

# Public Document Pack

## TENDRING DISTRICT COUNCIL

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

4 March 2021

Dear Councillor

I HEREBY SUMMON YOU to attend the meeting of the Tendring District Council to be held at 7.30 p.m. on Tuesday 16 March 2021 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.

This means that Councillors can attend the meeting by joining it remotely.

Yours faithfully



Ian Davidson  
Chief Executive

To: All members of the  
Tendring District Council

# TENDRING DISTRICT COUNCIL

## AGENDA

For the meeting to be held on Tuesday, 16 March 2021

### **Prayers**

#### **1 Apologies for Absence**

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

#### **2 Minutes of the Last Meeting of the Council (Pages 1 - 12)**

The Council is asked to approve, as a correct record, the minutes of the meeting of the Council held on Tuesday 16 February 2021.

#### **3 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.

#### **4 Announcements by the Chairman of the Council**

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

#### **5 Announcements by the Chief Executive**

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

#### **6 Statements by the Leader of the Council**

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

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

#### **7 Statements by Members of the Cabinet**

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

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

#### **8 Annual State of the Tendring District Statement by the Leader of the Council**

The Council will receive the annual State of the Tendring District Statement from the Leader of the Council.

#### **9 Petitions to Council**

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

**10 Questions Pursuant to Council Procedure Rule 10.1 (Pages 13 - 14)**

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

The Chairman shall determine the number of questions to be tabled at a particular meeting in order to limit the time for questions and answers to 21 minutes.

There is one question from a member of the public on this occasion.

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

The Council will receive a report (if any) on any Cabinet or Portfolio Holder 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/or Overview and Scrutiny Procedure Rule 18(i).

**12 Minutes of Committees (Pages 15 - 84)**

The Council will receive the minutes of the following Committees:

- (a) Community Leadership Overview & Scrutiny of Monday 30 November 2020;
- (b) Resources and Services Overview & Scrutiny of Thursday 14 January 2021;
- (c) Resources and Services Overview & Scrutiny of Monday 1 February 2021;
- (d) Standards of Wednesday 3 February 2021;
- (e) Community Leadership Overview & Scrutiny of Monday 8 February 2021;
- (f) Audit of Thursday 25 February 2021;
- (g) Human Resources & Council Tax of Thursday 25 February 2021; and
- (h) Community Leadership Overview & Scrutiny of Monday 1 March 2021.

**NOTES:** (1) The above minutes are presented to Council for information only. Members can ask questions on their contents to the relevant Chairman but questions as to the accuracy of the minutes must be asked at the meeting of the Committee when the relevant minutes are approved as a correct record; and

- (2) Where any recommendations to Council have been made by those Committees, these are included within separate reports for Council to decide upon (i.e. by noting the minutes those recommendations are not approved at this stage of the proceedings).

**13 Motions to Council**

In accordance with the provisions of Council Procedure Rule 12, the Council will consider any Motion(s) to Council submitted by Councillors to this meeting.

**14 Motion to Council - Development Sites for Council Housing (Pages 85 - 96)**

Pursuant to the provisions of Council Procedure Rule 12.5 the Council will consider further the following Motion to Council (which was submitted by Councillor Gina Placey to the meeting of the Council held on 24 November 2020 and which was referred to the Cabinet for its consideration in accordance with the provisions of Council Procedure Rule 12.4):-

*“(a) That this Council acknowledges that its recently adopted Housing Strategy now gives a different context to the Portfolio Holder decisions in January 2019 to dispose of three pieces of Council owned land at Crome Road, Clacton-on-Sea; Dover Road, Brightlingsea; and Hilton Close, Manningtree and to seek planning permission for housing developments on those sites in order to maximise the income from such disposals; and*

*(b) That this Council now considers those sites to be suitable for building council houses especially as two of them already have planning permission.”*

The Cabinet considered Councillor Placey’s motion at its meetings held on 18 December 2020 and 19 February 2021. The Portfolio Holders’ joint report submitted to that February meeting together with the relevant Minute are included within the Council Book.

**15 Recommendations from the Cabinet**

The Council is asked to consider any recommendations submitted to it by the Cabinet.

**16 Reports Submitted to the Council by an Overview and Scrutiny Committee - Reference from the Community Leadership Overview and Scrutiny Committee - A.1 - Mitigation Measures for Impact of Public Firework Displays (Pages 97 - 106)**

Further to Council’s decision taken on this matter at its meeting held on 24 November 2020 (Minute 47) the Council is asked to consider the recommendations submitted to it by the Community Leadership Overview and Scrutiny Committee.

**17 Report of the Chief Executive - A.2 - Change in Membership of Political Groups and the Dissolution of the UKIP Group (Pages 107 - 108)**

To inform Council of a change in the membership of the Conservative political group and the dissolution of the UKIP political group on the Council.

**18 Report of the Monitoring Officer - A.3 - Review of the Council's Constitution (Pages 109 - 148)**

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

**19 Report of the Monitoring Officer - A.4 - Adoption of an Executive and Overview & Scrutiny Protocol (Pages 149 - 192)**

The Council is asked to consider the adoption of a proposed Executive and Overview & Scrutiny Protocol following its consideration by the Cabinet and the Council’s two overview and scrutiny committees.

**20 Report of the Monitoring Officer - A.5 - The Planning Committee's Public Speaking Scheme (Pages 193 - 234)**

The Council is asked to consider the recommended change to the Planning Committee's Public Speaking Scheme put forward by that Committee.

**21 Report of the Assistant Director (Partnerships) - A.6 - Pay Policy Statement 2021/22 (Pages 235 - 248)**

Council's approval is sought in respect of the Pay Policy Statement for 2021/22.

**22 Questions Pursuant to Council Procedure Rule 11.2 (Pages 249 - 250)**

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

The time allocated for receiving and disposing of questions shall be a maximum of 30 minutes. Any question not disposed of at the end of this time shall be the subject of a written response, copied to all Members the following working day unless withdrawn by the questioner.

Two questions have been received, on notice, from Members of the Council on this occasion.

**23 Urgent Matters for Debate**

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

**Date of the Next Scheduled Meeting of the Council**

Tuesday, 27 April 2021 at 7.30 pm – Annual Meeting of the Council

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**MINUTES OF THE MEETING OF THE COUNCIL,  
HELD ON TUESDAY, 16TH FEBRUARY, 2021 AT 7.30 PM  
MEETING WAS HELD PURSUANT TO STATUTORY INSTRUMENT 2020/392.**

<b>Present:</b>	Councillors Land (Chairman), Bray (Vice-Chairman), Alexander, Allen, Amos, Barry, Bush, Calver, Casey, Chapman, Chittock, Clifton, Codling, Coley, Davidson, Davis, Fairley, Fowler, Griffiths, C Guglielmi, V Guglielmi, Harris, I Henderson, J Henderson, P Honeywood, S Honeywood, King, Knowles, McWilliams, Miles, Morrison, Newton, Placey, Porter, Scott, Skeels, Steady, G Stephenson, M Stephenson, Stock OBE, Talbot, Turner, White, Wiggins and Winfield
<b>In Attendance:</b>	Ian Davidson (Chief Executive), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Keith Simmons (Head of Democratic Services and Elections), Ian Ford (Committee Services Manager), William Lodge (Communications Manager), Elizabeth Ridout (Leadership Support Manager), Keith Durran (Democratic Services Officer), Emma Haward (Leadership Support Assistant), Matt Cattermole (Communications Assistant) and Hattie Dawson-Dragisic (Apprentice (Democratic Services & Elections))

**76. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillor Cawthron.

**77. MINUTES OF THE LAST MEETING OF THE COUNCIL**

It was **RESOLVED** that the Minutes of the ordinary meeting of the Council held on 26 January 2021 be approved as a correct record and be signed by the Chairman.

**78. DECLARATIONS OF INTEREST**

With regard to the Council's consideration of the budget and Council Tax proposals and the statutory provisions in respect of Members' declarations of interest thereon, the Monitoring Officer reminded Members of the salient points contained in her joint advice with the Council's Section 151 Officer that had been recently circulated to them by email on 9 February 2020.

There were no declarations of interest made by Members on this occasion.

**79. ANNOUNCEMENTS BY THE CHAIRMAN OF THE COUNCIL**

The Chairman of the Council (Councillor Land) reminded Members that The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 required local authorities to hold a named vote on the Budget motion and any and all amendments thereto.

**80. ANNOUNCEMENTS BY THE CHIEF EXECUTIVE**

There were none on this occasion.

**81. STATEMENTS BY THE LEADER OF THE COUNCIL**Decision of the Supreme Court – Designation of Mistley Quay as a Village Green

The Leader of the Council (Councillor Stock OBE) referred to the recent decision of the Supreme Court to designate Mistley Quay as a Village Green. He extended his congratulations to the legal services team at Essex County Council and all those involved on their success after many years of unstinting effort.

Councillor Stock informed Council that Officers from both Essex County Council and Tendring District Council were examining the full implications of this landmark decision.

Councillor Stock then responded to questions raised by Councillors Turner and G V Guglielmi.

**82. STATEMENTS BY MEMBERS OF THE CABINET**Action on Climate Change

The Environment & Public Space Portfolio Holder (Councillor Talbot) made the following statement:-

*“Colleagues,*

*At our 26th January meeting I reported to Council the fact that Climate change was being included in my Portfolio and that the subject and the Council’s agreed aim to be ‘Net Zero Carbon’ by 2030 in respect of those emissions from our business operations that we have control of, should be on everybody’s lips and part of the Council’s consideration of all future reports written and received by all departments of the Council. I further said I would be raising the whole issue with my Cabinet colleagues.*

*This I did on the 29<sup>th</sup> of January and received support from the Council Leader and fellow members, for my intention to keep the Climate Change issue and our Net Zero Carbon aim for TDC, referred to regularly on our reports when prepared, and to disseminate further to our Towns and Parishes, inviting them to do the same.*

*In line with this intention, Senior Council Officers are being requested to ensure that all reports contain a section on the environmental impacts of the decision in light of the Council’s Policy of its operations becoming carbon neutral by 2030”.*

*After the support I received from our Cabinet members, you will have noticed a large Logo on the Home Page of your TDC computer equipment. This obviously as a reminder of our agreed policies and to keep the matter alive in Members’ minds.*

*Next, last Friday with the support of the Cabinet, I had a letter sent to all Town and Parish Councils in Tendring, inviting them to regularly consider any business they deal with in the light of our declared Net Zero Carbon Policy, by perhaps including an item on their Council’s Meeting Agenda, or by any other suitable means. I cannot say how pleased I was to discover beforehand, that some Councils in the District are already considering this on a regular basis, the very thing my letter was inviting them to undertake.*

*All the above is about communication, but we must begin to actually make some real changes.*

*We must now act on some of the matters dealt with by Alan Coley's Working Party over the last few months.*

*We must examine with our planners and Councillor Turner's Local Plan Committee, as to whether we can influence or encourage future development applications to include things like Solar Panels on roofs and provision of vehicle car charging points on new properties, where the cost of such changes must be so much cheaper that installing such items at a later date.*

*We must examine if our Parks and Open Spaces officers can use electric vehicles, either by purchase or by hiring them on contract and when we as a Council hire a bus, should we request an electric bus?*

*These are matters I shall seek Cabinet's support to undertake.*

*There is a lot to be done and I will be treading on some people's toes, but as the saying goes:*

*'You can't make an omelette without breaking eggs' and I fear we will be breaking eggs!'*

**83. REPORT OF THE CABINET - A.1 - EXECUTIVE'S PROPOSALS - GENERAL FUND BUDGET AND COUNCIL TAX 2021/2022**

The Council gave consideration to the Cabinet's General Fund budget proposals for 2021/22 and the amount of Council Tax for District and Town and Parish Council services for the financial year 2021/22, for each category of dwellings within the District of Tendring, to support the proposed level of expenditure.

Members were aware from Minute 123 (A.8) of the meeting of the Cabinet held on 29 January 2021, that the Chief Executive, in consultation with the Leader of the Council and the Corporate Finance and Governance Portfolio Holder, had been authorised to submit a report to this meeting in respect of the formal draft resolutions necessary to implement the Cabinet's budget proposals, together with any late information, or notifications received from the Government, as might necessarily affect the budget.

The Council was advised of all the resolutions and recommendations made by the Cabinet on 29 January 2020, together with the additional recommendations necessary to set the Council Tax levy. Those resolutions and recommendations were before the Council, as contained within item A.1 of the Report of the Cabinet.

Members were aware that the Cabinet's proposed budget had been subject to the Council's Budget and Policy Framework Procedure Rules, which had included scrutiny by the Council's Resources and Services Overview and Scrutiny Committee.

Members were also aware that the Town and Parish Councils within the District had met to set their precepts and those precepts were contained within Appendix G to the Report of the Cabinet, which detailed the Precepts on the Collection Fund.

The Council was also aware from Appendix H that the average District and Parish Council Tax for a Band D property would increase to £221.01, an increase of 2.84%.

The Leader of the Council (Councillor Stock OBE) made the following budget statement:

*“When thinking about my introduction to the budget report in front of us tonight, I was faced with reflecting on our new virtual working environment – with that in mind my opening words will be briefer than in previous years, but hopefully they will still touch on the positivity and enthusiasm that all of us so passionately demonstrate in our role as members of Tendring District Council.*

*Last year I spoke about making sure that our commitments and ‘cash backed’ promises started to be seen on the ground. Unfortunately we were then hit by COVID 19.*

*There are two important points I would like to make about what happened next, in what has been a remarkable year for a number of reasons.*

*The first is the way this Council responded to the pandemic and how almost instinctively we all came together to ensure we were there for our residents and businesses. This included the provision of direct support via the various business grant schemes, setting up essential shielding activities for the most vulnerable within our District, the implementation of two phases of the Members’ small grants scheme, working together politically along with supporting our public sector partners in a host of other ways. The list could go on and on but I will not forget my initial promise to keep this introduction relatively brief.*

*Let us also not forget that whilst we were responding to COVID19 we were also seamlessly making sure that the important services we provide to our residents and businesses carried on as normally as possible. Everyone played a massive part in enabling us to do this not least our IT department who I must thank for their patience in looking after the 48 of us as we tried to adapt to completely new ways of working!*

*Please forgive the use of a ‘hub and spoke’ analogy to help me explain my equally as important second point, which is the tireless work that has gone over the last 12 months to build the ‘hub’ at the heart of everything we are trying to achieve.*

*However, before I go on further, I am going to use a quote from an eminent Bank of England economist. During the year we have talked about the shape of the economic recovery and whether it is going to be “u” shaped or “v” shaped. Forgetting its shape for a second, this economist stated that now is not the time for the economics of “Chicken Licken”, which got me thinking.*

*For the benefit of clarity, I should perhaps explain that Chicken Licken feared that the sky was going to fall on his head. Andy Haldane, the Bank of England economist, used the analogy to make the point that negative thinking will have a negative impact on an economy.*

*I mentioned last year that with constant and relentless positivity we can make a difference especially in making the case for Tendring and attracting external funding into our area. As a Council our attitude for a long time now has been that we can always make a difference locally regardless of how things pan out nationally, with a focus on what we can control rather than what we cannot. If other Councils are not as positive as*

*we are, then they can easily succumb to the lure of a fatalistic outlook – you can never see this happening here at Tendring, as I hope no one can describe us as having a pessimistic outlook that can bring about self-fulfilling prophecies!*

*After your indulgence for this short interlude, albeit a very important one about our culture here at Tendring, I will return to my ‘hub and spoke’ analogy.*

*We made a commitment to deliver on the ground and yes, we have seen a significant amount of our time diverted to our successful response to the COVID 19 crisis. However, when you sit down and think about what we have been up to over the last 12 months, we have used the time wisely with things looking very positive going forward.*

*Because we roll our sleeves up and just get on with things, sometimes it is easy to forget what we have achieved over the course of a year. Interestingly enough this was a criticism that emerged from the peer review a little while ago where we were told that we should think about patting ourselves on the back a bit more.*

*In terms of what we have achieved against the background of the COVID 19 pandemic, a quick summary is as follows:*

- Developed a Housing Strategy for 2020 to 2025: Delivering the Homes to meet the needs of Local People*
- On the back of this we have adopted a Housing Acquisition and development policy*
- We have developed an Economic Growth Strategy*
- Agreed a Tourism Strategy*
- Adopted a climate change action plan*
- Adoption of Section 1 of our local plan*
- Set out our Back to Business Plan backed with an initial contribution of £860k*

*The above are the key stepping-stones required to deliver on the ground, part of our ‘hub’.*

*These are also built on the financial and governance foundations we have put in place. This work never stays still, with various activities undertaken such as ensuring strong finances, a “cash backed” approach to delivering our commitments, a modern and fit-for-purpose constitution and governance arrangements and in the words out our External Auditor, the Council is making the appropriate arrangements to manage its finances in a way that ensures it continues to remain financially sustainable. This is also in addition to the great relationships we have built between Members, which is a key foundation for an effective and successful local authority.*

*In terms of patting ourselves on the back – this does not all happen by accident – it is delivered via a methodical and considered approach backed with tenacity.*

*Turning to the details of the general fund budget we are considering tonight, unlike last year where we presented an overall surplus position because of the late notification of revenue support grant funding, this year we are presenting an overall deficit position of just over £1million. This would be a position that would likely frighten many Councils and lead to short-term decisions that may be to the detriment of their local areas. For us it is all part of the considered approach we have taken and the long-term plan has given us the flexibility to accommodate such a position without us having to look to make knee*

*jerk cuts to services. That's not to say we don't need to find savings going into 2022/23 and beyond, but we can do this in a considered and well thought out way. There is an action in our recently proposed key priorities that looks to do just that.*

*Another point worth mentioning is about financial resilience – yes we can cope with annual shocks to the budget, but the cliff remedial works required along the Holland-on-sea front has presented a sizeable challenge for us financially. However, because of the well managed approach we have taken to the Council's finances, we are in the flexible position to look at other options apart from just borrowing to fund this scheme. It would be a very uncomfortable position to find ourselves in if we always had to turn to the default option of borrowing the money when faced with a financial challenge - somewhat of a vicious circle.*

*It is also important for me to talk about the necessary £5 increases to council tax that has been built into the long-term forecast. I can only repeat what I said last year and that is we must continue to make up the shortfall introduced by the significant cuts to our funding from government over recent years. The £5 increase is only one ingredient to the overall budget and is a compromise we have to make to help deliver on our promise to protect front line services. We also have to remind ourselves that we continue to have one of the lowest levels of council tax in the country and we are effectively building the tax base in very modest increments that will stand us in good stead in future years – a prudent and sensible approach given the telescopic effect of freezing council tax, for example.*

*As set out in the various reports we have considered as part developing the 2021/22 budget, the upcoming year can be seen as a transitional year as we start the recovery process from COVID 19. We are prudently underwriting many of the risks via specific reserves set aside for this purpose or where necessary we have repurposed existing money. Having the comfort that they provide in the short term is essential to the continued management of our strong financial position, but when we are free from the associated risks there is no reason why we can't look to invest any unspent money where appropriate.*

*Although we have achieved much over the last twelve months, it would be fair to say that in terms of our priorities and commitments, we have lost a lot of delivery time on the ground due to COVID 19. In repeating what I stated earlier, if we focus on what we can control, we have two choices going forward. The first is to let things slip a year and carry on where we left off or we can look to recover back this 'lost' year by aiming to accelerate delivery as we head into 2021/22. I can't imagine anyone is going to argue with me if I say that I favour the latter.*

*With this in mind we are aiming to bring together a dedicated 'delivery team', the important 'spokes' to our 'hub'. We will do this not by taking people away from their day jobs but by generating additional capacity. This work is on-going and I hope to see this start to take shape over the next few weeks with some further decisions planned to be included in the quarter 3 financial performance report that Cabinet will be considering in March. This accelerated approach also forms a key part of our Back to Business initiative, as we will be looking to spend as much money as we can locally, so our investment will have the knock-on benefit of putting money directly into the local economy.*

*Our Back to Business plan is a really innovative approach to helping our district recover, not just economic recovery but all aspects of the lives of our residents and businesses. I certainly do not pretend that I have all the answers, but we have some great actions included within the Back to Business plan that will be presented to Cabinet later this week. But let's see it as an evolving plan and we can keep reflecting on existing actions along with considering additional ones over the coming weeks and months.*

*As I remember saying last year, our budgets always reflect an honest and considered approach to ensuring the financial sustainability of this Council – let us not forget we are just the custodians of the Council's assets, and that includes its money. Regardless of what happens in the future, such as local government reorganisation, we have to make sure that we always seek out that balance between investment and value for money; not reckless, short sighted and populist spending that has seen other Councils end up in trouble. When you are digging yourself out of such trouble you are effectively losing years of delivering on your commitments and promises, a position I can thankfully say we should never have to face given our strong custodial and financial instincts.*

*Tendring has so much to offer and we have an exciting future – I hope I have clearly set out the speed and scale of our intentions, which are underpinned by the proposed budget proposals.*

*Everything we do is aimed at making a difference for our residents and businesses as well as enhancing our wonderful surroundings and natural environment. This all has to be built on strong financial foundations, which the budget we are considering tonight forms an important element of.*

*Democracy puts trust in us and trust is also placed on us by our partners and the Government. As always, we will be judged on our deeds not just our words, but between us all and our excellent officers, the budget proposed enables us to keep delivering on our priorities and commitments.*

*I think I have delivered on my promise to keep things briefer than last year – but perhaps only just – I set myself a bit of a challenge given how much it is worth celebrating what we keep achieving along with my enthusiasm, which I am sure is just an echo of how you all feel about working on behalf of Tendring District Council.*

*Chairman, I commend this budget to Council, and I hope everyone supports it.”*

It was moved by Councillor Stock OBE and seconded by Councillor G V Guglielmi that the recommendations, as set out on page 18 of the Council Book, be approved.

