviews salary profiles within the job market and has access to the Epaycheck system provided by the East of England Employer's Organisation. *The Employer's organisation has recently confirmed that the EPayCheck system is going to be withdrawn during 2020, viable alternatives are currently being sought.*

The Council has adopted the National Pay Grades as set by the National Joint Council (NJC) and is subject to the national negotiations regarding pay and conditions of service (commonly known as the 'Green Book'). Within the pay structure there are 22 Pay Bands and 81 Incremental Pay Points.

Apprentices, however, are not included as they have a contract for learning and training with the Council, rather than an employment contract and are paid according to the government approved apprenticeship pay rates.

The values of the SCPs are updated by the national pay awards and the Council is notified of any changes by the National Joint Council for Local Government.

Employees who are new to the Council and Local Government are usually appointed at the first point of the salary banding, apart from in exceptional circumstances.

National Single Status and the NJC Job Evaluation Scheme have been adopted by the Council with locally agreed conventions, which at the time of adoption were

negotiated and agreed with local union officials. Training has been provided by the Regional Employers (EELGA) to ensure that there are a sufficient number of managers and union officials within the organisation who have the skills to implement and apply job evaluation within the Council. This job evaluation scheme is recognised by employers and trade unions nationally and the scheme allows for robust measurement against set criteria resulting in fair and objective evaluations.

Chief Officers are not subject to the NJC Job Evaluation Scheme. Chief Officers within the organisation have their pay set following benchmarking and pay rates which are set to attract and retain key employees. The agreement of pay is subject to Equal Pay legislation. *During 2020 Chief Officers are going to move away from incremental progression to career graded posts, whereby on an annual basis performance according to the competency criteria within the job description has to be met, following assessment, to allow for any incremental progression. This process will include a panel evaluation process and moderation.*

The highest paid employee is the Chief Executive who is on a salary scale of £112,000 to £131,461.00 per annum.

With effect from 1 April 2020 an allowance for the role of Deputy Chief Executive will be introduced. This allowance is payable if/when the Chief Executive requires a Deputy Chief Executive to cover particular roles and functions in their absence. The current rate of this allowance is £3,000 per annum.

The allowances for the Statutory Officers roles (Monitoring Officer and Section 151 Officer) will be index linked to the NJC inflationary awards, from 1 April 2020.

Car mileage payments for all employees are paid at the Inland Revenue Rate. This is currently 45p per mile (for the first 10,000 miles). Use of the Inland Revenue rate enables the Council to have a fair and consistent rate of reimbursement for business mileage across the Council.

There are local rates in force for individuals who use their motorcycles or bicycles on official business and to encourage Officers to car share on business journeys the Council has also adopted the additional 5p per passenger per mile, in accordance with Inland Revenue guidance.

Other allowances payable within the Council included the following:

- Committee Attendance
- Overtime Payments
- Standby Payments
- Callout Payments
- First Aider Payments

The Council introduced an *updated Allowances Policy* in April 2018 to recognise that the Council provides services to residents that sometimes require a response outside of standard working hours.

The new policy has been designed on the basis of the following:

- That staff are paid in a consistent way throughout the organisation.
- To compensate staff that provide a contractual out of hour's standby service to meet the Council's statutory duties.
- To ensure that payment structures are fair and sustainable for the future.
- The Council wants to be a responsible employer to meet the health, safety and well-being needs of staff by encouraging the use of TOIL for recovery from working additional hours through the night.

Within Tendring District Council there are three distinct categories of service provision:

- 1) Services that have 24 hour, 7 day a week scheduled provision.
- 2) Services that are delivered predominantly during standard office hours, that also provide a standby service outside of these hours. Standby is used to address calls that require attention which cannot wait until standard opening hours.
- 3) Services that are delivered during standard office hours, that may very occasionally, need to provide an extra response on an ad hoc basis.

In addition, the Council has a statutory requirement to maintain an Emergency Response service for the district. Officers who support this service are called First Call Officers.