Councillors Barry, I J Henderson, Steady, Allen, M E Stephenson, G V Guglielmi and Miles addressed the Council on the subject matter of Councillor Stock's motion.

In respect of Councillor Stock's motion, the vote resulted as follows:

<u>Councillors For</u>	<u>Councillors Against</u>	<u>Councillors Abstaining</u>	<u>Councillors Not Present</u>
Alexander Allen Amos Barry	None	None	Cawthron

Bray  
Bush  
Calver  
Casey  
Chapman  
Chittock  
Clifton  
Codling  
Coley  
Davidson  
Davis  
Fairley  
Fowler  
Griffiths  
G V Guglielmi  
V E Guglielmi  
Harris  
I J Henderson  
J Henderson  
P B Honeywood  
S A Honeywood  
King  
Knowles  
Land  
McWilliams  
Miles  
Morrison  
Newton  
Placey  
Porter  
Scott  
Skeels  
Steady  
G L Stephenson  
M E Stephenson  
Stock  
Talbot  
Turner  
White  
Wiggins  
Winfield

Councillor Stock's motion was declared unanimously **CARRIED** and it was therefore:-

**RESOLVED** that -

- a) having had regard to the Chief Finance Officer's (Section 151 Officer) report on the Robustness of Estimates and Adequacy of Reserves in accordance with the requirements under Section 25 of the Local Government Act 2003, and having taken account of any responses to the budget consultation process the Council

approves the budget proposals (based on a £5 Band D council tax increase for district services) and agrees:

- i) that the total General Fund net revenue budget for 2021/22 be set at £7.617m (a council tax requirement of £8.604m excluding parish precepts);
  - ii) that the General Fund capital programme be approved totalling £0.816m in 2021/22;
  - iii) the detailed General Fund budget for 2021/22, as set out in Appendix D to item A.1 of the Report of the Cabinet;
  - iv) the calculation of the Council's Council Tax requirement, Special Expenses and Parish/Town Council precepts, as set out at Appendix F to item A.1 of the Report of the Cabinet;
  - v) the Council Tax for District and Parish/Town Councils' services, as at Appendix I to item A.1 of the Report of the Cabinet and that these are the amounts to be taken into account for the year in respect of the categories of dwellings listed in different valuation bands; and
  - vi) that if budget adjustments are required following the late notification of external / grant funding then, in consultation with the Corporate Finance and Governance Portfolio Holder, budgets are adjusted accordingly with no net impact on the overall budget or capital programme set out above.
- b) the council tax discount policy for young people leaving care, as set out in Appendix L to item A.1 of the Report of the Cabinet, be approved.

**84. REPORT OF THE CABINET - A.2 - EXECUTIVE'S PROPOSALS - HOUSING REVENUE ACCOUNT BUDGET 2021/2022**

The Council gave consideration to the Cabinet's Housing Revenue Account (HRA) budget proposals for 2021/22, including the proposed increase in dwelling rents for 2021/22.

Members were aware from Minute 124 (A.9) of the meeting of the Cabinet held on 29 January 2021 that the Chief Executive, in consultation with the Housing Portfolio Holder, had been authorised to adjust the forecast / budget, including the use of reserves, if the financial position had changed prior to this Council meeting.

The Council was advised of all the resolutions and the recommendation made by the Cabinet on 24 January 2020, together with the additional recommendations necessary to set the HRA budget, fees and charges and dwelling rents for 2020/21. Those resolutions and recommendations were before the Council, as contained within item A.2 of the Report of the Cabinet.

The Portfolio Holders' report submitted to Cabinet on 29 January 2021 had highlighted that further changes to the budget were expected that related to salary costs and recharges. Those two areas of the budget had now been finalised with the following changes made:

- i) Increase in salary costs - £0.025m
- ii) Increase in recharges from the General Fund - £0.009m

The above changes had resulted in a small deficit for the year of £0.022m, a change of £0.034m compared with the small surplus of £0.012m that had been reported to Cabinet on 29 January 2021. That deficit was to be met by calling money from the HRA general balances.

Members were aware that the Cabinet's proposed HRA budget had been subject to the Council's Budget and Policy Framework Procedure Rules, which had included scrutiny by the Council's Resources and Services Overview and Scrutiny Committee.

The Leader of the Council (Councillor Stock OBE) made the following budget statement:-

*"All of the positive things I talked about earlier when introducing the General Fund budget equally apply when discussing the HRA.*

*Being recognised as one of the best landlords in the country is built on the back of a robust and strong financial position and business plan.*

*This springboard allows us to keep maintaining our tenants' homes to an excellent standard, and it also allows us to embark on our house building plans.*

*This is in spite of the 1% reduction in rents that we saw over recent years. As I talked about earlier, we can only focus on what we can control rather than what we can't, and we managed to 'weather' this rent reduction period without adversely affecting the services we provide to our tenants. Quite a tall order, as it is estimated that the combined effect of the 4-year period of rent reductions removed at least £30m from our HRA budget over the long term, given its telescopic effect.*

*Similarly to the argument about council tax increases, increasing rents is always a compromise and balance we need to strike with providing good quality homes in a sustainable and long term way.*

*We are recommending a 1.5% increase in rents in 2021/22, which I think helps us strike this balance. This enables us to not only meet our housebuilding commitments, which in the long run will make the HRA financially stronger, but we can still invest over £6m a year in our existing tenants' homes.*

*As discussed earlier in the year, we have not seen a significant impact on the HRA from COVID 19. However, we are making improvements to a number of strands of work to reduce void periods, which have seen an indirect impact from the pandemic.*

*Taking a quick look back, hopefully you have now all had the chance to see the stunning new homes we have built in Jaywick Sands – they shatter the stereotypical view of what a Council house looks like. I have always said that council housing should never be seen as inferior to other forms of housing – well not here in Tendring any way and this applies to all our 3,000 plus homes not just these new ones.*

*I can never miss an opportunity to talk about right to buy. I am not going to go into its history but we need to keep pushing the Government to consider modernising the*

*scheme. As I mentioned last year, we need to remove the associated risk from decisions about building or acquiring new homes. If we do not then we will need to accept the risk that we may lose money on every new property we build or acquire, which may have the unwanted impact of slowing us down in our ambition to provide new homes for local people. Having said that, this does not deter us from this important priority and we will find ways to achieve our goals and aspirations within the boundaries of our 30 year plan.*

*Looking a very short time ahead, it was welcome news to hear Councillor Honeywood introduce the scheme that looks to encourage small developers to build affordable homes in the District. We are just one of three authorities chosen as part of this pilot scheme and I am sure it is one we are all looking forward to seeing the outcome of in the not too distant future.*

*Looking further ahead, we will need to revisit the 30-year business plan in light of various strands of work either completed, on-going or planned, but we can do this in the knowledge that we continue to be able to operate from a really strong base both financially and reputationally.*

*In terms of our reputation, we will continue to make sure that our tenants live in safe, comfortable and quality housing, which will always be at the centre of how we manage the HRA.*

*The budget we are presenting tonight enables us to keep on the right tracks that I have just described, and therefore a budget I am proud to recommend to you all tonight.”*

Councillors I J Henderson, Allen, Casey, P B Honeywood, G V Guglielmi and Miles addressed the Council on the subject matter of this item.

It was moved by Councillor Stock OBE, seconded by Councillor P B Honeywood and unanimously:-

**RESOLVED** that Council approves:-

- (a) a 1.5% increase in dwelling rents in 2021/22;
- (b) the 2021/22 Scale of Charges, as shown in Appendix B to item A.2 of the Report of the Cabinet; and
- (c) the Housing Revenue Account Budget for 2021/22 as set out in Appendix A to the above report, along with the HRA Capital Programme and the movement in HRA Balances / Reserves, as set out in Appendix C and Appendix D respectively, to the aforementioned report.

**85. URGENT MATTERS FOR DEBATE**

There were no urgent matters for debate on this occasion.

The Meeting was declared closed at 8.55 pm

**Chairman**

## **Questions pursuant to Council Procedure 10.1**

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

### **Question**

**From Mr Andy Baker to Councillor Neil Stock OBE, the Leader of the Council:**

*“I am sure you will agree that the incidences of fly tipping across the District has gone up, as has the amount of litter now seen daily, and seems to be increasing exponentially, and especially with regard to overflowing public waste bins. However, more recently the public waste bins that are provided across the District would appear either to be insufficient to cope with the volume of waste, or are not emptied frequently enough. I refer specifically to the areas of Walton, Frinton, Holland-on-Sea and Clacton.*

*You no doubt have seen posts on social media, with photographs showing overflowing waste bins, surrounded by more waste, as well as the angry comments from residents of those areas I have mentioned, about the lack of activity by TDC and its contractor.*

*I cannot comment on other parts of the District but, going by what I have seen myself, I would presume that it is the same all over.*

*As the areas I have mentioned are very popular, not only with residents, but visitors, once they are again allowed, the image of our coastal areas must be a positive one, and seeing litter and rubbish everywhere definitely does not present and attractive experience to come.*

*Would you please instruct the Portfolio Holder for Environment and Public Space, and the relevant officers of the Council, to undertake a comprehensive review of the performance of the Council's contractor in not only the emptying of public waste bins, but their frequency, as well as the supervision and monitoring of this service to this Council, by Council officers, and any other associated and relevant matters relating to the same, with the review to be overseen by the relevant Overview and Scrutiny Committee?”*

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**MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP OVERVIEW AND  
SCRUTINY COMMITTEE,  
HELD ON MONDAY, 30TH NOVEMBER, 2020 AT 7.30 PM  
THE LINK TO LIVE STREAM IS AVAILABLE VIA  
[HTTPS://WWW.TENDRINGDC.GOV.UK](https://www.tendringdc.gov.uk)**

<b>Present:</b>	Councillors Skeels (Chairman), Chittock (Vice-Chairman, in the Chair), Amos, Davidson, Davis, King, Knowles, Steady and M Stephenson
<b>Also Present:</b>	Councillor McWilliams
<b>In Attendance:</b>	Ian Davidson (Chief Executive), Keith Simmons (Head of Democratic Services and Elections), Anastasia Simpson (Assistant Director (Partnerships)), John Fox (Public Health, Wellbeing & Environmental Protection Manager), Karen Townshend (Licensing Manager) and Keith Durran (Democratic Services Officer),
<b>Also in Attendance:</b>	Pam Green (Chief Operating Officer for the North East Essex Clinical Commissioning Group), Dr Mike Gogarty (Essex County Council's Director Public Health) and Melanie Hammond (Chief Officer at Tendring Citizen's Advice Bureau)

**1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of the Chairman of the Committee (Councillor Skeels) (with no substitute) and Councillors Clifton (with Councillor Knowles substituting) and Miles (with Councillor M Stephenson substituting).

**2. MINUTES OF THE LAST MEETING**

The Minutes of the last meeting of the Committee held on Monday 28 September 2020 were approved as a correct record.

**3. DECLARATIONS OF INTEREST**

There were none on this occasion.

**4. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

On this occasion no Councillor had submitted notice of a question.

**5. REPORT OF THE ASSISTANT DIRECTOR FOR HOUSING AND ENVIRONMENTAL HEALTH - A.1 - HEALTH PROVISION AND CARE RESPONSE**

Further to the meeting of the Committee held on 13 January 2020 (Minute 84 refers) the Committee was updated around deprivation, health measures and the proposed integrated neighbourhood team for Tendring South. Also included was funding for primary care on the Clacton Hospital site and the operation of GP services from Kennedy House. The meeting was also to consider the Covid-19 measures to control

spread and identify those most at risk and how to protect them and to also consider the role of community groups and volunteers.

The Committee heard that its previous meeting on health had been in January 2020 and although a number of updates were required to be brought forward at that meeting the overriding piece of work undertaken since that time, by all partners including health, had been in relation to the Covid-19 response. Only a limited amount of progress had been made before the first wave struck and then available resources were all focussed on the appropriate Covid-19 response, although the later summer period had allowed for some return towards more normal operations the main focus now was again on the Covid-19 response.

It was reported to Members that the main body of work undertaken in respect of deprivation was the focus on the deprived areas in respect of the Covid-19 response since those in more deprived areas had suffered worse health outcomes. Work had been undertaken to ensure parity of access to services and in particular the community response involved ensuring that those most in need could still access essential services such as medication or food.

Members were updated that the outline business case for the Primary Care Hub at Clacton Hospital was proceeding with a proposed submission to NHS England/Improvement in December 2020 with approval expected to take 3 months. The Hub would provide opportunities for integrated working across multiple partners and would also provide improved accommodation elsewhere on the site. That development had been co-designed with two GP practices from the start in order to ensure that the needs of residents and staff were met. Building works were progressing at Kennedy House and the handover was due to take place in March 2021 and that would align with the timeline for the completion of the current Alternative Provider Medical Services (APMS) procurement.

It was reported to the Committee that work had continued on the neighbourhood team model although it had been somewhat delayed due to Covid-19. On that basis the initial neighbourhood team site was being set up within central Colchester. There were six teams proposed across the North Essex footprint. Following the setting up of the initial site in the winter of 2020/21 the other sites would be set up during 2021. A Senior Responsible Officer had been appointed and engagement with partners had been undertaken to ensure the effective mobilisation of the neighbourhood teams and for example a wider stakeholder workshop was to be undertaken on 2 December 2020 to move that forward.

The Committee heard that significant work had been undertaken by all partners in respect of the Covid-19 response and the Public Health Team at Essex County Council had led the public health response. That had involved the development of an Outbreak Control Plan in respect of Covid-19 which had been implemented effectively and that had included support from district and borough councils in Essex. Weekly Health Protection Board meetings had also been undertaken to ensure the response was appropriate and targeted.

The Committee was updated that The Essex Wellbeing Service had also been developed to ensure that residents were effectively supported and particularly those most at risk. The team had also been integral to supporting track and trace and ensuring

that there was support, engagement and enforcement where necessary to assist in controlling the spread of Covid-19. In addition that had included supporting in investigating outbreaks and providing appropriate advice.

Members heard that the work undertaken during the initial lockdown period had provided for an effective response which was being used in an ongoing way and being further developed in the light of ongoing changes. The flu vaccination programme had neared completion and had been effectively delivered. In terms of the community response to support those who were vulnerable, the focus was on deprived areas and also the wider rural areas which were more difficult to access or where residents had more difficulty accessing on line support. The Council had quickly aligned some temporary roles to support those groups that provided a call and advice reception and made proactive calls.

The Committee was informed that a raft of local voluntary groups had been formed and those contacts had been audited to understand their capacity and capability which had then been fed into a new database and App that would match community demands to the developing volunteer base. With 6500 Category A residents appropriate advice and support had been offered by the community groups coordinated through the Community Hub with a focus on actual vulnerability of individuals to ensure resources were deployed appropriately in a flexible and tailored way considering the different needs across the District. Volunteer groups locally had been supplemented by Essex Welfare Service volunteers which numbered about one hundred and with the local share of NHS volunteers for the Tendring area there had been sufficient assistance available to meet requests for assistance received.

The Operation Shield helpline set up by the Council had dealt with in excess of 2500 incoming calls and had made 3000 outgoing calls and there had been over 50 personal visits to ensure residents most at need had been appropriately supported.

After a very in-depth discussion it was moved by Councillor Stephenson and seconded by Councillor Davis that it is **RECOMMENDED** to **CABINET** that:

- The suggestion from the Chief Operating Officer for the North East Essex Clinical Commissioning Group (CCG) to create a forum across North East Essex that will allow Councillors to communicate the views of their constituents with the GP practice leads directly be supported and the CCG urged to implement this as soon as possible.
- the continued hard work of the North East Essex Clinical Commissioning Group and local NHS providers, Dr Gogarty and the Public Health team at Essex County Council as well as this Council's redeployed/redirected staff supporting those in need due to Covid-19 restrictions be recognised.

The urgent need to establish an integrated neighbourhood primary care network in the Tendring South Area (covering parts of Clacton and Jaywick Sands) be recorded and representations made to the CCG to ensure there is no further slippage in its development (as this was to have been the first such primary care network in the CCG's area in view of the health inequalities in that Area and for understandable reasons the CCG had had to prioritise the setting up of a network in Central Colchester first).

It was also **RESOLVED** that the kind offer of Chief Operating Officer for the North East Essex Clinical Commissioning Group (CCG) to share with the Committee information obtained from the various engagement processes the CCG have carried out in the community (as referenced in her report to the Committee) be accepted and consideration be given at a future meeting of the Committee as to when to enquire further in respect of the many measures it was advised were underway locally to improve health services locally.

**6. REPORT OF THE ASSISTANT DIRECTOR FOR PARTNERSHIPS A.2 - TENDRING MENTAL HEALTH HUB**

The Committee heard how the Mental Health Hub had been launched by the Tendring branch of the Citizens' Advice Bureau in 2015 with support from Active Essex, Essex County Council, Essex's Police and Crime Commissioner and Tendring District Council.

The hub, located in Clacton, offered an easy single point of entry for referrals from GPs, health professionals, police, and self-referrals. The idea of the hub was to carry out "holistic assessments" of people with mental ill health taking into account all the various factors behind their situation and point them in the right direction for help.

It was reported to Members that the hub was also staffed mainly by volunteers who had experience of mental ill-health issues, including problems with homelessness, social isolation or income, and helped to give them the confidence to go on to volunteer elsewhere. Volunteers also gained key personal skills, had social contact, and made friends.

More than 20% of the volunteers had gone on to mainstream charities, while 12% had gone on to paid employment.

After a brief discussion it was moved by Councillor Chittock and seconded by Councillor Davis that is **RECOMMENDED** to **CABINET** that:

- the suggestion from the Chief Officer at Tendring Citizen's Advice Bureau that the Mental Health Hub services/reach could be expanded if premises closer to the Town Centre in Clacton could be found be actively supported.
- It was also **RESOLVED** to record the support of the Committee for the hard work carried out by the Citizens Advice Bureau, and its officer, staff and volunteers in delivering the Mental Health Hub in Clacton to address, in part, the challenges of mental health locally.

**7. REPORT OF THE CORPORATE DIRECTOR FOR OPERATIONS AND DELIVERY - A.3 - LICENSED PREMISES – LICENSING ACT 2003**

The Committee was provided with information in respect of premises that were licensed under the Licensing Act 2003. Those Premises were required by law to meet the four licensing objectives which were:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Breaches of the above objectives could lead to suspension, further imposed conditions or revocation of the licence permitting licensable activities by the Council's Premises/Personal Licences Sub-Committee.

Members heard that standard compliance checks of premises were conducted by the Licensing Section in addition to any enforcement visits that arose as a result of any reported incidents. Those were investigated by the department and relevant action was taken if required. Regular night time economy checks were also conducted alongside Essex Police (though those operations had reduced in frequency during the Covid 19 pandemic due to resource factors, alternative tasking and safety considerations). During the pandemic, a shift had meant partnership work with the Police had focused on business and premises compliance in line with current Covid 19 regulations.

Members also heard that a good multi-agency working relationship had been established with responsible authorities and several joint agency initiatives and premises visits had taken place, including with Essex Police, Essex Fire and Rescue Service and Immigration Services. Those visits predominantly focused on standard licensing objectives, but could be "focus specific" due to a particular concern from intelligence or information received. That could include, but was not exhaustive of breach of fire safety regulations and illegal workers. The responsible authority would act as the lead agency with support from the other involved agencies.

The Committee was informed of the virtual relationship with Trading Standards, who were the lead authority for under age sales and would conduct test purchases at their discretion (test purchases had been temporarily unavailable/reduced due to the Covid 19 pandemic). The results were then fed to the Licensing Authority (Tendring District Council) for appropriate action if required. The Licensing Authority worked alongside internal Responsible Authorities such as the Environmental Health and Protection department.

2020 had seen the review of the premises licences for the following licensed premises by the Premises and Personal Licences Sub Committee:

Great Gurkha – A multi-agency operation led by the Immigration service with support from the Licensing Authority and Essex Police. A total of 3 illegal workers had been found to be working within the premises. The Premises / Personal Licences Sub-Committee decision was that the licence be revoked as that was not a first offence of that nature at that premises.

Truth – A review had been called by Essex Police due to the licensing objective of crime and disorder not being upheld after the premises had operated against the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 that had been applicable at the time of offence, in that it had operated as a nightclub. The Premises and Personal Licences Sub Committee's decision was that the licence be suspended for a period of three months (the maximum suspension period) and further conditions imposed - including additional SIA registered security staff, no outside music and CCTV to be held for 31 days.

Kassaba – A review had been called by Essex Police, supported by the Licensing Authority and Environmental Protection Team as Responsible Authorities, due to the

licensing objectives of crime and disorder and the prevention of public nuisance not being upheld, after numerous Police attendances as a result of disturbances. The Premises and Personal Licences Sub-Committee's decision was that the licence be suspended for a period of three months and further conditions be imposed - including third party contracted SIA registered security staff, no outside music, no off sales, CCTV to be held for 31 days and a revision of opening hours (at the time of writing the respondents still had the opportunity to appeal the decision at the Magistrates' Court).

The Committee heard that several engagements and visits had been conducted at premises across the District throughout the pandemic to ensure that all were complying with the Coronavirus Regulations. Advice and liaison had been available throughout the pandemic with premises and the Licensing Authority, meaning that many potential issues had been addressed and solved in the first instance before any escalation to enforcement.

The Committee **RESOLVED** to note the report and to record the Committee's thanks to the Licensing Manager and the Licensing Team for their continued hard work throughout the Covid-19 restrictions/lockdown.

**8. RECOMMENDATIONS MONITORING**

The Committee **RESOLVED** to note the report.

**9. SCRUTINY OF PROPOSED DECISIONS**

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

The Committee discussed the proposed decisions and **RESOLVED** that contents of the report be noted.

**10. WORK PROGRAMME OF THE COMMITTEE FOR THE REMAINDER OF 2020/21**

Members considered the Work Programme 2020/21 that outlined the scrutiny to be undertaken by the Committee in the remainder of that Municipal Year.

The Committee **RESOLVED** to note the contents of the report.

The meeting was declared closed at 10.15 pm

**Chairman**

# Public Document Pack

Resources and Services Overview and  
Scrutiny Committee

14 January 2021

**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW  
AND SCRUTINY COMMITTEE,  
HELD ON THURSDAY, 14TH JANUARY, 2021 AT 9.00 AM  
THE MEETING WILL BE HELD IN ACCORDANCE WITH STATUTORY INSTRUMENT  
2020/392. LINK TO LIVE STREAM AVAILABLE VIA  
[HTTPS://WWW.TENDRINGDC.GOV.UK](https://www.tendringdc.gov.uk)**

<b>Present:</b>	Councillors M Stephenson (Chairman), Scott (Vice-Chairman), Allen, Barry, Bray, Codling, Harris and Morrison
<b>Also Present:</b>	Councillor Carlo Guglielmi (Deputy Leader of Council; Portfolio Holder for Corporate Finance & Governance; Deputy Leader of Conservatives Group), Councillor Paul Honeywood (Portfolio Holder for Housing), Councillor Lynda McWilliams (Portfolio Holder for Partnerships), Councillor Mary Newton (Portfolio Holder for Business & Economic Growth), Councillor Alex Porter (Portfolio Holder for Leisure & Tourism), Councillor Neil Stock OBE (Leader of the Council; Leader of the Conservatives Group) and Councillor Michael Talbot (Portfolio Holder for Environment & Public Space)
<b>In Attendance:</b>	Ian Davidson (Chief Executive), Damian Williams (Corporate Director (Operations and Delivery)), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Michael Carran (Assistant Director (Economic Growth and Leisure)), Tim Clarke (Assistant Director (Housing and Environment)), Keith Simmons (Head of Democratic Services and Elections), Karen Hades (IT Training Officer), Hattie Dawson-Dragisic (Apprentice (Democratic Services & Elections)), Jonathan Hamlet (Street Scene Officer), Anastasia Simpson (Assistant Director (Partnerships)) and Andy White (Assistant Director (Building and Public Realm))

## **112. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

An apology for absence was received from Councillor Griffiths (with no substitute).

## **113. MINUTES OF THE LAST MEETING**

The Minutes of the meeting of the Committee held on Monday 3 December 2020 were approved as a correct record and were then signed by the Chairman.

## **114. DECLARATIONS OF INTEREST**

Councillors Allen and Stephenson each declared an interest for the public record in regards to agenda item 5 (A.1 – Updated Financial Forecast/Budget 20221/22) as their businesses had received grant funding through the Council under the national support scheme for businesses.

Councillors Barry and Scott each declared an interest in the same item as Charities that they were associated with had likewise received financial support from the Council.

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**115. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

On this occasion no Councillor had submitted notice of a question.

**116. REPORT OF THE CORPORATE FINANCE AND GOVERNANCE PORTFOLIO  
HOLDER. - A.1 - UPDATED FINANCIAL FORECAST/BUDGET 2021/22**

The Committee received the details submitted to the Cabinet on 18 December 2020 in relation to the updated financial forecast and proposed budget position for 2021/22. In particular, the Committee was advised as follows:

- A 'live' 10-year forecast was maintained and reported to Members throughout the year.
- The most up to date position in December each year was translated into the detailed budget for the following year for consultation with the Resources and Services Overview and Scrutiny Committee.
- As part of maintaining a 'live' forecast, this report 'built' on the last position that was presented to Cabinet on 13 November 2020.
- Despite the challenging financial and economic environment, confidence in the long term approach to the forecast remained, which was supported by the forecast risk fund. It is also worth highlighting that the managed position in terms of reserves continued to enable the Council to respond to exceptional events such as the COVID 19 crisis.
- At this stage of the budget process, there was a net deficit of £1.647m forecast in 2021/22, an improvement of £0.128m compared with the £1.775m deficit reported to Cabinet on 13 November 2020. Therefore, the forecast remained within the financial boundaries set out in the long-term plan.
- Although subject to potential changes over the remaining budget-setting period, the current forecasted deficit of £1.647m would be met by drawing money down from the forecast risk fund.
- At the time of finalising this report, the Local Government Finance Settlement for 2021/22 had yet to be announced. They would be included in the figures that would be presented to Cabinet in January 2021 when it considered its final budget proposals for recommending to Full Council in February 2021. The budget included a council tax levy increase of £5, with this level of increase expected to be confirmed as allowable as part of the finance settlement announcements. No revenue support grant had been included in the budget for 2021/22, but similarly to the late announcement last year, the Government could provide some funding again next year, especially when reflecting on the financial impact of COVID 19 on Local Authorities.
- Once the final position for 2021/22 was determined, the remaining years of the 10-year forecast would be revised, set against the budget position for 2021/22 and would be reported to Members later in the budget setting process.

In addition to the above, the Committee was advised of the following in respect of reserves, provisions and one-off sums for specific projects:

**RESERVES**

**Current Budget 20/21**

	<b>Balance 31 March 2020</b>	<b>Contributions From</b>	<b>Contributions To</b>	<b>Estimated Balance 31 March 2021</b>
	£			£
<b>Earmarked Reserves</b>			0	
Revenue Commitments Reserve	11,257,870	(10,175,320)		1,082,550
Capital Commitments Reserve	3,793,110	(3,793,110)	13,820	13,820
Forecast Risk Fund	3,253,000	(393,240)	393,240	3,253,000
Asset Refurbishment / Replacement Reserve	1,269,288			1,269,288
Beach Recharge Reserve	1,500,000			1,500,000
Benefit Reserve	999,790			999,790
Building for the Future Reserve	2,609,750	(1,370,940)		1,238,810
Business Rate Resilience Reserve	1,758,422			1,758,422
Commuted Sums Reserve	389,402	(28,000)		361,402
Crematorium Reserve	154,252			154,252
Election Reserve	0		30,000	30,000
Haven Gateway Partnership Reserve	75,000			75,000
Leisure Capital Projects Reserve	124,000		50,000	174,000
Planning Inquiries and Enforcement Reserve	99,000	(20,000)		79,000
Residents Free Parking Reserve	221,000			221,000
Section 106 Reserve	1,388,673			1,388,673
	<b>28,892,557</b>	<b>(15,780,610)</b>	<b>487,060</b>	<b>13,599,007</b>
<b>Uncommitted Reserve</b>	4,000,000			4,000,000
<b>Total Reserves</b>	<b>32,892,557</b>	<b>(15,780,610)</b>	<b>487,060</b>	<b>17,599,007</b>

**Funded Projects / Initiatives List**

**List Includes both Revenue and Capital Budgets**

<b>Item</b>	<b>Budget 20/21</b>
Business Investment and Growth Projects	1,585,530
Starlings and Milton Road Development	1,556,380
Garden Communities – Tendring-Colchester Border	1,300,000
Rural and Urban Infrastructure Fund	1,184,310
Back to Business Initiative	

	862,000
Community Housing Trust Grant Supported Projects	628,010
Clacton Leisure Centre - Spa and Wetside Re-development	521,480
Tendring Community Fund	500,000
Housing in Jaywick Sands	464,230
Office Rationalisation	355,100
Climate Emergency Initiatives / Energy Efficiency Schemes	313,450
Future High Streets Fund	306,790
Planning Improvement Projects	258,380
Additional enforcement activities	249,000
Clinical Commissioning Group Wellbeing Hub	245,000
Beach Hut/Seafronts Investment Plan	208,810
Clacton Multi-Storey Car Park Repairs	180,000
Health and Safety Programme of Activities	165,000
Clacton Town Centre Fountain	159,080
Laying Out Cemetery Works	154,650
Empty Homes Initiatives	152,220
Digital Transformation Projects	129,340
European Union Exit Preparation	126,410
Housing Early Intervention Officer - 3 year fixed term post	100,000
Public Health - Improvement Projects	94,580
Private Sector Innovation & Enforcement Grant	85,360
Martello Tower Repair Works	83,580
New Beach Huts	64,600

2 One year fixed term posts to support improvements to the overall appearance of the district	44,000
Public Convenience Works	40,000
Princes Theatre Toilets	40,000
Street Lighting Upgrade Project	35,570
Green Waste Service Improvement Projects	28,780
<b>Total</b>	<b>12,221,640</b>

#### EXTERNALLY FUNDED PROJECTS

Item	Budget 20/21
Jaywick Sands Commercial Units	2,000,000
Celebrating 150th Anniversary of Clacton	250,000

#### OTHER PROJECTS

Item	Budget 20/21
Freeports	n/a
Building Council Homes	n/a
Environmental Health Officers to Respond to Brexit requirements at Harwich Port	n/a

The Committee thereupon undertook its scrutiny of the Financial Forecast / Budget Proposals for 2021/22.

Prior to the meeting, questions that the Committee Members had raised had been circulated to the relevant Cabinet Members and Officers in order to enable responses to be provided. Those questions and responses form the Appendix to these Minutes.

Members of the Cabinet, accompanied by the appropriate Management Team Member or other Senior Officer, attended the meeting in turn and assisted the Committee in its enquiry of the matters put to them in respect of the budget position and allocation of funds.

Having considered all of the information that had been provided it was **RESOLVED** that the **CABINET** be **RECOMMENDED** that:

- (a) In respect of future outturn positions on the Council's annual budget, to allocate as a priority any available underspend following permitted carry forwards to extend further the measures to achieve the Back to Business Agenda of the Council.

- 
- (b) Further to (a), to establish a Business Roundtable for the District as part of the Back to Business Agenda and to inform that Agenda going forward.
  - (c) To reassess all the current reserves, provisions and one off sums allocated by the Council to determine whether they were still required, relevant to the Council's Corporate Plan and the associated sum was at the appropriate level and:
    - (i) to re-allocate sums such as those for the Clacton Town Centre Fountain and Residents Free Parking (where the cost has been incorporated in the base revenue budget) to more closely align with the Corporate Plan priorities of the Council.
    - (ii) to identify the specific intentions for the £1.585M for Business Investment and Growth Projects reserve or otherwise look to reallocate that reserve.
    - (iii) To allocate a further £56k to resourcing public realm improvements across the District (supplementing and extending the £44k set aside to fund '2 One year fixed term posts to support improvements to the overall appearance of the District') thereby allocating a total of £100k to this initiative in total.
    - (iv) From the reallocation process, and in recognition of the additional £110k in recycling credits achieved by the Council in 2020/21, to identify £10k to improve recycling bring sites operated by the Council in the District to improve the attractiveness of those sites, signage at and to those sites and thereby further encourage their use and address relevant issues at those sites.
  - (d) To request that proposals for use of the Tendring Community Fund be developed swiftly so that these can be put in front of a meeting of the Portfolio Holder Working Party on the Tendring Community Fund without delay.
  - (e) To identify whether existing funding in the revenue budget and reserves, provisions and one-off sums enables the Council to support measures adequately to address the mental health needs of the local population as we ultimately come out of covid-19 pandemic restrictions and if this is found to be insufficient to look to providing funding to achieve this.
  - (f) To pro-actively assess and monitor the resources required to deliver a dynamic and expansive Tourism Strategy for the District (and the Year 1 delivery plan to accompany that Strategy) to maximise the advantage to the District as soon as covid-19 pandemic restrictions are lifted and extending beyond the normal summer season.

It was further **RESOLVED** that:

- (a) The work underway in respect of 'auditing' one off sums and the schemes they are intended to fund and to review progress with this at the March meeting of the Committee. That this review should include details of the original decision to allocate the funds and an assessment as to whether the scheme is on target to be delivered.
- (b) The receipt, allocation, timing and use of section 106 funds to support community infrastructure associated with development in the District be reviewed by the Committee as part of its work programme.

- (c) The Chairman of the Committee is requested to urge the Portfolio Holder for the Environment to undertake further efforts with Essex County Council and Highways England to secure a good level of cleaning on the A120 and A133 in view of the extensive uses of those roads and the impression given to visitors that litter is acceptable from the current level of rubbish alongside those roads.
- (d) That the Community Leadership Overview and Scrutiny Committee be invited to consider the mental health support to residents referenced above in recommendation to the Cabinet (e).

**117. REPORT OF THE CORPORATE FINANCE AND GOVERNANCE PORTFOLIO HOLDER. - A.2 - HOUSING REVENUE ACCOUNT BUDGET PROPOSALS 2021/2022**

The Committee received the report submitted to Cabinet on 18 December 2020 on the HRA Budget for 2021/22 including the movement in Housing Revenue Account (HRA) Balances, the level of fees and charges for 2021/22 and the HRA Capital Programme. In particular, the attention of Members was drawn to:

- Only limited changes to the HRA budget were proposed in 2021/22, pending a longer-term review of the HRA business plan during 2021.
- 2020/21 was the first year that the Government allowed rents to be increased following a 4-year period where they were required to be reduced by 1% each year.
- In-line with rent setting guidance issued by the Regulator for Social Housing, rents are proposed to be increased by the Consumer Price Index plus 1% in 2021/22 (a 1.5% increase) to continue the recovery from the 4 years of rent reductions mentioned above.
- The average weekly rent proposed for 2021/22 is £84.10 (£82.42 in 2020/21)
- Although the above increase in rents generates additional income of £0.193m, other changes to the budget have more than offset this position with an overall deficit of £0.012m forecast for 2021/22.
- It was proposed to fund this relatively small deficit by drawing money down from the HRA General Balance, which was estimated to total £5.257m at the end of 2021/22 after taking into account this adjustment.
- The proposed HRA Capital Programme for 2021/22 totals £3.457m and continued to provide for a range of schemes and projects.
- The Capital programme included a revenue contribution of £0.281m to support new build and acquisition projects. This on-going budget could either support the direct cost of projects within the capital programme or meet the borrowing costs that were likely to be required to deliver the 200 new properties the Cabinet had committed to provide.
- Relevant matters in respect of the potential to fund an increase in the level of borrowing required to deliver the new build projects at the speed and scale committed to.
- The HRA general balance was forecast to total £5.257m at the end of 2021/22, which retained a strong financial position against which the HRA 30 year Business Plan could be further developed.
- 'Old' HRA debt continued to reduce year on year as principal is repaid with a total debt position at the end of 2021/22 forecast to be £36.777m (A reduction of £1.664m compared with the figure at the end of this year).

The Committee thereupon undertook its scrutiny of the HRA Budget Proposals for 2021/22.

Prior to the meeting, questions were submitted to the Housing Portfolio Holder in respect of the HRA and these are set out in the Appendix to these Minutes together with the responses provided.

The Housing Portfolio Holder, Councillor P B Honeywood, accompanied by the appropriate Senior Officer, attended the meeting and assisted the Committee in its enquiry of the matters put to him in respect of the HRA budget position.

Having considered all of the information that had been provided and acknowledging the measures to address the costs to the Housing Revenue Account of unrented Council housing ('voids'):

It was **RESOLVED** that **CABINET** be **RECOMMENDED** to set a target level for reducing void periods in 2021/22 in the housing stock with a view to providing specific focus to those measures.

The meeting was declared closed at 2.45 pm

**Chairman**

**RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE**  
**14 JANUARY 2021**

**BUDGET SCRUTINY QUESTIONS OF PORTFOLIO HOLDERS**

Each Portfolio Holder was asked to address the Committee on the relevant sections of the budget and the extent to which the budget (including one off provisions and reserves) met the needs of the service in 2021/22 and the major risks of the service in so far as the budget was concerned. Specific questions were asked by the Committee as follows.