Following consultation with UNISON, managers and employees, the following overtime arrangements were introduced from 1 April 2018:

- Staff up to SCP 49 (the top of Grade 11) will be able to be paid overtime. Overtime will only be paid if the time off is not an option for operational service delivery. Overtime must be authorised in advance by the relevant Corporate Director.
- Overtime will be paid at plain rate only for Category 2 and 3 services.
- Category 1 services will be able to be paid enhanced rates of overtime for evenings, weekends and bank holidays for those staff who have worked 37 hours any one week.

The Council does not currently operate any bonus schemes.

With effect from 1 April 2020 the Council will be changing subsistence rates to HMRC rates of reimbursement, this is to ensure alignment with mileage. Any payment is made on production of actual receipts and payments are only allowable when an Officer is working outside of the District.

The current rates of reimbursement are as follows:

*Working outside of the District for more than 5 Hours - £5
 Working outside of the District for more than 10 Hours - £10
 Working outside of the District for more than 15 Hours - £25*

In a personal capacity as (Deputy/Local/Acting) Returning Officer, the holder of the post of Chief Executive, is separately remunerated in respect of his statutory duties at Parliamentary, European Parliamentary, Referendums, County, Police and Crime Commissioner and District and Parish Council Elections. Fees for conducting Parliamentary, European Parliamentary Elections, Police and Crime Commissioner Elections and National Referendum are determined by way of a Statutory Instrument. In respect of acting as Deputy Returning Officer at elections of County Councillors, reference is made to the Scale of Fees and Expenses payable at Elections of County Councillors determined by Essex County Council. The fee for undertaking the role of returning Officer in respect of District and Parish Council Elections is by reference to the Scale of Fees and Expenses payable to the Returning Officer at elections of District and Parish Councillors.

The fees received by the holder of the post of Chief Executive in 2019/20, in respect of these duties was £14,680.79 due to the whole Council elections to Tendring District Council, the 26 Parish and Town Councils across the District, the countermanded and rescheduled Poll for St Osyth District Ward, the repeated election for Great Oakley Parish Council, the European Parliamentary elections, the Clacton East County Council Division By-election and the United Kingdom Parliamentary Election for the Clacton Constituency.

The Council is an admitted body of the Local Government Pension Scheme and the Pension Scheme for the Council is administered by Essex County Council.

Transparency within Tendring District Council

Existing legislation already requires the Council to publish statements regarding remuneration and each year in the Council's Statement of Accounts includes a detailed analysis of the pay, benefits and pension entitlements for all Chief Officers within the Council. The Council will continue to publish this information on an annual basis and it is readily available to view on the Council's website www.tendringdc.gov.uk. This information also includes a structure of the Council's Senior Officers.

In 2019/20 the remuneration for the lowest paid member of staff within the Council was £17,364 (based on £9.00 per hour) per annum and the most senior officer within the Council was paid £131,461 per annum. This is a multiple of 7.58, which is lower than half of the pay multiple detailed as the cap for Local Government pay as detailed in the Hutton Review of Fair Pay in the Public Sector. It should be noted that this multiple has reduced by 3 points in comparison to the Pay Statement 2014/15. The Council aims to keep this multiple under review to ensure that it is kept at an appropriate level. The current median pay for Chief Officers is £71,170 (this is based on full time equivalent annual salary, excluding election fees). The median pay for other staff other than Chief Officers is £30,939 per annum. It should be noted that these figures are likely to change during 2020/21 due to the current senior restructuring proposals.

The Council publishes on the Tendring District Council website a monthly report of salaries paid, by pay band and the number of staff within each pay band - www.tendringdc.gov.uk.

Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017

Since 2018 the Council has been obliged to introduce mandatory gender pay reporting, to meet the requirements of the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017. The Council has to publish data including the following:

- The mean gender pay gap
- The median gender pay gap
- The mean bonus gender pay gap
- The median bonus gender pay gap
- The proportion of males and females receiving a bonus payment
- The proportion of males and females in each quartile band

This information is published on the Council's website as well as a designated government website. Three of the above questions, will not be applicable, as the Council does not operate bonus schemes for any Officers.

The challenge within Tendring District Council and across Great Britain is to eliminate any gender pay gap. If any gaps are determined, as the Council interprets data, an action plan will be prepared.