Question to	Question	Response submitted to the Committee
<i>09:10-09:30 hrs attendance</i>		
Cllr Giancarlo Guglielmi	The Council is at Year 5 of the 10 Year strategy to achieve savings required in its base budget over that time while avoiding the much larger savings required in a single year without that strategy. The savings target over the remaining five years of the strategy is significantly higher than was the case at the start of that strategy and yet underspends have been recorded. Is the strategy savings target therefore appropriate or should a lower savings target be set bearing in mind the experience to date?	<p>I don't think it would be prudent to consider relaxing the savings target at this point in time.</p> <p>The underlying principle of the long term plan is to enable income to grow over time, which may enable us to reduce the level of savings in the future but I don't think that time is now. The flexibility that the long term plan has provided has been crucial, especially this year where we have been able to 'relax' the savings target for one year – however this will in itself have a telescopic effect so the savings required in future years remain an important element of the long term plan.</p> <p>In respect of the underspends from previous years, as explained to the Committee previously, not all favourable items from prior years can readily translate into on-going savings on a permanent basis going forward, and some may be one-off in nature in any case such as general Government</p>

		<p>grant funding. Therefore, the underlying variances behind any outturn position will determine the way forward, rather than just looking at the overall outturn position itself.</p> <p>Nobody, unless they come across unlimited wealth, can repay their mortgage overnight and have a relaxed attitude when they know what the level of their repayments is on a regular basis, and depending on what type of mortgage they have, their repayment level goes down as the years pass.</p>
	<p>Further to the above, is it appropriate to look at extending the ten year strategy and if so by how long and what are the other considerations (e.g. increasing the forecast risk reserve).</p>	<p>This question was addressed in the report that the Committee considered back in November, where it was highlighted that the long term forecast would be reviewed in 2023.</p>
	<p>Large sums of money have been set aside to fund a range of projects and schemes. Is it time to make fresh decisions on the allocation of the funds and release or reallocate those funds where the original purpose is not to be pursued? In this regard I reference the sums allocated for the Clacton Town Centre Fountain (£159K) and for Residents' Free Car Parking (£221K).</p>	<p>Yes, it is time to make decisions about the money that has previously been set aside for projects that are no longer to be pursued. The general aim is to consider such re-allocations when a subsequent project comes forward but I appreciate that there may be long lead in times to such projects, which may leave money against budgets previously agreed for extended periods of time. However, it is a useful point to raise and I will review such budgets as soon as possible.</p>

	<p>On 13 August, the Committee recommended Cabinet:</p> <p>“Consider establishing a corporate dedicated project completion resource, with project management skills, with a direction to progress projects and priorities of corporate significance to the Council, support delivery milestones for those projects and unlock capacity and other issues that could frustrate delivery of those projects and priorities.”</p> <p>This was reported to Cabinet on 11 September and I invite the Deputy Leader to advise the Committee as to an update on the proposal.</p>	<p>As agreed by Cabinet, the issue raised was to be considered as part of developing the back to business initiative and associated action plan, which needed to translate comments and feedback into practical actions on the ground.</p> <p>Although this work remains on-going, at its meeting in November, Cabinet agreed the first of these tangible projects which are being taken forward. It is also important to highlight that an external consultant is currently undertaking an ‘audit’ of the various projects and initiatives we have proudly identified and backed with cash to see what additional capacity / resources may be needed to make the necessary progress. I will hopefully be able to provide a further update in early February. However I can’t emphasise enough the pressure our officers are under in responding to the on-going COVID 19 crisis, which will undoubtedly have an impact on this work.</p>
	<p>Currently the Council has almost £33M in reserves, is there an optimum reserve figure for a District Council of TDCs size/revenue budget?</p>	<p>As the Committee is aware, the question incorrectly gives the impression that the Council is sitting on £33m of uncommitted reserves.</p> <p>Leading on from the answer given above, we have cash backed a number of initiatives and projects rather than making promises based on future funding. A large percentage of the figure the Committee have referred to is therefore associated with continuing projects and initiatives which were</p>

		<p>agreed to be carried forward at the end of 2019/20 which would have been included in a report that the Committee considered last year.</p> <p>A number of reserves have also been set aside to meet risks going forward, which if not provided for could put the financial sustainability of the Council at real risk, something I am not prepared to expose us to.</p> <p>In terms of uncommitted reserves, the figure set aside is £4m, which is based on a risk assessed approach.</p>
<p><i>09:40-10:00 hrs attendance</i></p>		
<p>Cllr. Lynda McWilliams</p>	<p>Sums of money have been allocated for “Public Health Improvement Projects” (£95K), the “Tendring Community Fund” (£500K) and the “CCG Wellbeing Hub” (£245K) with overlapping objectives. Is there a coherent approach to the delivery of those objectives given that when we come out of covid restrictions the extent of the need in the community for help is likely to be extensive?</p>	<p>All these funding pots are being looked at holistically, together with the back to business agenda and the business support grants. An announcement will be made shortly about the opening of the Tendring Community Fund, to support our voluntary organisations at this challenging time.</p> <p>Following nominations from Group Leaders, the Working Group for the Tendring Community Fund comprises Councillors McWilliams (Chairman), Alexander, Allen, Bush, Chapman, V E Guglielmi, J Henderson, Land, Newton and Wiggins. In addition there was a vacancy on the Working Party following the passing of the late Councillor Joy Broderick.</p>
<p><i>10.10-10.30 hrs attendance</i></p>		

Cllr. Alex Porter	Given that a significant element of the Tourism season in 2020 was lost due to Covid restrictions, and the importance of Tourism to the local economy of the District, how are resources going to be applied to ensure that the 2021 season is as successful as it can be.	As the committee is aware, the draft tourism strategy was considered by Cabinet in October and was subsequently sent out for consultation. The final strategy is due back to Cabinet in February with an accompanying delivery plan for year 1. This will contain a number of actions to support the District's recovery. Further to this, there are a number of short term projects listed in the emerging Back to Business delivery plan, with the aim of supporting the local tourism economy, e.g. Clacton 150, Celebrate Tendring etc.
	At the start of 2021/22 there will be £174K in the "Leisure Capital Projects Reserve". Can you tell the Committee what Capital Projects this is to fund? The Committee is aware that a separate allocation of £521K has been made for the Clacton Leisure Centre spa and wet-side redevelopment.	A number of planned essential maintenance projects will be addressed through this reserve and a report is due to be considered in the coming months. This will include the replacement of sand filter media (for the District's swimming pools) and a boiler replacement. This is scheduled to take place towards the end of the year.
<i>10.40–11.00 hrs attendance</i>		
Cllr. Paul Honeywood	The population profile of the District suggests that there will be a higher number of properties requiring adaptations to make them suitable for those with mobility impairments. In the circumstances is it timely to look at the needs across the District and the appropriate resources to meet those needs across both the HRA and the General Fund.	<p>The district does indeed have a population age profile that shows a higher proportion of older people living in the area.</p> <p>This is a fact that we are very aware of and is reflected in the adaptations programme that we offer to residents which is by some margin the largest in Essex for Disabled Facilities Grants. The Council has an allocation from the Better Care Fund of over £1.8M and is therefore more than adequately resourced to provide the adaptations necessary.</p>

		<p>Within our own housing stock we have the benefit of a capital allocation of over £400k in the HRA to cover the cost of adaptations that are required by our own tenants.</p> <p>Working with partners in the healthcare system and with Essex County Council we identify those in need of adaptations and provide a comprehensive service to ensure they receive the help required.</p>
	<p>The HRA budget for 2021/22 includes lost rental income of £160K arising from void properties. We are advised that on average there are 50-60 properties that are void each contributing £84.10 per week of lost income. It obviously takes time to turn around a void property and rehouse individuals and families in need. What measures will be implemented in 2021/22 to reduce the average void period and reduce the cost associated with it.</p>	<p>The number of void properties has increased throughout 2020 for a number of reasons not least the current pandemic that has at times meant it has not been possible to let properties or increased the time taken to turn them around and complete the allocation and re-letting process.</p> <p>This is a situation we are acutely aware of and measures have been put in place, some of which were already planned, to speed up the process of re-letting a property once it has become vacant. These measures include:</p> <ul style="list-style-type: none"> <li>• A new software system for Housing Register applications to be introduced in February that will allow online applications and electronic handling of information and communication with applicants</li> <li>• Linked to that software, a further piece of software that will hold, track and manage the allocation of void properties, reducing a lot of manual processing that current slows the process</li> </ul>

		<ul style="list-style-type: none"> <li>• A new Term Maintenance Contract with built in performance targets and penalty clauses will be in place from April that will give better control over the speed and quality of works undertaken.</li> <li>• An officer taskforce meeting fortnightly with the specific aim of reducing void times to as a low as possible.</li> </ul>
<i>11.10 -11.30 hrs attendance</i>		
Cllr. Mary Newton	£126K has been set aside to be spent on preparations for the UK's exit from the EU. As the UK has now left the EU should that sum be released or reallocated or is it earmarked for specific measures?	This sum was retained to allow the Council to address any critical issues in the immediate build up to or after EU transition. Work is now underway to work through other identified expenditure for EU transition such as Variable Message Signs for the District's roadsides.
	£1.585M has been set aside for "Business Investment and Growth Projects". That's a large sum of money in the Council's accounts. What Business and Growth Projects are to be funded from that sum in 2021/22?	Now the Economic Growth Strategy has been refreshed and adopted, a delivery plan will be brought forward in the coming months for allocation of this budget towards strategic goals.
<i>11.40 –12.00 hrs attendance</i>		
Cllr. Michael Talbot	£44K has been set aside to fund "2 One year fixed term posts to support improvements to the overall appearance of the district". Where are we with the delivery of this? What is the plan?	<p>The post is incorporated into the Public Realm team which has enabled the service to undertake improvements to public realm as opposed to meeting current maintenance requirements.</p> <p>This includes improvements to the round garden Walton on the Naze, the Mayflower 400 open space Harwich, the restoration of rockeries along Clacton seafront and the commencement of improvements to the seafront open space and garden at Martello Bay Clacton.</p>

		<p>The post will support future projects including Clacton Town centre enhancements, a new flood memorial garden, Harwich and refurbishment of the Cliff Dovercourt.</p> <p>In addition, improvements are planned for the entrances at Weeley crematorium, Kirby and Clacton cemeteries and Rush Green recreation ground Clacton as well as the seafront garden and boating pond area of Clacton. Public realm is also working towards landscaping and enhancing existing children's play areas to provide a more welcoming and safer environment.</p> <p>Public Realm improvements will be conducted with the support of Building and Engineering Services on projects including Clacton town centre, the Cliff Dovercourt and others.</p> <p>Public Realm are happy to provide information on areas of refurbishment / improvement as opposed to general maintenance.</p> <p>The post has approximately 6 months to run. It would be beneficial to have further funding, or for additional resources to be provided for future projects.</p> <p>The service is trying to concentrate on areas of maximum impact such as visitor / communal areas, but is also happy to consider ideas or requests from members.</p>
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		Well maintained and enhanced public realm has many benefits including positive health and wellbeing physical and mental, encouraging business and economic regeneration as well as lowering crime and anti-social behaviour.
	The net ongoing savings being built into the budget includes £115K to reflect the expected continuation of increased recycling performance from the waste collection service changes from 2019. Given the financial benefit to the Council from increasing recycling should some of that saving be allocated to improving signage to and the general area of recycling bring sites to make them more attractive and encourage their use?	Officers within the Street Scene Team are currently undertaking an audit of all the 80+ bring sites located across the district with the intention of highlighting both the potential for increasing the scope of materials collected at the sites but also the overall standard of the site and signage with the ambition of enhancing the experience of the users to these sites, which in turn will help to promote and enhance recycling It is anticipated that these works, once completed will be within the current waste and recycling budgets and would not require any additional budget.
	The Committee has previously asked that the capital provision for cliff stabilisation works (£4m) should incorporate a district wide survey to highlight the Council's likely exposure to such costs in the foreseeable future. Do you think it prudent to try to estimate that financial risk and will such a survey be pursued (and particularly if external funding is secured to reduce the £4m currently allocated for the slippage at Holland-on-Sea)?	The £4m capital allocation is for specific works to two slipped areas in Holland on Sea.  A previous piece of high level consultancy linked to the recently completed cliff stabilisation package identified that all of the cliffs owned by the Council have low factors of safety and could be subject to future movement. In general secure slopes of this type would be at 18o and those owned by the Council are as steep as 30o in places.

		<p>Officers commissioned the work following internal assessment of the areas of the District's coast for which TDC is responsible as Coast Protection Authority and as the landowner: Brightlingsea near Promenade Way (where there are no cliffs), Clacton Martello to Haven Frinton Greensward to Walton Naze and Dovercourt West end Lane to Harwich Beach.</p> <p>Because the council is the landowner opportunities for third party funding are limited. It is likely that the Council could be liable to other parties if infrastructure such as streets are damaged</p>
<i>12:10-12:30 hrs attendance</i>		
Cllr. Neil Stock OBE	The sum of £862K has been allocated to the "Back to Business Initiative" and the Committee would like to know where we are with the detailed action plan that will start to commit funds from that sum. Can you provide that update?	The draft delivery plan for the Back to Business agenda is now complete and will be brought forward to Cabinet following a meeting to approve the content.

In addition, all Portfolio Holders are asked to confirm that the Fees and Charges they are responsible for have been reviewed to ensure that they are set at a level to recover the costs of the service they relate to or otherwise have been set at levels set by statute.

# Public Document Pack

Resources and Services Overview and  
Scrutiny Committee

1 February 2021

**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW  
AND SCRUTINY COMMITTEE,  
HELD ON MONDAY, 1ST FEBRUARY, 2021 AT 7.30 PM  
THE STREAM IS AVAILABLE TO WATCH VIA  
[HTTPS://WWW.TENDRINGDC.GOV.UK/LIVEMEETINGS](https://www.tendringdc.gov.uk/livemeetings)**

<b>Present:</b>	Councillors M Stephenson (Chairman), Scott (Vice-Chairman), Allen, Barry, Bray, Codling, Griffiths, Harris and Morrison
<b>Also Present:</b>	Councillor P Honeywood (Housing Portfolio Holder)
<b>In Attendance:</b>	Keith Simmons (Head of Democratic Services and Elections), Tim Clarke (Assistant Director of Environment and Housing) Keith Durran (Democratic Services Officer) and Matthew Cattermole (Communications Assistant).
<b>Also in Attendance:</b>	Lee Heley (Head of Housing Growth at Essex County Council).

**118. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were no absences or substitutions.

**119. MINUTES OF THE LAST MEETING**

The Minutes of the last meeting of the Committee held on Thursday 14 January 2021 were approved as a correct record and were then signed by the Chairman.

**120. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**121. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

On this occasion no Councillor had submitted notice of a question.

**122. REPORT OF THE HEAD OF HOUSING GROWTH AT ESSEX COUNTY COUNCIL. -  
A.1 - DEVELOPING AN ECC HOUSING STRATEGY**

The Head of Housing Growth at Essex County Council (Lee Heley) shared his report on Essex County Councils Housing strategy with the Committee.

After a detailed discussion relating to the topic of the Housing Strategy the Committee thanked Lee Heley (Head of Housing Growth) for his attendance and his insights into the matter and his reported noted.

**123. REPORT OF THE ASSISTANT DIRECTOR FOR HOUSING AND ENVIRONMENT. -  
A.2 - UPDATE ON HOUSING.**

***Housing Acquisition and Development Strategy***

The Committee heard how the Strategy had been adopted by Cabinet in October 2020 and that this Strategy set out a framework around which the council owned housing stock would be increased to achieve a target of 200 additional homes. The Strategy had been appended to this report for ease of reference.

### ***Right to Buy***

Members were informed that, when added to the housing stock held within the Council's Housing Revenue Account (HRA), the impacts of right to buy had to be taken into consideration and factored into the financial planning.

Right to Buy numbers over the last five years were shown in the table below:

<b>Year</b>	<b>Number of properties</b>	<b>Av. Discount (£)</b>	<b>Total discount (£ loss)</b>
2015/16	10	64,288	642,884
2016/17	20	63,460	1,269,190
2017/18	34	60,837	2,668,490
2018/19	10	69,790	697,900
2019/20	14	66,373	929,225
2020/21	8 to date	-	-

The total discount figure was essentially the financial loss to the HRA compared to the market value of the properties sold. Sales had peaked in 2017/18 and had now returned to a lower level. The addition of newer and more desirable properties to the Council's housing stock could have led to an increase in sales.

The current maximum discount was £84,200 (or £112,300 in London).

Houses: Discounts started at 35% when an individual had been a public sector tenant for three years and the discount remained at 35% until five years spent as a public sector tenant. After year five, the discount went up by 1% for every year up until a maximum of 70% or £84,200 across England (excluding London) whichever was the lower.

Flats: Discounts started at 50% for three years as a public sector tenant and remained at 50% until five years spent as a public tenant. After year five, the discount went up by 2% for every year until a maximum of 70% or £84,200 dependant on whichever was the lower.

#### **Cost floor rule**

Discount could be reduced by the 'cost floor' rule. That could apply if the property had recently been purchased or built by a landlord or they had spent money on repairing or maintaining it. The Discount could be reduced to nil if the cost floor was more than the value.

It was reported to the Committee that the cost floor period for council properties was either a 10 year period prior to receipt of the RTB application form or 15 years if the home had been built or acquired by the Council after 2 April 2012.

That meant that a house bought through right to buy after year 15 could subject the HRA to a loss of over £80k.

Extending the cost floor to 30 years would alleviate that risk and put the Council onto a much lower risk position. Officers had discussed that with representatives from MHCLG however this would require a change of government policy and legislation so at the present time all decisions around acquisitions and development had to be taken on the basis of the current 15 year cost floor.

### ***Leaseback Housing Development***

The Committee heard how leaseback was a means by which housing could be developed using funding from an institutional investor. The housing was then leased to the Council who managed it for the lease term, typically 40 years in the case of houses. At the end of the lease term the housing usually transferred into the ownership of the Council. During the lease term the management and maintenance costs were covered by the rental income, with the surplus rental income being passed on to the investor.

The Council was engaged in ongoing discussions with an institutional investor with a particular focus on providing housing in Jaywick Sands but had also considered options elsewhere in the District. Whilst favourable because the arrangement would provide a significant number of rental properties without exposing the Council to financial risk, there were a number of legal considerations to be understood. The investor needed to also understand the build and acquisition costs which presented a significant challenge in Jaywick Sands and the weekly rent needed to be set at a level that was attractive to renters.

Officers would continue to explore this option and would bring a report forward to Cabinet if and when a suitable arrangement had been developed.

### ***Section 106 Funding***

Members heard how the amount of s106 funding for affordable housing provision, often referred to as an *off-site* contribution, awarded to the Council was reported as part of the quarterly budget report. In Quarter 2, £1.7M had been available. That funding would be used to fund housing acquisition and development in order to achieve the Council's 200 additional homes target.

### ***Housing Voids***

Members also heard how housing voids had increased over the last year or so to a point where the Quarter 2 financial reporting had showed a figure of 4% financial loss. Given the COVID-19 pandemic an increase in void properties was to some extent to be expected and was something that all landlords would have experienced. All but urgent lettings had been suspended between April and mid-June 2020. General working restrictions both in respect of office based allocations staff and repair and maintenance contractors had meant a slower turnaround and allocation process had been in place.

There had not been an increase in properties being handed back during the pandemic and rent collection levels had remained very good in the circumstances.

The Committee was informed that at the time of the report there were 108 void properties, equating to 3.5% of the total housing stock. 42 of those properties were ready to let with 15 of those being offered to prospective tenants during the week commencing 18<sup>th</sup> January 2021. The target was to reduce that total number to around 62 which was 2% of the stock. Officers believed that was possible and had been working on measures to improve the housing allocations process for several months. Those measures would include new allocations and housing register software that would streamline processes and move them away from the current paper based processes.

Members heard that an officer working group had been set up with the first meeting held on 20<sup>th</sup> January 2021. The group would be standardising data collection across the allocations and repairs teams and would be improving communication and certain processes that collectively would enable void times to be reduced. In April 2021 a new term maintenance contract would commence, placing all void repair works with one contractor that would be subject to performance targets and financial penalties where turnaround times were not met.

Due to small outbreaks of COVID-19 in some sheltered schemes and the challenges in managing those outbreaks there would not be any new allocations of sheltered housing until it was safer to do so.

During the consideration of this matter it was **RECOMMENDED** to **CABINET** that:

- the quarterly Housing Revenue Account monitoring report (and the Out-turn HRA report) should include specific detail on the spend and funding for housing acquisitions to that point in the year and comparable data from previous years.
- the Small Housebuilding Scheme Pilot the Council was participating in continue to be given the full support of the Council as a tangible measure to getting local construction firms back working at capacity and helping to provide good quality homes for local people.
- Representations be made, or continue to be made, to Government to adjust the Cost Floor Period for new Council Housing from 15 years to 30 years and thereby mitigate the risks to Council Housing supply from the “Right to Buy” and consequently positively contribute to the (re-) provision of Council Housing as an element of a vibrant mixed economy in housing.

**124. REPORT OF THE LEADER OF THE COUNCIL. - A.3 - PRIORITY OF ACTIONS 2021/22 AND MONITORING DELIVERY OF THOSE ACTIONS.**

It was reported to the Committee that the Council had approved a Corporate Plan for 2020/24 which established its strategic direction for those four years. That strategic direction itself sought to reflect the issues that mattered most to local people, the national requirements from Government and the challenges that faced the District over that time period. The Corporate Plan had been adopted unanimously at the Council meeting held on 21 January 2020 (Minute 78 referred).

The themes of the 2020/24 Corporate Plan were:

- Delivering High Quality Services
- Building Sustainable Communities for the Future
- Strong Finance and Governance
- Community Leadership through Partnerships
- A Growing and Inclusive Economy

Cabinet established each year its priority actions to deliver against the Corporate Plan and thereby ensure that the ambition of that Plan was central to its work. The priority actions did not cover every separate element of the ambition of the four year Corporate Plan; nor were they intended to indicate that other projects, schemes or activities were not being pursued. They were though intended to reflect imperatives across the Council and for the District and actions that it was right to focus on in that year.

Members heard that 2020 had been an exceptional year not only nationally but globally. In Tendring the Council's Community Leadership role had never been more important. The Council had taken on additional responsibilities in supporting its residents and businesses through the COVID-19 pandemic. Whilst Tendring District Council had not formally reported on its performance against priorities during 2020, much had been achieved including but not limited to:

- The roll out of numerous grants in excess of £38million to businesses;
- The adoption of a local Back to Business Agenda which was not only supporting businesses to survive but preparing to help them flourish;
- An Economic Growth Strategy focusing on recovery for the future;
- Allocation of monies from the Tendring Community Fund to Ward Councillors to provide grants to local organisations to enable them to respond to the pandemic locally;
- Business continuity arrangements immediately being invoked to ensure Council services remained in place where they were able to do so and for those services impacted by the various lockdowns, staff had been redeployed to work with different teams in response to the pandemic, such as the Community Hub.
- Adoption of a Climate Change Action Plan to meet the Council's aspirations towards the Climate Emergency;
- Section 1 of the Local Plan had been found to be sound by the Planning Inspectorate thereby establishing the 5 year housing supply of 550 dwellings per annum, a North Essex vision and the Garden Community at Tendring Colchester Borders;
- A balanced budget and revised governance arrangements to ensure democratic decision making continued throughout;
- Getting ready to build or acquire new council homes. The Council had adopted a Corporate Housing Strategy to deliver homes to meet the needs of local people, making the best use of and improving existing housing and supporting people in their homes and communities. Separate strategies and policies had been introduced to assist reducing homelessness and rough sleeping in the District,

providing financial assistance polices for private sector housing and acquiring land and buildings to increase council housing stock.

The Committee was informed that all of the above had provided a great foundation on which the Council would continue to deliver its priorities during the remaining years of the Corporate Plan. The 2021/22 actions would, of themselves, underpin further actions in 2022/23. As such, it was appropriate to invest time and energy to delivering them.

A provisional list had been prepared following consultation with individual Portfolio Holders and the Leader of the Council and that was set out at Appendix A to the report.

After a short discussion it was **RESOLVED** that the Committee notes and fully endorses this report and thanks the Cabinet for bringing forth this piece of work.

**125. REPORT OF THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER.  
- A.4 - PROTOCOL FOR CABINET AND OVERVIEW & SCRUTINY ROLES.**

It was reported to Members that, in May 2019, Statutory Guidance had been published by the Ministry of Housing, Communities & Local Government on Overview and Scrutiny in Local and Combined Authorities. The Council in operating as a Leader and Executive Governance Model therefore must have regard to it when exercising their functions and that Guidance should be followed unless there was a good reason not to in a particular case. The Guidance was attached as Appendix A to the Report.

Section 2 of the Government's Statutory Guidance referred to Culture and expressly stated:-

*"The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.*

*While everyone in an authority can play a role in creating an environment conducive to effective scrutiny, it is important that this is led and owned by members, given their role in setting and maintaining the culture of an authority.*

*Creating a strong organisational culture supports scrutiny work that can add real value by, for example, improving policy-making and the efficient delivery of public services. In contrast, low levels of support for and engagement with the scrutiny function often lead to poor quality and ill-focused work that serves to reinforce the perception that it is of little worth or relevance.*

*Members and senior officers should note that the performance of the scrutiny function is not just of interest to the authority itself. Its effectiveness, or lack thereof, is often considered by external bodies such as regulators and inspectors, and highlighted in public reports. Failures in scrutiny can therefore help to create a negative public image of the work of an authority as a whole."*

The Committee was informed that the guidance recommended an 'executive-scrutiny protocol' in order to help define the relationship between the two arms of the organisation, dealing with the practical expectations of scrutiny committee members and the Executive, as well as the cultural dynamics. Councils should consider adopting a

protocol, e.g. formal agreement at scrutiny committees and Cabinet, then formal integration into the Council's constitution.

It was felt that the Council already had strong measures in place to demonstrate the openness of Cabinet being held to account and had introduced some time ago that Group Leaders of all political groups would have the right to attend Cabinet meetings, and speak on agenda items whilst not being able to vote. The Terms of Reference of the Resources and Services Overview and Scrutiny Committee stated that its Chairman and Vice-Chairman would normally be a Member of a political group not represented on the Cabinet. Informal Group Leaders' meetings were also held at which the Leader or Deputy Leader could share information in advance of going to Cabinet or other topics, which had proved particularly useful during the Council's response to the COVID-19 pandemic. The Chief Executive held regular All Member Briefings, at which Portfolio Holders presented early ideas on strategies and policies for discussion. And Furthermore the Deputy Leader chaired a Constitution Review Working Group, whose membership was made up by representatives from nearly all other political Groups on the Council.

The Members heard that, as previously requested by Cabinet, Senior Officers had produced a draft Protocol for Cabinet and Overview and Scrutiny roles for consultation with the Chairmen of the Overview and Scrutiny and Audit Committees together with the Deputy Leader and the Portfolio Holder for Partnerships. The Statutory Guidance had been considered in the production of the draft Protocol together with taking into account comments received through the consultation.

It was reported that the draft Protocol had introduced a number of principles and how it applied between the roles of Cabinet and Overview and Scrutiny building upon a relationship of trust whilst both bodies performed their statutory functions, acknowledging the inter-relationship with Audit too. It was designed to sit alongside the range of other commitments to openness and inclusiveness as set out above. It also set out how Policy Development Overview and Pre-Decision Scrutiny could work in addition to the traditional views of solely holding the Cabinet to account. The importance of timely overview and scrutiny in budget setting and monitoring throughout the year was highlighted to show how the process could add value, by reviewing whether the financial plans and strategies of the Council were sound and had taken into consideration all relevant factors.

It was further reported to the Committee that Performance Measurement and reporting provided insight into whether value for money was being achieved and whether improvements were necessary, feasible and affordable. The purpose of reporting general performance data to an Overview & Scrutiny Committee enabled scrutiny as to capturing the right level of data to support delivery of services or priorities – and to make recommendations, if necessary. In some instances further enquiry of an activity may could be warranted and the appropriate Committee would factor how that work could be accommodated in its work programme.

Members heard that, through their respective work programmes, the Overview and Scrutiny Committees would consider the Cabinet's adopted priorities in support of the Council's Corporate Plan, areas of planned policy development over the relevant Municipal Year (and the next) would be provided and they would be asked to highlight any areas where overview & scrutiny could be specifically invited to assist in work

(including Community Leadership areas). The enquiries included within the work programme should be identified to add value to the Council as a whole and the District. The allocation of enquires to specific Overview and Scrutiny Committees would be in accordance with their respective terms of reference.

The draft Protocol also referred to how Overview & Scrutiny recommendations to the Cabinet would be dealt with including seeking further clarity if needed. Some additional operational matters had been included for completeness in determining the relationship covering responding to urgent items of Cabinet Business, Scrutiny Consideration of Confidential Decisions, Call-in and Councillor Call to Action which built upon the existing requirements within the Constitution.

It was reported to the Committee that, with due regard to the Council's Statement on Councillors' development, training would be made available for Overview & Scrutiny Committee members, Cabinet Members and support Officers on the Protocol and elements referenced in it including work planning, budget scrutiny, using performance data and key lines of enquiry.

In the Overview & Scrutiny Annual Report submitted to Full Council each year there would be a section demonstrating the impact of Overview & Scrutiny and the effectiveness of the Protocol. All Members would be expected to adhere to the Protocol in their respective roles, and once formally adopted by Council, the Protocol would be incorporated within Part 6 of the Constitution.

After a detailed conversation it was moved by Councillor M Stephenson, seconded by Councillor Bray and **RESOLVED** that the Committee notes and endorses the contents of the report and that it be added it to the work programme for a future review.

#### **126. SCRUTINY OF PROPOSED DECISIONS**

The Members had before them a list of 31 proposed executive decisions published since 12 November 2020. The Committee noted the contents of the report.

#### **127. RECOMMENDATIONS MONITORING REPORT**

The Members had before them the current Recommendations Monitoring Report. The Committee was aware that the report outlined any recommendations it had made to the Cabinet, the Cabinet's responses thereto and any relevant updates.

The Committed noted the contents of the report.

#### **128. REVIEW OF THE WORK PROGRAMME**

The Committee noted that it had five items to add to its work programme and therefore decided to adjourn this discussion until the Committee's meeting in March 2021, at which and in accordance with the Chairman's request it would be the first item on the agenda.

The meeting was declared closed at 10.25 pm

**Chairman**



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**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,  
HELD ON WEDNESDAY, 3RD FEBRUARY, 2021 AT 10.00 AM  
IN THE MEETING TO BE HELD UNDER PROVISIONS OF STATUTORY  
INSTRUMENT 2020/392. LINK TO LIVE STREAM WILL BE FOUND VIA  
[HTTPS://WWW.TENDRINGDC.GOV.UK/LIVEMEETINGS](https://www.tendringdc.gov.uk/livemeetings)**

<b>Present:</b>	Councillors Land (Chairman), Steady (Vice-Chairman), Fowler, J Henderson, S Honeywood, Turner and Wiggins
<b>Also Present:</b>	Sue Gallone (Independent Person), Clarissa Gosling (Independent Person), David Irvine (Independent Person) and Jane Watts (Independent Person)
<b>In Attendance:</b>	Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Keith Durran (Democratic Services Officer), Debbie Bunce (Legal and Governance Administration Officer) and Emma Haward (Leadership Support Assistant)

**8. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were no apologies for absence on this occasion.

**9. MINUTES OF THE LAST MEETING**

It was moved and seconded and:-

**RESOLVED** that the minutes of the meeting of the Standards Committee, held on Thursday 16 July 2020, be approved as a correct record and signed by the Chairman, subject to an amendment to reflect the fact that Councillor Nick Turner had been unable to join the meeting due to technical difficulties and that he wished to have his apologies noted.

**10. DECLARATIONS OF INTEREST**

There were none on this occasion.

**11. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

There were none on this occasion.

**12. A.1 - REPORT OF THE MONITORING OFFICER - REVIEW OF PLANNING PROBITY CODE AND PROTOCOL**

The Committee gave consideration to a detailed report of the Monitoring Officer (A.1) in relation to a review of the Council's Members' Planning Code/Protocol adopted in 2015 following the Local Government Association (LGA) Probitiy in Planning Guidance – Advice for councillors and officers making planning decisions issued in December 2019.

In December 2019, the LGA had issued its Probity in Planning Guidance – Advice for Councillors and Officers making planning decisions, which was included as Appendix A to the Monitoring Officers report. The Standards Committee had agreed previously through its work programme to review the Council's Planning Protocol following the LGA publication.

It was reported that the LGA's Guidance had been circulated to the members of the Planning Committee in 2020. Those Members had also later been provided with a note on lobbying following a High Court decision involving the London Borough of Hackney, which had confirmed the Council's Protocol was consistent with the practices established within the judgement, so long as it was done openly.

The Committee was informed that Officers had undertaken a review of the Council's Planning Protocol following both the LGA's Guidance and High Court decision, and it was considered that the recommended practice as set out within the advice and guidance issued by the LGA was covered within the Council's existing Protocol, Members' Code of Conduct and working practices. Consequently, no further changes were suggested as a result of the LGA's guidance however, it was necessary to include additional wording within the Planning Protocol to cover situations when it was not possible to undertake Site Visits and to clarify that this did not impact upon the Planning Committee's ability to determine planning applications.

It was also recommended that regular training should be carried out to ensure the principles of Probity in Planning were known and fully understood by Councillors involved with planning decisions.

The Committee was made aware that the LGA Guidance stated that particular care needed to be taken in the use of social media by both Officers and Councillors, where it related to decision making functions. The use of social media was also an area which had been highlighted by the Local Government Ethical Standards Report published in 2019 and the LGA in its recent work to publish a Model Code of Conduct. Any training delivered for Tendring District Councillors should therefore include a section on using social media.

The Monitoring Officer confirmed that the Council's Code of Conduct was still robust. She told the Committee that whilst undertaking the review a case had been considered at the High Court regarding lobbying of Members and it was confirmed that it was appropriate for members of the Public to lobby Councillors on the Planning Committee. The Council's Code had a protection in that it advised Councillors to let the individual know that they would look at the case with an open mind. Case law had confirmed that it was fine for Councillors to read any letters sent to members of the Planning Committee and this had confirmed that the Council was up-to-date with the Judgment of the High Court.

The Monitoring Officer also confirmed that additional wording regarding site visits needed to be included within the Code to cover situations where site visits were not possible. It was not a legal requirement to have undertaken a site visit but if Members did so then a clear protocol must be in place which was included within the Council's Code.

During the current Pandemic it was confirmed that Members had been able to visit sites themselves to solely view the site, but no organised site visits were currently taking place, due to restrictions being in place since March 2020.

Members were then asked if they had any questions relating to the Code and Protocol and there was a query regarding whether when a Member had “called-in” an application should they withdraw from the meeting. The Monitoring Officer confirmed that this is not suggested practice within the Council’s Code, so any Member calling in an application was entitled to remain in the meeting during the consideration of that item as long as they were not part of the decision making process of the Planning Committee. Careful consideration must be taken if the member is part of the Planning Committee.

Having considered and discussed the information provided in the Monitoring Officer’s report:

It was moved by Councillor J Henderson, seconded by Councillor Steady and unanimously :-

**RESOLVED** that the Committee –

1. Notes the contents of the Report and are pleased that the Protocol remains robust and the Council are ahead of the Guidance and agrees that no changes are required to the Council’s adopted Members’ Planning Protocol as a result of the LGA’s Guidance;
2. Approves the recommended wording, as set out within the Report, to be added to the Member’s Planning Protocol covering situations where it is not possible for organised Site Visits to be undertaken;
3. Agrees the amendments are minor in nature and follow the implications of the ongoing Coronavirus Regulations currently in force and supports the Monitoring Officer using her delegated powers in accordance with Article 14 of the Constitution;
4. Endorses that awareness of the Council’s Protocol and the LGA’s Guidance on Planning Probity are covered within the regular training programmes for elected Members involved in planning decisions; and
5. Requests that Officers include a section on the use of social media in all training sessions for Members.

**13. A.2 - REPORT OF THE MONITORING OFFICER - REVIEW OF THE COMPLAINTS PROCEDURE**

The Committee gave consideration to a report of the Monitoring Officer (A.2) in relation to undertaking a review of the Complaints Procedure and to recommend any changes to Full Council for adoption.

The Committee was aware that the Standards Framework included the Complaints Procedure (contained within the Members’ Constitution Booklet). The Council’s statutory duty was to promote and maintain high standards of conduct and building

public confidence by demonstrating a commitment to maintaining positive behaviours in relation to all seven principles of public life.

The current Procedure, which was attached as Appendix A to the Monitoring Officer's report, had been initially adopted by full Council in November 2013 and subsequently amended in 2017 following a review and recommended changes from the Standards Committee.

Delegation was given to the Monitoring Officer throughout the Procedure to undertake key elements of the complaints process to maximise independence from the political process.

The Monitoring Officer explained that the Local Government Ombudsman had looked at this Council's (TDC's) Complaints Procedure on a couple of occasions when a complainant who had been dissatisfied with the outcome of a complaint had gone to the Ombudsman for a further review. In all instances the Ombudsman had said that TDC's procedures were robust and if followed correctly - they would not look into the outcome of the complaint if the procedure has been correctly. The aim was to make the Procedure as clear as possible to anyone using it.

Through a recent referral to Essex Police, regarding an alleged Disclosable Pecuniary Interest offence under the Localism Act 2011, the Monitoring Officer had been requested to confirm the Legal Jurisdiction Criteria Test had been evaluated and met prior to referring the complaint to the Police. The Monitoring Officer had been requested to provide assurance that the following had been applied prior to further Police involvement:

- (a) The alleged conduct took place after the commencement of Section 34 of the Localism Act 2011.
- (b) The Subject Member was a member of the Council at the time of the alleged conduct.
- (c) The Subject Member was acting in an official capacity as a Councillor at the time of the alleged conduct.
- (d) The Subject Member was not acting as a member of another authority at the time of the alleged conduct.
- (e) If the facts are capable of establishment as a matter of evidence, the alleged conduct could be capable of a breach of the Code of Conduct.
- (f) That the complaint is not about dissatisfaction with the Council's decisions, policies and priorities.

In the event, the above assurances were given, the Police would consider commencing a criminal investigation, if crucially part (e) could be established regarding actual evidence, which the Monitoring Officer might be asked to provide.

The test and evaluation was undertaken implicitly by the Monitoring Officer however it was not expressly referred to within the Complaints Procedure. Consequently, it was being recommended that paragraph 4.5 of the Complaints Procedure be amended to state:

*"If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power and obligation to notify or refer to the Police or*

*other regulatory agencies, subject to the necessary Legal Jurisdiction Criteria Test being applied”.*

No other changes to the Complaints Procedure were recommended by the Monitoring Officer.

Having considered and discussed the information provided in the Monitoring Officer’s report

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

**RECOMMENDED TO COUNCIL** that paragraph 4.5 of the Complaints Procedure contained within Part 6 of the Constitution be amended to include the additional text *“subject to the necessary Legal Jurisdiction Criteria Test being applied”.*

#### 14. **QUARTERLY COMPLAINTS UPDATE**

The Monitoring Officer circulated to the Committee the quarterly schedule, which gave an update on existing cases together with general details of new cases, without providing any names, and went through them with the Committee. There had been no requests for dispensations from Members.

DISTRICT	PUBLIC	CLOSED	No further action	Matter related to actions in private capacity
DISTRICT	TDC CLLR	Awaiting MO to issue final decision	pending	IP consulted – relates to behaviour in a remote meeting
PARISH (X3)	PUBLIC	Awaiting MO final decision	pending	Last response received from final Cllr by 1 <sup>st</sup> February – case to be assessed – relates to alleged failure to declare interests
DISTRICT	MO	With Cllr to respond	pending	Deputy MO will be dealing with the case due to conflict

The Committee noted the foregoing.

15. **CASE REVIEW PRESENTATION AND GUIDANCE UPDATE FOR THE COMMITTEE ON DECISIONS AND ACTIONS TAKEN NATIONALLY**

The Monitoring Officer gave the Committee a presentation and guidance update on decisions and actions taken nationally. All of those decisions were in the public domain and the Monitoring Officer went through each one in turn.

The Monitoring Officer also informed the Committee that the Law Commission had put forward proposals for reforming the offence of misconduct in public office.

It was also noted that in respect of the LGA's Model Code of Conduct, version 1 had been launched in early December, followed by version 2 in late December 2020 and that the LGA would be issuing guidance throughout 2021. This would be the subject of further consideration by the Committee through a separate piece of work in due course.

The Committee noted the foregoing.