In preparation for the publication of the data in March 2020 the Council has been undertaking an analysis of gender pay data which includes an analysis by gender across four pay quartiles. Early results indicate the following:

Mean Difference Across Gender

The difference between the male and female mean hourly rate is £0.63. The male mean hourly rate is 5.00% higher than the female mean hourly rate.

Median Difference Across Gender

The difference between the male and female median hourly rate is £0.63. The female median hourly rate is 6.09% higher than the male median hourly rate.

The difference in mean hourly rates is primarily a result of the apprentices employed at the organisation. 75% of apprentices are female, this therefore reduces the mean female hourly rate. Evidence of this factor can also be seen in the median hourly rate difference where the female hourly rate is greater than male hourly rate.

Off- Payroll working in the public sector (IR35)

From time to time, due to the requirement for particular specialist skills or due to peaks in workloads, the Council uses agency workers or consultants, for short term assignments. With effect from 1st April 2017, HMRC updated the requirements and regulations for off payroll workers within the public sector. From April 2017, individuals working through their own company in the public sector will no longer be responsible for deciding whether the intermediaries' legislation applies and then paying the

relevant tax and NICs. This responsibility will instead move to the public sector employer.

The Council has undertaken and reviewed the current status of workers with individual agencies and HMRC.

Severance Payments

The Council has adopted policies regarding severance payments. Full details can be found in the following;

- Organisational Change and Redundancy Policy
- Flexible Retirement Policy

In the case of the Organisational Change and Redundancy Policy the authority has to ensure that the policy is workable, affordable and reasonable having regard to foreseeable costs.

In terms of severance, all policies and payments are the same for the “lowest paid employee” and the Chief Officers of the Council.

Tendring District Council needs to ensure sufficient flexibility to allow for responding to unforeseen circumstances and there may be occasions when the Council has to take a pragmatic approach to severance. Any enhanced severance agreements will not be entered into without the advice of the External Auditor and will adhere to current legislation.

Other Rewards

The Council has both financial and non-financial rewards for staff; these are to reflect the different expectations and priorities of staff.

These other rewards include the following:

- Access to the Local Government Pension Scheme for all staff
- Training Support
- Being tax efficient and at nil cost to the Council - Salary Sacrifice Schemes including Childcare Vouchers, Car Purchase Scheme (Ultra Low emission cars) and a Cycle to Work Scheme
- Health Schemes – the Council has been able to offer a number of Weight Management courses, Quit smoking clubs and Health Checks for employees in partnership with ACE and PROVIDE and at nil cost to the Council
- Occupational health and a *fully funded Employee Assistance Programme*
- Additional career development opportunities – secondments, special projects, flexible working and recognition through awards such as the Celebration of Success and STARS Event
- Free car parking
- Flexi time scheme

- Providing discounts at local shops and cafes for employees
- Additional days annual leave granted after 5 years of continuous service with Tendring District Council

There are no rewards that only benefit Chief Officers within the Council.

Review of the Pay Policy Statement

The Localism Act stipulates that the Council's Pay Policy Statement should be kept under regular review on an annual basis. This includes a publication of the salaries of the most senior employees within the organisation compared to the lowest paid employees. This includes using pay multiples.

The Policy is approved by the Human Resources Committee and presented to Full Council.

The Human Resources Committee will take responsibility for the role of the Council's Remuneration Panel. In fulfilling this role the Committee will ensure that decisions will be based on the following:

- Support the achievement of the Council's aims
- Take account of wider public sector pay policy and good practice
- Are proportionate, fair and equitable and support equal pay principles
- Take account of appropriate pay differentials
- Attract, retain and motivate Officers of the right quality and talent
- Take account of the resources required in transitioning to any revised arrangements

Other Policies

The Council has a number of policies that could have a financial benefit and should be read in conjunction with this Pay Policy Statement including the following:

- Disturbance Allowances Policy
- Organisational Change and Redundancy Policy
- Market Forces Policy
- Flexible Retirement Policy
- Acting Up Policy
- Relocation Policy
- Long Service and Retirement Gifts Policy

All of the above policies apply equally to all employees of Tendring District Council.

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