The meeting was declared closed at 11.02 am

**Chairman**

# Public Document Pack

Community Leadership Overview and  
Scrutiny Committee

8 February 2021

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## MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP OVERVIEW AND SCRUTINY COMMITTEE, HELD ON MONDAY, 8TH FEBRUARY, 2021 AT 7.30 PM

<b>Present:</b>	Councillors Chittock (Vice-Chairman, in the Chair), Amos, Clifton, Davidson, Davis, King, Miles and Steady
<b>Also Present:</b>	Councillor C Guglielmi (Deputy Leader) and McWilliams (Portfolio Holder for Partnerships)
<b>In Attendance:</b>	Anastasia Simpson (Assistant Director (Partnerships)), Tim Clarke (Assistant Director (Housing and Environment)), Keith Simmons (Head of Democratic Services and Elections), John Fox (Public Health, Wellbeing & Environmental Protection Manager), Keith Durran (Democratic Services Officer) and Matt Cattermole (Communications Assistant)
<b>Also in Attendance:</b>	Kirsty O'Callaghan (Head of Strengthening Communities at Essex County Council)

### 11. CHAIRMAN FOR THE MEETING.

In the absence of the Chairman of the Committee (Councillor Skeels), the Chair was occupied by the Vice-Chairman (Councillor Chittock).

### 12. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Councillor Skeels sent his apologies (no substitute).

### 13. MINUTES OF THE LAST MEETING

The Minutes of the last meeting of the Committee held on Monday 30 November 2020 were approved as a correct record and were then signed by the Chairman.

### 14. DECLARATIONS OF INTEREST

There were none on this occasion.

### 15. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

On this occasion no Councillor had submitted notice of a question.

### 16. REPORT OF HEAD OF STRENGTHENING COMMUNITIES AT ESSEX COUNTY COUNCIL. - A.1 - SOCIAL ISOLATION AND MENTAL HEALTH.

#### Summary of Issue

The Committee heard how the impact of social isolation and loneliness on an individual's physical and mental wellbeing were well known. Social isolation had been recognised as a risk factor for suicide with an increased risk of depression, low self-esteem, reported sleep problems and increased stress response. Loneliness was considered to have an adverse impact on the condition of the heart and was a strong

predictor of premature death, with people who were lonely more likely to be readmitted to hospital, had longer stays and more visits to GPs or A&E.

### **The Impact of COVID on social isolation and loneliness**

The Committee also heard that the COVID pandemic had posed significant health risks to the District's population; however, the risk to health outcomes extended beyond the clinical risk of COVID. The socio-economic and lifestyle factors that influenced health outcomes had also been adversely disrupted during the pandemic.

Members were informed that COVID had also amplified and increased the pace at which cohorts of people who would traditionally be at risk of social isolation were impacted, but also it had created a new group of people who had become increasingly anxious about the disease itself and the impact on their life. These included parents who had become increasingly isolated either due to financial impacts or the absence of informal connections through schools; people whose employment had changed through furlough, working at home or unemployment; and the recently bereaved who had been unable to have the normal in-person connections that would have supported them during that difficult time.

There would also be a generation of children and young people who had been adversely affected by the pandemic and that would likely have long term impacts for their emotional wellbeing, educational outcomes and longer-term economic wellbeing.

It was reported to the Committee that the [Essex Joint Health and Wellbeing Strategy 2018 – 2022](#) identified social isolation and loneliness a key priority. A whole system approach had been mobilised in 2019 designed to connect resources across the system.

The key aims were:

- *Communities had a better understanding of the impact of loneliness and how to help each other.*
- *There was a range of community led support to prevent and reduce loneliness and build capacity to support people to live well.*
- *People who were lonely, or at risk of loneliness were recognised and could access local information and support to live well.*
- *People with complex needs could access support to reduce loneliness and feel part of their local community.*

This approach included:

- Commissioned services addressing social isolation and loneliness as part of their wider response to improve independence. There were a range of ECC commissioned services that delivered specialist services to support people, promoted wellbeing and helped them to gain/regain independence, those included the Essex Children and Family Wellbeing Service, Alzheimer's Society - Dementia, Carers First - carers, ECL - sensory, Summit – Learning Disabilities and Autism, Futures in Mind – mental health to name but a few. Beyond that, there were a range services commissioned by CCG/health partners as well as

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other local programmes that addressed the issues of social isolation and loneliness.

- Services directly commissioned to tackle social isolation and loneliness. Provide, had been the strategic partner to tackle loneliness, delivered a single point of access for the Livewell/Linkwell network support that included the Care Navigator Plus network (a partnership between a number of voluntary sector and community sector providers using a social prescription approach). The Rural Community Council of Essex (RCCE) as a Livewell Linkwell partner delivered the social prescribing and the social isolation model, including the United in Kind coaches – as did the West Essex Community Action Network (WECAN). Social engagement partners delivering Essex Befriends, or befriending service, included Action for Family Carers, MIND, Mencap and independent Age.
- Place based community care and support. Primary Care Networks were key to integrating primary care with secondary and community services, pivotal to improving population health and taking a proactive approach to hidden needs to support. Social Prescribing Link Workers helped to reduce health inequalities by supporting people to unpick complex issues affecting their wellbeing, and enabled people to have more control over their lives. There was also a multitude of smaller and larger infrastructure organisations such as the Council for Voluntary Service (CVS) organisations and volunteer centres who worked to build community resilience and in doing so tackle loneliness.
- Community Networks. Faith communities played a positive role in neighbourhoods and supported those most in need, strengthening resilience, reinforcing local identity and helped to connect communities. The Essex Faith Covenant continued to drive the partnership between faith communities and public services. Parish and Town Councils, as the first level of local government provided communities with a democratic voice. Networks like those played a key role in the identification of local needs and utilising community assets that provided a structure to take local community action. The importance of Neighbourhood level schemes had emerged as an effective means to reduce loneliness and isolation during the pandemic.

### **The future model for tackling social isolation and loneliness**

Members heard how there was a need in any future model to amplify what already existed in terms of the offer to increase the connectedness and ensure that the scope of the offer addressed the needs of emerging cohorts who were becoming increasingly isolated because of COVID. An offer was needed that sought to provide formal support alongside resilience building and encouraged conversations around isolation and loneliness that built on existing pathways and expertise within the system.

People's identities were being impacted and generated a negative sense of being; such as:-

- Sense of loss, shame, confusion, failure, frustration and range of other emotions leading to feelings of helplessness, a lack of confidence and self-esteem and sense of belonging thereby:-

- Leading to isolation and/or loneliness and whilst this might have been felt previously in those families and areas that were more deprived, this was now transcending populations regardless of personal socio-economic status.
- Those groups included:
  - COVID recovery; long COVID sufferers,
  - minority groups; faith groups;
  - new parents; lone parents
  - young men and women
  - Those who were now unemployed or had seen changes in their employment
  - The bereaved

There was therefore a pressing need to innovate responses that resonated and engaged those, who unaware about the support available, or that they could benefit from some support and where to get it.

**Next Steps:**

The Committee heard that the Health and Wellbeing Board members would discuss the issues, provide their different perspectives, and consider what and where the gaps might be in the current approach.

The Committee thanked Kirsty O'Callaghan (Head of Strengthening Communities at Essex County Council) for her report and **RESOLVED** to note its contents.

**17. REPORT OF THE ASSISTANT DIRECTOR OF ENVIRONMENT AND HOUSING. - A.2 - MITIGATION MEASURES FOR IMPACT OF PUBLIC FIREWORK DISPLAYS**

Further to both Minute 12 of the meeting of the Committee held on 28 September 2020 and Minute 24 of the meeting of the Full Council held on 24 November 2020 the Committee heard that in terms of the previous request to Council in Councillor Sue Honeywood's motion on this matter the Council had no legal enforcement powers to undertake that work and so any request to organisers would be for them to comply with on a voluntary basis only.

- **Advertising Events** - the Council had no powers to require organisers of public events to advertise their event prior to it occurring. However, by their very nature public events were routinely advertised in order to ensure that they had a sufficient attendance and on that basis nearby residents were also likely to be aware. In addition, where the organisers of an event attended the Safety Advisory Group and where potential disturbance to neighbours was likely to occur, for example through fireworks or the provision of music, then advice was given to the organisers to contact neighbours to make them aware. However, that advice could not be enforced.
- **Animal disturbance** – It was reported that in the last year there had been a number of complaints in terms of fireworks potentially distressing animals (such as horses) and on that basis that an event should not take place. Reference was made to the Animal Welfare Act 2006 which, under section 4, made it an offence to cause an animal to suffer. On the basis that any individual could set off fireworks at their property as a private individual and it was not regarded as an offence in terms of neighbours' pets, the relative infrequency of major public

events which tended to operate in early November or on significant dates, and the lack of specific legislation which banned public firework events it was not considered an offence by an event organiser to hold a firework event.

### **Other Actions**

The Committee also heard that as per the motion as previously approved by Full Council, the Council could determine whether it wished to run a publicity campaign in relation to fireworks. Both the timing of the campaign and content would need to be considered to ensure an effective message was provided at the correct time.

An event proposed within Tendring in November 2020 had been subsequently cancelled due to a social media campaign, originally in terms of distress to animals, which had then developed and resulted in personal threats to the event organiser and potential threats to anyone who attended the event. Therefore any message provided needed to be balanced, highlighted what was permitted but also encouraged achievement of high standards. Within that campaign the benefits of quieter fireworks could also be identified. However, that would only be on a voluntary basis by event organisers.

The Council had a presence on social media sites for disseminating advice and information which had been found to be effective in reaching significant numbers of people in the area and could be used to promote messages in respect of firework displays.

Tim Clarke (Head of Housing and Environment) reported to the Committee that Central Government had received a report from the Parliamentary Petitions Committee inquiry into Fireworks in March 2020. From that report the Government had subsequently recommended that:

*“While people who want to ban the public from buying and using fireworks have valid concerns that must be addressed, we cannot support a ban before other, less drastic but potentially more effective, options have been fully explored”.*

The Committee heard how Government had commissioned a piece of work from the Office of Product Safety and Standards in relation to the decibel level of fireworks to collate data for an evidence base, however this was still to be produced.

Mr Clarke also reported that Government had recommended that:

*“... the Government work with Local Authorities to identify a best practice approach to a revenue-neutral, mandatory permit system for fireworks displays, where local evidence suggests this is necessary to protect the community. The Government should work with a Local Authority to pilot the approach before the end of 2020, with a view to legislating to empower all Local Authorities to establish mandatory permit schemes where they deem it necessary”.*

That had been supposed to start in autumn of 2020 but Mr Clarke was not aware that any such pilot had commenced to date.

The Members also heard about another recommendation in the report that read:

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*“... the Government fund and coordinate a major, national awareness campaign on the responsible use of fireworks to get this message across to the public.”*

That Campaign had started and the advertising material was available for the Council to use.

After a full in-depth discussion it was moved by Councillor Steady, seconded by Councillor Amos and **RESOLVED** that the Committee **RECOMMENDS** to Council that:

- The Council is made aware of the Government’s response to the Petitions Committee.
- The material already available to the Council from Central Government be used as part of the public relations campaign for firework mitigation.
- The Chief Executive write a letter to Central Government in support of any measures coming forth to tighten the restrictions on licensable sales of fireworks.
- A channel is developed for information in relation to the illegal and underage sale of fireworks to be passed along through the Council to Trading Standards.

**18. REPORT OF THE LEADER OF THE COUNCIL. - A.3 - PRIORITY FOR ACTIONS 2021/22 AND MONITORING DELIVERY OF THOSE ACTIONS.**

The Committee heard how the Council had previously approved a Corporate Plan for 2020/24 and that it had established Council’s strategic direction for those four years. That strategic direction itself sought to reflect the issues that mattered most to local people, the national requirements from Government and the challenges that faced the District over that time period. The Corporate Plan had been adopted unanimously at the Council meeting held on 21 January 2020 (Minute 78 referred).

The themes of the 2020/24 Corporate Plan were:

- Delivering High Quality Services
- Building Sustainable Communities for the Future
- Strong Finance and Governance
- Community Leadership through Partnerships
- A Growing and Inclusive Economy

Members were informed that Cabinet established each year its priority actions to deliver against the Corporate Plan and thereby ensured that the ambition of that Plan remained central to its work. The priority actions did not cover every separate element of the ambition of the four year Corporate Plan; nor were they intended to indicate that other projects, schemes or activities were not being pursued. They were though intended to reflect imperatives across the Council and for the District and actions that it was right to focus on in that year.

Members also heard that 2020 had been an exceptional year not only nationally but globally. The Council’s Community Leadership role had never been more important. The Council had taken on additional responsibilities and supported its residents and businesses through the COVID-19 pandemic. Whilst Tendring District Council had not formally reported on its performance against its priorities during 2020, much had been achieved including but not limited to:

- 
- The roll out of numerous grants in excess of £38million to businesses
  - The adoption of a local Back to Business Agenda which not only supported businesses to survive but prepared to help them flourish.
  - An Economic Growth Strategy focused on recovery for the future.
  - Allocation of monies from the Tendring Community Fund to Ward Councillors that provided grants to local organisations that enabled them to respond to the pandemic locally.
  - Business continuity arrangements had immediately been invoked to ensure Council services remained in place where they were able to do so and for those services impacted by the various lockdowns, staff were redeployed to work with different teams in response to the pandemic, such as the Community Hub.
  - Adoption of a Climate Change Action Plan to meet the Council's aspirations towards the Climate Emergency.
  - Section 1 of the Local Plan had been found sound by the Planning Inspectorate thereby establishing the 5 year housing supply of 550 dwellings per annum, a North Essex vision and the Garden Community at Tendring Colchester Borders
  - A balanced budget and revised governance arrangements had ensured democratic decision making continued throughout.
  - Council had adopted a Corporate Housing Strategy in order to deliver homes to meet the needs of local people, making the best use of, and improving, existing housing and supporting people in their homes and communities. Separate strategies and policies had been introduced to assist in reducing homelessness and rough sleeping in the District, providing financial assistance policies for private sector housing and acquiring land and buildings to increase council housing stock.

All of those had provided a strong foundation on which the Council would continue to deliver its priorities during the remaining years of the Corporate Plan. The 2021/22 actions would, of themselves, underpin further actions in 2022/23. As such, it was appropriate to invest time and energy to delivering them.

A provisional list had been prepared following consultation with individual Portfolio Holders and the Leader of the Council and that was set out at Appendix A to the report before the Committee.

After discussion it was moved by Councillor Steady, seconded by Councillor Davis and unanimously **RESOLVED** that this Committee **RECOMMENDS** to **CABINET** that:

- Any specific schemes that Members wish to be considered be submitted to the appropriate Portfolio Holder for an initial evaluation and then submitted to Cabinet for its formal decision.

It was then moved by Councillor Miles, seconded by Councillor Davis and unanimously **RESOLVED** that this Committee further **RECOMMENDS** to **CABINET** that:

- Cabinet re-examines its position with the view to establishing a wider focus in relation to the expenditure of monies.

19. **REPORT OF THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER.**  
**- A.4 - PROTOCOL FOR CABINET AND OVERVIEW & SCRUTINY ROLES**

It was reported to the Committee that, in May 2019, Statutory Guidance had been published by the Ministry of Housing, Communities & Local Government on Overview and Scrutiny in Local and Combined Authorities. This Council, in operating a Leader and Executive Governance Model must have regard to it when exercising its functions and it should be followed unless there was a good reason not to in a particular case.

Section 2 of the Government's Statutory Guidance referred to Culture and expressly stated that:-

*"The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.*

*While everyone in an authority can play a role in creating an environment conducive to effective scrutiny, it is important that this is led and owned by members, given their role in setting and maintaining the culture of an authority.*

*Creating a strong organisational culture supports scrutiny work that can add real value by, for example, improving policy-making and the efficient delivery of public services. In contrast, low levels of support for and engagement with the scrutiny function often lead to poor quality and ill-focused work that serves to reinforce the perception that it is of little worth or relevance.*

*Members and senior officers should note that the performance of the scrutiny function is not just of interest to the authority itself. Its effectiveness, or lack thereof, is often considered by external bodies such as regulators and inspectors, and highlighted in public reports. Failures in scrutiny can therefore help to create a negative public image of the work of an authority as a whole."*

The Committee heard that the Guidance recommended an 'executive-scrutiny protocol' which helped define the relationship between the two arms of the organisation, dealt with the practical expectations of scrutiny committee members and the Executive, as well as the cultural dynamics. Councils should have considered adopting a protocol, e.g. through formal agreement at both scrutiny committees and Cabinet, then a formal integration into the Council's constitution.

The Committee also heard that the Council already had strong measures in place to demonstrate the openness of Cabinet being held to account and had introduced some time ago that Group Leaders of all political groups would have the right to attend Cabinet meetings and speak on agenda items although they were not able to vote. The Terms of Reference of the Resources and Services Overview and Scrutiny Committee stated that the position of its Chairman and Vice-Chairman would normally be a Member of a political group not represented on the Cabinet. Informal Group Leaders meeting were also held at which the Leader or Deputy Leader could share information on matters in advance of their going to Cabinet or other topics, which had proved particularly useful during the Council's response to the COVID-19 pandemic. The Chief Executive also held regular All Member Briefings, at which Portfolio Holders had presented ideas on early strategies and policies for discussion. Furthermore the Deputy

Leader chaired a Constitution Review Working Group, whose membership was made up by representatives of nearly all political Groups of the Council.

Members were informed that, as previously requested by Cabinet, Senior Officers had produced a draft Protocol for Cabinet and Overview and Scrutiny roles for consultation with Chairmen of the Overview and Scrutiny and Audit Committees, the Deputy Leader and the Portfolio Holder for Partnerships. The Statutory Guidance had been considered in the production of the draft Protocol together with taking into account comments received through the consultation.

The draft Protocol introduced a number of principles and how it applied between the roles of Cabinet and Overview and Scrutiny building upon a relationship of trust whilst both bodies were performing their statutory functions, whilst acknowledging the inter-relationship with Audit. It was designed to sit alongside the range of other commitments to openness and inclusiveness as set out above.

The draft Protocol also set out how Policy Development Overview and Pre-Decision Scrutiny could work in addition to the traditional views of solely holding the Cabinet to account. The importance of timely overview and scrutiny in budget setting and monitoring throughout the year showed how the process could add value, by reviewing whether the financial plans and strategies of the Council were sound and had taken into consideration all relevant factors.

The Committee heard how the Performance Measurement and reporting provided insight into whether value for taxpayers' money had been achieved and whether improvements were necessary, feasible and affordable. Reporting general performance data to an Overview & Scrutiny Committee enabled scrutiny to capture the right level of data so they could support delivery of services or priorities – and could make recommendations, if necessary. In some instances further enquiry of an activity could be warranted and the Committee would factor how that work could be accommodated in that Committee's work programme.

The Committee also heard that through its individual work programme the Overview and Scrutiny Committees would consider the Cabinet's adopted priorities in support of the Council's Corporate Plan, areas of planned policy development over the relevant Municipal Year (and the next) would be provided and they would be asked to highlight any areas where overview & scrutiny could be specifically invited to assist in work (including Community Leadership areas). The enquiries included within the work programme could be identified to add value to the Council as a whole and the District. The allocation of enquires to specific Overview and Scrutiny Committees would be in accordance with their respective terms of reference.

It was reported to Members that the draft Protocol also referred to how Overview & Scrutiny recommendations to the Cabinet would be dealt with and included how to further clarity could be sought if needed.

Some additional operational matters had been included for completeness that determined the relationship that covered the response to urgent items of Cabinet Business, Scrutiny Consideration of Confidential Decisions, Call-in and Councillor Call to Action which built upon the requirements within the Constitution.

With due regard to the Council's Statement on Councillor development, training would be made available for Overview & Scrutiny Committee members, Cabinet Members and support Officers on the Protocol and elements referenced in it that included work planning, budget scrutiny, performance data and key lines of enquiry. In the Overview & Scrutiny Annual Report submitted to Full Council each year there would be a section demonstrating the impact of Overview & Scrutiny and the effectiveness of the Protocol.

All Members were expected to adhere to the Protocol in their respective roles, and once formally adopted by Council, the Protocol would be incorporated within Part 6 of the Council's Constitution.

After discussion it was moved by Councillor Clifton, seconded by Councillor Amos and **RESOLVED** that the Committee **RECOMMENDS** that:

- Full Council approves the draft Protocol for Cabinet and Overview and Scrutiny roles, as set out in Appendix B to the Portfolio Holder's report;
- the adopted Protocol be incorporated within Part 6 of the Council's Constitution; and
- The Constitution Review Working Party revisits the Committee structure in due course.

**20. SCRUTINY OF PROPOSED DECISIONS**

The Committee **NOTED** the comments of the report.

**21. RECOMMENDATIONS MONITORING REPORT**

The Committee **NOTED** the contents of the report.

**22. REVIEW OF THE WORK PROGRAMME**

The Committee **NOTED** the contents of the report.

The meeting was declared closed at 10.15 pm

**Chairman**

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Audit Committee

25 February 2021

**MINUTES OF THE MEETING OF THE AUDIT COMMITTEE,  
HELD ON THURSDAY, 25TH FEBRUARY, 2021 AT 10.30 AM  
THE MEETING WAS HELD PURSUANT TO STATUTORY INSTRUMENT 2020/392.**

<b>Present:</b>	Councillors Coley (Chairman), Alexander (Vice-Chairman), Fairley, King, Miles, Placey and Steady
<b>In Attendance:</b>	Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Craig Clawson (Internal Audit Manager), Ian Ford (Committee Services Manager), Kai Aberdeen (Theatre General Manager (Technical))(items 13 - 17 (part) only), Keith Durran (Democratic Services Officer) and Emma Haward (Leadership Support Assistant)
<b>Also in Attendance:</b>	Lisa Clampin (Lead Partner – BDO LLP, the Council's appointed External Auditor)

**13. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were no apologies for absence submitted or substitutions on this occasion.

**14. MINUTES OF THE LAST MEETING**

The Minutes of the last meeting of the Committee held on 30 November 2020 were approved as a correct record.

**15. DECLARATIONS OF INTEREST**

There were no declarations of interest made on this occasion.

**16. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

There were no Questions on Notice on this occasion.

**17. REPORT OF THE INTERNAL AUDIT MANAGER - A.1 - REPORT ON INTERNAL AUDIT: OCTOBER 2020 - JANUARY 2021**

The Committee had before it a report submitted by the Council's Internal Audit Manager (A.1) which provided a periodic update on the Internal Audit function for the period October 2020 to January 2021. That report was split into two sections as follows:-

- (1) Internal Audit Plan Progress 2020/21; and
- (2) Quality Assurance Improvement Programme (QAIP).

**(1) INTERNAL AUDIT PLAN PROGRESS 2020/21**

It was reported that a total of nine audits had been completed since the previous update to the Audit Committee in October 2020. Eight of the nine audits completed had received a satisfactory level of assurance. One audit (Princes Theatre) had received an overall opinion of 'Improvement Required'.

Fieldwork had been completed on a further three audits with the draft report yet to be negotiated, namely:-

- GDPR – Data Sharing Agreements;
- Fleet Management; and
- Impact on Governance – COVID-19.

Fieldwork was ongoing on another eight audits with a final four audits allocated and started during February 2021. Three of those four related to the revenues and benefits service unit and had purposely been left as late in the financial year as possible due to the impact that issuing Covid-19 business grants had made on that service.

Members were informed that consultancy and advice continued to be provided on the corporate Digital Transformation, Office Transformation and Project Management projects where required. There were no significant issues to report at this time.

#### Quality Assurance

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

#### Resourcing

It was reported that the Internal Audit section was currently working with an establishment of 3 'Full Time Equivalents' with access to a third party provider of internal audit services for specialist audit days as and when required.

The Committee was informed that the Internal Audit Team had recruited an apprentice in October 2020. However, due to the on-going impact of COVID-19, that apprenticeship subsequently had been put on hold and would be reassessed later in the year. The Internal Audit Team continued to support the Emergency Planning function as required.

Members recalled that at their meeting held in October 2020 it had been expected that the Internal Audit Plan would be on track to be complete earlier than anticipated. However, since the end of the third quarter and the start of the latest Covid-19 lockdown, it had been a challenge for some services to provide enough resource to support the audit. As a result Officers had been risk assessing each audit in order to determine the level of work needed and negotiating with the relevant service unit managers on resource requirements in order to ensure that Internal Audit could complete enough work to still be able to provide an overall opinion. Limitations to the scope of that audit were then reported in both the Draft and Final Audit Reports.

#### Outcomes of Internal Audit Work

The Public Sector Internal Audit Standards (PSIAS) required the Internal Audit Manager to report to the Committee on significant risk exposures and control issues. Since the last such report nine audits had been completed and the final report issued. Three audits had received a 'Substantial Assurance' audit opinion and four had received an 'Adequate Assurance' audit opinion. One audit had received an 'Improvement Required' audit opinion and the other remaining audit had not required an opinion to be made.

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## Princes Theatre – ‘Improvement Required’ Audit Outcome

### 1. Management Examination of Reconciliations

It was reported that reconciliations between systems were required and undertaken in order to ensure that all payments had been received correctly and allocated to the correct accounting codes. At present those reconciliations were being carried out by the Operational Services support team and therefore any discrepancies were not being viewed and approved by Theatre Management Officers.

*Agreed Audit Action: Reconciliations are to be viewed by a member of theatre management to evidence reconciliations have been completed accurately and promptly. There should also be evidence of this check being carried out.*

### 2. Inadequate Till System

Members were informed that The Essex Hall bar in Clacton Town Hall used tills to record bar sales when it was used for events and hire. Those tills were stand alone and did not offer the analytics available to most till systems used in the industry. In addition, those tills could not be connected to the Council's network and so the full functionality and office based reporting were not available.

*Agreed Audit Action: Replacement till system to be installed, tested and working in liaison with IT in time for Theatre re-opening. Till system to have full stock tracking functionality, back office interrogation and analysis and other suitable features as required for robust modern financial and stock processes.*

### 3. Lack of Stock Takes

The Committee was advised that no formal stocktaking was undertaken so it was difficult to ascertain if, or how much, shortfall of stock there was. This could be caused by either wastage, fraud/theft, leakages or stock incorrectly logged.

*Agreed Audit Action: Once the new till system was installed, regular stocktakes and line checks were to be undertaken to ensure stock management was carried out in a consistent and robust manner. Audit and accountancy were to advise and assist as required.*

*Periodic stock takes were to be undertaken manually in the short term until the new till system was implemented.*

The Council's Theatre General Manager (Technical) (Kai Aberdeen) attended the meeting and addressed the Committee on the issues listed above. He then responded to Members' questions on those matters.

## Management Response to Internal Audit Findings

Members were aware that there were processes in place to track the action taken regarding findings raised in Internal Audit reports and to seek assurance that appropriate corrective action had been taken. Where appropriate, follow up audits had been arranged to revisit significant issues identified after an appropriate time. There were two high severity issues overdue (by less than three months) which both related to either Planning Enforcement or Housing Allocations.

### Update on previous significant issues reported

#### Housing Allocations

It was reported that the outstanding action for Housing Allocations related to the implementation of a new Housing Allocations system. The latest update from the service was that the system was at its final stages of testing. Internal Audit had used the days available in the follow-up review to support the service in implementing the new system and to ensure that as many different scenarios were tested as possible before going live.

#### Planning Enforcement

Members were advised that the Planning Enforcement Follow-Up audit was now in progress. The Auditor was currently reviewing whether all previous issues had now been addressed and would gather evidence to support the actions implemented.

There was also currently one major action outstanding regarding the update of the Planning Enforcement Policy. A draft policy was currently being reviewed by the Council's legal services team. The policy would then be submitted to the Planning Committee to be formally approved and adopted.

#### Impact on Governance – COVID 19

The Committee recalled that it had been reported at its meeting held in October 2020 that Internal Audit would undertake a review on the impact of governance within the Council due to COVID-19. An external consultant had been commissioned to undertake the work due to the Internal Audit Manager's involvement with the emergency planning response, which would ensure that the review remained independent. That work was now close to completion and was currently being assessed. It was anticipated that the outcomes of the review would be reported to the meeting of the Committee scheduled to be held during March 2021.

### **(2) QUALITY ASSURANCE IMPROVEMENT PROGRAMME (QAIP)**

Members had before them the latest QAIP update as set out in Appendix B to the Internal Audit Manager's report.

The Committee was reminded that the Internal Audit function was required to be assessed externally every five years on its compliance with the Public Sector Internal Audit Standards (PSIAS). This had last been undertaken three years ago and actions from that assessment had been implemented. Within the five year assessment period, Internal Audit was required to undertake a periodic self-assessment against the PSIAS in order to develop a QAIP.

It was reported that the QAIP had been reassessed and the agreed actions had been updated where the Internal Audit Team were now compliant where they had previously been not. One area to highlight where Internal Audit was only partially compliant related to 'risk appetite'. Aligning the risk appetite of Internal Audit and Risk Management remained outstanding as an opportunity to liaise with Senior Management and the Fraud and Risk Manager to assess the complexities of risk management across all departments had not presented itself over the past year.

Having considered and discussed the contents of the Internal Audit Manager's report and its appendices:-

It was moved by Councillor Fairley, seconded by Councillor Alexander and:-

**RESOLVED** that –

- (a) the contents of the report be noted;
- (b) the contents of the Quality Assurance Improvement Programme be noted;
- (c) the outstanding action for Housing Allocations (the implementation of a new IT system) be added to the Committee's Table of Outstanding Issues; and
- (d) the Committee endorses the agreed Audit Actions in relation to the Princes Theatre as they will also support and protect staff going forward.

**18. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) - A.2 - NEGC LTD JOINT SCRUTINY PANEL: SCRUTINY OF NEGC LTD AND THE GOVERNANCE OF FUTURE COUNCIL CONTROLLED COMPANIES.**

There was a report submitted by the Council's Assistant Director (Governance) & Monitoring Officer (report A.2) which sought to enable the Committee to consider its formal response to a recommendation made by the Resources and Services Overview & Scrutiny Committee following that Committee's consideration of the report submitted by the NEGC Ltd Joint Scrutiny Panel on completion of the Panel's scrutiny of NEGC Ltd and the governance of future Council controlled companies.

Members were informed that, following respective meetings held on 29 July and 5 August 2019, the Resources and Services Overview and Scrutiny Committee and the Community Leadership Overview and Scrutiny Committee, had both approved that a joint scrutiny panel be established in order to scrutinise the work of the North Essex Garden Communities Limited (NEGC) and, in particular, its interim business plan and future business plans. That Joint Scrutiny Panel (JSP) had met three times as follows:

16 October 2019;  
12 February 2020; and  
17 September 2020.

The final report of the JSP had been submitted to the Resources and Services Overview and Scrutiny Committee on 16 November 2020. At that meeting the Resources and Services Overview and Scrutiny Committee had been informed that the JSP had:-

- *examined the various responsibilities of the Council as community leader, shareholder of NEGC Ltd and having a Director of the Board of that Company, including the inherent conflicts and the management of those conflict points;*
- *been made aware of the absolute importance of Part 1 of the Local Plan in the critical path for Garden Communities and NEGC Ltd (and any future delivery vehicle for the Communities). NEGC Ltd had been commissioned by the partner Councils (Braintree, Colchester, Essex and Tendring) to undertake work for those partner Councils to secure approval of Part 1 of their Local Plans;*
- *scrutinised the Interim Business Plans for NEGC Ltd for 2018/19 and 2019/20;*

- *reflected upon the governance arrangements surrounding the work of this Council's Monitoring Officer and Section 151 Officer with their colleagues in the other partner Councils in respect of protecting the interests of this Council in relation to NEGC Ltd;*
- *looked briefly at possible future delivery vehicles for the Garden Communities together with best practice models for the future development of governance arrangements for Council controlled companies such as NEGC Ltd;*
- *noted at its last meeting the decision of the North Essex Garden Communities Ltd Board on 6th July 2020 to take all the necessary steps to wind up its three Local Delivery Vehicles and that the three Councils concerned had also all approved that NEGC Ltd itself cease trading on 31 August 2020 and that the necessary winding up procedures for it be undertaken, subject to, in the case of this Council, the Leader of the Council, in consultation with the Section 151 Officer and the Monitoring Officer, being satisfied around the final accounting processes;*
- *been advised that NEGC Ltd had been solvent and that, after settling any outstanding liabilities, the remaining assets of the company would be apportioned to the shareholders entirely as it should have been; and*
- *had concluded its work based on the approved scope and terms of reference for the Panel on the basis that the NEGC Ltd was being wound up.*

The Resources and Services Overview and Scrutiny Committee having considered the report of the JSP had resolved that it:-

- (1) *notes that the winding up of NEGC Ltd means that the rationale for establishing the Joint Scrutiny Panel, and the approved scope of the Panel, has also ended and requests that Cabinet notes that this Committee and the Community Leadership Overview and Scrutiny Committee will formally note that the Panel is being dissolved.*
- (2) *that this Committee notes the following recommendations from the Joint Scrutiny Panel and formally submits (a), (b) and (d) below to the Cabinet for its consideration:*
  - (a) *To record and applaud the hard work of officers in respect of the development of the Tendring-Colchester Borders Garden Community that resulted in the proposals for the Garden Community being accepted by the Local Plan Inspector in his enquiry into the draft Local Plan;*
  - (b) *To note that there is important work being undertaken on various work streams to secure an exemplar development through the Tendring-Colchester Borders Garden Community;*
  - (c) *To establish a further Joint Scrutiny Panel at an appropriate time in the future to monitor, examine and review arrangements for delivery of the Tendring-Colchester Borders Garden Community (and particularly the commitments and financial expose of the Council to any external body established by the Council to lead on the development of that Garden Community);*
  - (d) ***To endorse the principle that where the Council establishes a company limited by shares (on its own or with other bodies) that it also establishes a Shareholder Group (either solely or with the other public bodies where the company established jointly) and that, the terms of reference similar to those set out at Appendix A to this report should form the terms of reference for that Shareholder Group, adjusted as***

***necessary to the particular circumstances, business of the Company and consideration of such matters as:***

- (i) How any co-opted members are used and how they are defined in the terms of reference;*
- (ii) The Chairman of the relevant overview and scrutiny committee and **the Chairman of the Audit Committee being appointed to the Shareholder Group as non-voting members;** and*
- (iii) Ensuring that any "invitations to attend" issued to councillors or officers etc. must be provided to such persons at least five working days in advance of the meeting.*

Consequently, the Audit Committee was now requested to give its particular consideration to the recommendation of the Resources and Services Overview and Scrutiny Committee highlighted in **bold above** and especially where it pertained to the suggestion that the Chairman of the Audit Committee should be appointed to the Shareholder Group as a non-voting member. The recommended Terms of Reference for the Shareholder Group were attached as Appendix B to the Assistant Director's report.

Members were made aware that the Community Leadership and Partnerships Overview & Scrutiny Committee would also be considering the final report of the JSP at its meeting due to be held on 1 March 2021. The Cabinet would consider in due course all of the above recommendations of the Resources and Services Overview and Scrutiny Committee, and any comments or recommendations made by the Audit Committee at this meeting and by the Community Leadership and Partnerships Overview & Scrutiny Committee on 1 March 2021 would also be submitted to the Cabinet, in order that Cabinet could take them into consideration in reaching its decision.

The Assistant Director & Monitoring Officer suggested that this Committee could determine that the idea of a Shareholder Group could be extended to other outside bodies or partnerships such as Tendring - Colchester Borders, or similar.

The Committee was made aware that, if Cabinet decided to form a Shareholder Group, the Monitoring Officer would recommend that this requirement was formally adopted within the Council's Constitution. Through the Gifted Unit Scheme the Council had been requested to become a shareholder for a number of management companies, although currently no decisions had been required as shareholders as the concept was fairly new.

During their consideration of this matter Members expressed their concern and determination that the independence of the Audit Committee should be maintained.

Having considered and discussed all of the information submitted in the Assistant Director & Monitoring Officer's report and appendices attached thereto:-

It was moved by Councillor Steady, seconded by Councillor Alexander and:-

**RESOLVED** that the Audit Committee -

- (a) notes the contents of the report and the suggestion from the Resources and Services Overview and Scrutiny Committee that, in principle, a Shareholder Group should be formed where the Council establishes a company;

- (b) whilst supporting the principle of the Shareholder Group, does not agree, that the terms of reference of that Group should be established at this stage; and therefore
- (c) recommends to Cabinet that further work be undertaken by a small group made up of representatives from Cabinet, the Chairmen of the two Overview and Scrutiny Committees and the Chairman of the Audit Committee, together with the Monitoring Officer and the Section 151 Officer to look into the concerns raised in a joined up approach prior to further recommendations being submitted to the Cabinet.

**19. REPORT OF ASSISTANT DIRECTOR (FINANCE & IT) - A.3 - EXTERNAL AUDITOR'S ANNUAL AUDIT LETTER FOR THE YEAR ENDED 31 MARCH 2020**

There was submitted a report by the Council's Assistant Director (Finance & IT) (report A.3) which presented for the Committee's consideration the External Auditor's Annual Audit Letter for the year ended 31 March 2020.

The Committee was reminded that the Accounts and Audit Regulations required that:

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

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

It was reported that the Annual Audit Letter relating to 2019/20 (as appended to the Assistant Director's report) had raised no significant concerns. Page 7 of the Auditor's letter included some observations in respect of a number of the Council's financial reserves and its approach to managing its finances. The associated recommendations that were referred to had been set out in the External Auditor's Audit Completion Report that had been previously considered by the Committee at its meeting held on 30 November 2020. Those recommendations had now been included within the Table of Outstanding Issues report in order to ensure their progress could be effectively monitored by the Committee and that report would be considered later in the meeting.

Having considered and discussed the contents of the Annual Audit Letter:-

It was moved by Councillor Fairley, seconded by Councillor Alexander and:-

**RESOLVED** that the contents of the Annual Audit Letter, for the year ended 31 March 2020 be noted.

**20. REPORT OF ASSISTANT DIRECTOR (FINANCE & IT) - A.4 - AUDIT COMMITTEE:  
TABLE OF OUTSTANDING ISSUES**

The Committee had before it a report submitted by the Assistant Director (Finance & IT) (A.2) which presented to the Committee the progress on outstanding actions identified by the Committee, together with updates on other general issues that fell within the responsibilities of the Committee.

The Committee was informed that there were four appendices to this report which contained:

- 1) updates against general issues previously identified by the Committee;
- 2) updates against recommendations made by the External Auditor;
- 3) the latest position against the Annual Governance Statement Action Plan for 2020/21; and
- 4) a summary of the Government's initial response to the recommendations made by the Redmond Review.

It was reported that, to date, there were no significant issues arising in respect of the items identified in Appendices A and B, with work remaining in progress or updates provided elsewhere on the agenda, where appropriate. However, there had been a significant impact from COVID 19 in terms of progressing the actions reported in Appendix C as quickly as originally anticipated. However, activity remained in progress against all actions and work would continue into 2021/22 as required.

Redmond Review

The Committee was aware that Sir Tony Redmond, a former council treasurer and local government ombudsman, had been asked by the Government to look at the effectiveness of external audit, as a summary of recommendations emerging from Sir Tony's review had been presented to it at its meeting held in October 2020. At that time, the response from the Government was still awaited. The Government had now published its initial response.

Members were reminded that Sir Tony had made 23 recommendations relating to the quality, timeliness and sustainability of local audit, and the transparency of local authority accounts. The Government had therefore grouped its response into the following five themes, which were summarised in Appendix D to the Assistant Director's report.

- *Action to support immediate market stability;*
- *Consideration of system leadership options;*
- *Enhancing the functioning of local audit, and the governance for responding to its findings;*
- *Improving transparency of local authorities' accounts to the public; and*
- *Action to further consider the functioning of local audit for smaller bodies.*

It was reported that many of the responses indicated that the Government would either be liaising with the relevant stakeholders or would be further considering some of the recommendations, with the Government's full response expected during the spring of 2021.

Having considered the above and having discussed the contents of the report and its appendices:-

It was moved by Councillor Placey, seconded by Councillor Alexander and:-

**RESOLVED** that –

- (a) the progress made against the actions set out in Appendices A to C to item A.4 of the report of the Assistant Director (Finance & IT) be noted; and
- (b) the contents of the Government's initial response to the Redmond Review's recommendations, as set out in Appendix D to the aforementioned report, be noted.

The meeting was declared closed at 11.54 am

**Chairman**

# Public Document Pack

Human Resources and Council Tax  
Committee

25 February 2021

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**MINUTES OF THE MEETING OF THE HUMAN RESOURCES AND COUNCIL TAX  
COMMITTEE,  
HELD ON THURSDAY, 25TH FEBRUARY, 2021 AT 7.30 PM  
THE MEETING WAS HELD PURSUANT TO STATUTORY INSTRUMENT 2020/392.**

<b>Present:</b>	Councillors Chapman (Chairman), Griffiths (Vice-Chairman), Amos, Calver, Chittock, King, Knowles, Morrison and M Stephenson
<b>In Attendance:</b>	Ian Davidson (Chief Executive) (except items 48-51), Damian Williams (Corporate Director (Operations and Delivery)), Anastasia Simpson (Assistant Director (Partnerships)), Richard Bull (Corporate Finance Manager & Deputy Section 151 Officer), Katie Wilkins (Human Resources and Business Manager), Russell Cole (Community Engagement Manager), Keith Durran (Democratic Services Officer), Debbie Bunce (Legal and Governance Administration Officer), Emma Haward (Leadership Support Assistant) and Karen Hardes (IT Training Officer)

**42. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**43. MINUTES OF THE LAST MEETING**

It was moved by Councillor M Stephenson, seconded by Councillor Amos and:-

**RESOLVED** that the minutes of the meeting of the Human Resources & Council Tax Committee held on Thursday 26 November 2020 be approved as a correct record.

**44. DECLARATIONS OF INTEREST**

Councillor Griffiths declared for the public record that he was a member of the GMB Union but that he had no involvement with Tendring District Council in that capacity.

**45. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

No Questions on Notice had been submitted on this occasion.

**46. COVID-19 AND STAFFING MATTERS UPDATE**

The Committee received from the Assistant Director (Partnerships) an oral update on the Council's operational response to the Covid-19 pandemic and the related staffing matters.

Anastasia Simpson, the Assistant Director (Partnerships) and Russ Cole, the Temporary Community Engagement Manager informed the Committee of the current COVID-19 figures in relation to the following:

- Confirmed cases (3)
- Staff required to isolate (2)
- Clinically vulnerable (13)

- Extremely clinically vulnerable (4)
- Travel isolation (0)

Those figures also included the number of members of staff working from home.

The Assistant Director and the Temporary Community Engagement Manager also provided the Committee with an update regarding the following:

- Staff redeployment – overall, 236 members of staff had been redeployed.
- PCR testing – 7250 kits issued.
- Contact Centre – Additional members of staff recruited.
- Track and Trace – The number of calls had decreased significantly.
- COVID ambassadors – Two ambassadors redeployed, and a further four ambassadors had been appointed in January 2021.
- Vaccination hub – Clacton Hospital – HR would work with EPUT to explore plans for possible additional sites.

Members raised questions on the above which were responded to by Officers.

The Committee noted the foregoing.

**47. REPORT OF THE ASSISTANT DIRECTOR (FINANCE & IT) & SECTION 151 OFFICER - A.1 - FORMAL CONFIRMATION OF COUNCIL TAX AMOUNTS FOR 2021/22 FOLLOWING THE NOTIFICATION OF THE PRECEPTS FROM THE MAJOR PRECEPTING AUTHORITIES**

Members were reminded of Section 106 of the Local Government Finance Act 1992, which provided that any Member, who was in arrears by at least two months with their Council Tax payments, could not vote on matters concerning either the level of, or administration of, Council Tax. It was important to note that this also covered Council Tax liabilities outside of the District and property which may not be their main residence. If present at the meeting, a Member to whom this provision applied must disclose the fact and may speak on the item, but could not vote. Non-compliance with this section was a criminal offence. Therefore, should this provision apply to any Member, this should be disclosed.

The Committee's confirmation was sought in respect of the final Council Tax amounts for 2021/22 including the precepts issued for 2021/22 by Essex County Council, Essex Police and Essex Fire & Rescue Services.

At its meeting on 16 February 2021, Council had considered the Executive's Budget and Council Tax proposals for 2021/22 and as part of this process the Council Tax for District and Parish / Town Council Services had been approved.

The Council's Corporate Finance Manager and Deputy Section 151 Officer (Richard Bull) was in attendance and informed Members that, once the precepts were received from the major precepting authorities, the Human Resources and Council Tax Committee had the delegated responsibility to agree the total Council Tax for 2021/22. The total Council Tax for the year was made up of the District and Parish / Town Council amounts approved by Council on 16 February 2021 and the corresponding amounts agreed by the major precepting authorities. Legislation required this formal confirmation

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even though the process was dictated by legislative formulae and there was no actual judgement or choice to be made.

The precepts from the major precepting authorities for 2021/22 resulting in the final Council Tax amounts, were set out in Appendix C, for formal confirmation by the Committee.

Following a discussion, it was moved by Councillor Griffiths, seconded by Councillor M Stephenson and **RESOLVED** that:-

(a) the precepts issued by Essex County Council, Essex Police and Essex Fire, as set out in Appendix A attached to the Report of the Assistant Director (Finance & IT), be noted.

(b) the amounts of Council Tax for 2021/22, as shown at Appendix C to the aforementioned report, for each of the categories of dwellings be confirmed.

48. **REPORT OF THE ASSISTANT DIRECTOR (PARTNERSHIPS) - A.2 - PAY POLICY STATEMENT 2021/22**

The Chief Executive (Ian Davidson) declared a prejudicial interest in the subject matter of this item and thereupon withdrew from the meeting.

Anastasia Simpson, Assistant Director (Partnerships) presented the Pay Policy Statement for 2021/22.

The Committee was reminded that Section 38 (1) of the Localism Act 2011 required 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 were as follows:

- A local authority's policy on the level and elements of remuneration for each Chief Officer;
- A local authority's policy on the remuneration of its lowest-paid employees (together with its definition of "lowest-paid employees" and its reasons for adopting that definition);
- A local authority's policy on the relationship between the remuneration of its Chief Officers and other Officers;
- 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 was subsequently published on the Council's website following each review and approval by Full Council.

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It was reported that the Pay Policy Statement 2021/22 had been designed to give an overview of the Council's framework regarding pay and rewards for staff within the Council. This framework was based on the principle of fairness and that rewards should be proportional to the weight of each role and each individual's performance. The framework aimed to ensure the ability of the Council to recruit talented individuals whilst ensuring value for money for the residents of Tendring.

Members raised questions on the above which were responded to by Officers.

Following a discussion, it was moved by Councillor Amos, seconded by Councillor Chittock and **RESOLVED** that the Committee recommends to Full Council:-

that the Pay Policy Statement 2021/22, as set out in the Appendix to item A.2 of the Report of the Assistant Director (Partnerships), be adopted.

**49. REPORT OF ASSISTANT DIRECTOR (PARTNERSHIPS) - A.3 - WORKFORCE UPDATE REPORT**

Katie Wilkins, Human Resources & Business Manager provided the Committee with an update on the current staffing statistics including:

- Workforce Statistics
- Age Profile
- Disability Profile
- Ethnicity Profile
- Sickness Absence

The analysis of workforce data provided Members with statistics relating to the staff employed within the Council and how this compared to the Tendring District and national averages. This was a standard report that was provided to the Human Resources Committee as part of each meeting.

Tendring District Council currently had 493 full time equivalent (FTE) employees. The FTE figure equated to 779 employees in total (including casual workers and Career Track learners) this was made up of 372 full time, and 407 part time staff.

Members raised questions on the above which were responded to by Officers.

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

**50. EXCLUSION OF PRESS AND PUBLIC**

It was moved by Councillor M Stephenson, seconded by Councillor Griffiths and:-

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of Agenda Item 10 on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 3 and 4 of Part 1 of Schedule 12A, as amended, of the Act.

**51. EXEMPT MINUTE OF THE MEETING OF THE HUMAN RESOURCES AND COUNCIL TAX COMMITTEE HELD ON 26 NOVEMBER 2020**

It was moved by Councillor M Stephenson, seconded by Councillor Griffiths and:-

**RESOLVED** that the exempt minute of the meeting of the Human Resources & Council Tax Committee held on Thursday 26 November 2020 be approved as a correct record.

The meeting was declared closed at 8.25 pm

**Chairman**

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# Public Document Pack

Community Leadership Overview and  
Scrutiny Committee

1 March 2021

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## MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP OVERVIEW AND SCRUTINY COMMITTEE, HELD ON MONDAY, 1ST MARCH, 2021 AT 6.00 PM

<b>Present:</b>	Councillors Chittock (Vice-Chairman), Amos, Davidson, Davis, King, Miles and Steady
<b>In Attendance:</b>	Anastasia Simpson (Assistant Director (Partnerships)), Keith Simmons (Head of Democratic Services and Elections) and Keith Durran (Democratic Services Officer)

### 1. **CHAIRMAN FOR THE MEETING**

In the absence of the Chairman of the Committee (Councillor Skeels), the Chair was occupied by the Vice-Chairman (Councillor Chittock).

### 2. **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Councillor Skeels and Councillor Clifton sent their apologies (no substitutions).

### 3. **DECLARATIONS OF INTEREST**

There were none on this occasion.

### 4. **QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

On this occasion no Councillor had submitted notice of a question.

### 5. **REFERENCE REPORT FROM THE NEGC LTD JOINT SCRUTINY PANEL - A.1 - SCRUTINY OF NEGC LTD AND GOVERNANCE OF FUTURE COUNCIL CONTROLLED COMPANIES.**

It was reported to Members that the Resources and Services Overview and Scrutiny Committee and the Community Leadership Overview and Scrutiny Committee, at their respective meetings held on 29 July 2019 (Minute 15 referred) and 5 August 2019 had both approved that a joint scrutiny panel be established in order to scrutinise the work of the North Essex Garden Communities Limited (NEGC) and, in particular, its interim business plan and future business plans. This decision recognised that elements of the scrutiny process concerning the work of NEGC Ltd were within the terms of reference of both Committee and therefore a joint scrutiny panel provided an effective use of capacity and resources.

The membership of the Joint Scrutiny Panel was reported to the Committee as were details of its meetings in 2019 and 2020. The Joint Scrutiny Panel had looked at the various responsibilities of the Council as community leader, shareholder of NEGC Ltd and having a Director of the Board of that Company. The inherent conflicts and the management of those conflict points were reported to the Panel and were summarised by the Head of Democratic Services and Elections to the Committee.

NEGC Ltd had been established in 2016/17 by the partner Councils (Braintree, Colchester, Essex and Tendring) to undertake work for those partner Councils to secure

approval of Part 1 of the District Local Plans as they all included commitments to Garden Communities across their combined areas. Councillor Neil Stock OBE had been appointed as the Council's Director on the NEGC Ltd Board.

Members were informed that across all meetings of the Joint Scrutiny Panel there was reference to best practice models for governance arrangements for Council controlled/influenced companies such as NEGC Ltd. In part that discussion was about what might be appropriate for the future development of governance around NEGC Ltd, but, also around future companies that the Council may establish or participate in.

The Head of Democratic Services and Elections referenced the definitions in Part V of the Local Government and Housing Act 1989 and cited examples such as where Councils could determine over 50% of the Board of a Company as one that was controlled and between 20-49% of the Board as one that was influenced. In addition, since then, there were the recording requirements for Companies general of those persons with significant control. As such, it was distinguishable from circumstances where a Council held very little control of a Company. The arrangements referenced in the recommendations from the Joint Scrutiny Panel were not intended to apply to companies the Council had little influence or control over.

At the Joint Scrutiny Panel's last meeting, it noted the decision of the North Essex Garden Communities Ltd Board on 6th July 2020 to take all the necessary steps to wind up its three Local Delivery Vehicles. The three Councils concerned had also all approved that NEGC Ltd itself cease trading on 31 August 2020 and that the necessary winding up procedures for it be undertaken, subject to the Leader of the Council, in consultation with the Section 151 Officer and the Monitoring Officer, being satisfied around the final accounting processes.

On the basis that the NEGC Ltd was being wound up the Joint Scrutiny Panel had concluded its work based on the approved scope and terms of reference for the Panel. However, in looking at good governance models for Councils with controlled/influenced Companies, the Panel had recommended that a Shareholder Group be established should such a Company be established/joined in the future. It also indicated that the model terms of reference as submitted to the Panel should be the basis of the terms of reference for such a body but that they be adjusted as necessary for the particular circumstances, business of the Company concerned and consideration of such matters as how co-opted members were to be defined. The model terms submitted had originated with the Lawyers in Local Government organisation.

The Head of Democratic Services and Elections advised the Committee that, with the exception of NEGC Ltd, there were no other similar Companies where this Council would be recordable with Companies House as a "person with significant control" and there were no others he was aware of that were intended to be established/joined by the Council at this point in time.

The Committee was advised of the discussion at the Audit Committee on 25 February 2021 on the same matter and the Committee had before them the decision on the same as recorded in the draft Minutes from that meeting (Minute 18 refers).

Following discussions it was moved by Councillor Miles, seconded by Councillor Steady and **RESOLVED** that the Committee:

1. Notes that the Joint Scrutiny Panel has been dissolved following the decision for NEGC Ltd to cease trading (and for it to be wound up) as the rationale for establishing the Panel (and the approved scope of the Panel), has ended and that Cabinet be requested to note the same.
  
2. Notes the following recommendations from the Joint Scrutiny Panel and formally submits (a), (b), (d) and (e) below to the Cabinet for its consideration:
  - (a) To record and applaud the hard work of officers in respect of the development of the Tendring-Colchester Borders Garden Community that resulted in the proposals for the Garden Community being accepted by the Local Plan Inspector in his enquiry into the draft Local Plan.
  - (b) To note that there is important work being undertaken on various work streams to secure an exemplar development through the Tendring-Colchester Borders Garden Community.
  - (c) To establish a further Joint Scrutiny Panel at an appropriate time in the future to monitor, examine and review arrangements for delivery of the Tendring-Colchester Borders Garden Community (and particularly the commitments and financial expose of the Council to any external body established by the Council to lead on the development of that Garden Community).
  - (d) To endorse the principle that where the Council establishes/joins a company limited by shares (on its own or with other bodies) that it also establishes a Shareholder Group (either solely or with the other public bodies where the company established jointly) and that a recommendation be submitted to Council to include this in the Constitution for when the Council does establish/join such a company.
  - (e) That the broad approach to the terms of reference of any such Shareholder Group, as submitted to the Joint Scrutiny Panel based on the good practice identified by Lawyers in Local Government, be referred to a small group made up of representatives from Cabinet, the Chairmen of the two Overview and Scrutiny Committees and the Chairman of the Audit Committee, together with the Monitoring Officer and the Section 151 Officer prior to further a further recommendation being submitted to the Cabinet.

The meeting was declared closed at 6.34 pm

**Chairman**

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## MEETING OF THE FULL COUNCIL – TUESDAY 16 MARCH 2021

### AGENDA ITEM 14 - MOTION TO COUNCIL – DEVELOPMENT SITES FOR COUNCIL HOUSING

Extract from the Minutes of the formal Meeting of the Cabinet held on Friday 19 February 2021

**140. Cabinet Members' Items - Joint Report of the Corporate Finance & Governance Portfolio Holder and the Housing Portfolio Holder - A.7 - Motion by Councillor Placey - Proposed Development of Surplus Sites for Housing or Disposal**

The Cabinet gave consideration to a joint report of the Corporate Finance & Governance Portfolio Holder and the Housing Portfolio Holder (A.7) which provided it with additional information prepared in relation to the motion put forward by Councillor Placey to Full Council on 24 November 2020 and to enable it to make a recommendation to the Full Council meeting on 16 March 2021.

Cabinet recalled that, at its meeting held on 18 December 2020 (Minute 97 referred), it had considered the motion put forward by Councillor Placey to the meeting of the Full Council held on 24 November 2020 and which had then been referred to the Cabinet for its consideration. Council Placey's motion had stated that three potential sites for disposal (complete with planning permission) namely those at Crome Road, Clacton-on-Sea; Dover Road, Brightlingsea; and at Hilton Close Manningtree should be considered suitable for Council housing development in line with the Council's adopted Housing Strategy.

At that meeting Cabinet had resolved to thank Councillor Placey for her input; had noted a number of factors around disposals of pieces of land; and had requested a further report to this meeting with a view to presenting the outcome of Cabinet's deliberations on this matter to the meeting of the Full Council on 16 March 2021.

Having duly considered the further information and advice contained in the Portfolio Holders' joint report:-

It was moved by Councillor G V Guglielmi, seconded by Councillor P B Honeywood and:-

**RESOLVED** that Cabinet –

- (a) again thanks Councillor Placey for her motion and, whilst welcoming its spirit proposes an amended motion to better achieve the desired outcomes;
- (b) notes and supports the ongoing work by Officers in relation to identifying potential sites for development or disposal; identifying potential purchases of dwellings on the market; and establishing processes and resources for the construction of new Council Housing;
- (c) instruct Officers to continue to investigate potential sites and acquisitions, wherever they may be located within the District, reporting to the Cabinet and Portfolio Holders in their exercise of executive functions and Scheme of Delegation;
- (d) determines that each report and decision should have regard to the adopted Housing Strategy and:
  - a. addressing housing need in the District and area concerned;
  - b. potential receipts to fund housing construction, acquisition or other Council priorities; and
  - c. the specific characteristics of the site and area under consideration including (but not limited to) the current use and contribution to Council Priorities, costs of operation, the proximity of other services and uses, the economic viability of development, and whether a transfer to another organisation in current form would better promote the Council's priorities.

**RECOMMENDS TO COUNCIL** that the following amended motion be adopted by Full Council, in accordance with the provisions of Council Procedure Rule 12.5:-

***“That the Council:***

- i) notes and supports the ongoing work by Officers in relation to identification of potential sites for development or disposal,***

- identifying potential purchases of dwellings on the market and establishing processes and resources for the construction of new Council Housing; and***
- ii) notes the instruction from Cabinet to Officers to continue to investigate all potential sites and acquisitions, wherever they may be located within the District, reporting to the Cabinet and Portfolio Holders in accordance with their Executive functions and Scheme of Delegation including the various criteria outlined in the Cabinet's decision taken on 19 February 2021 including reference to housing, financial and other priorities and the specific characteristics of the sites and area under consideration and the identified needs of those areas."***

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<b>Key Decision Required:</b>	<b>No</b>	<b>In the Forward Plan:</b>	<b>No</b>
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## CABINET

**19 FEBRUARY 2021**

### **JOINT REPORT OF THE PORTFOLIO HOLDER FOR CORPORATE FINANCE & GOVERNANCE AND THE PORTFOLIO HOLDER FOR HOUSING**

#### **A.7 MOTION BY COUNCILLOR PLACEY – PROPOSED DEVELOPMENT OF SURPLUS SITES FOR HOUSING OR DISPOSAL**

(Report prepared by Andy White)

#### **PART 1 – KEY INFORMATION**

##### **PURPOSE OF THE REPORT**

To consider additional information prepared in relation to the motion put forward by Councillor Placey to Council on 24 November 2020 and to make a recommendation to the Council meeting on 16 March 2021.

##### **EXECUTIVE SUMMARY**

The Council's newly adopted Housing Strategy has highlighted need for additional Council housing and forms part of the Policy Framework.

The Council has a difficult financial outlook and need to invest in priorities and services.

The Council's Corporate Plan includes building and managing our own homes in addition to using assets to support priorities.

The existing Property Strategy identifies the need to identify sites within both the general fund and HRA for housing but also to dispose of underperforming sites in order to facilitate investment in others.

Officer teams continue to progress work begun in response to the Property Strategy aimed at identifying sites that are underperforming and could be used for housing or disposed of to support finances and priorities. The task is significant and ongoing.

Councillor Placey has put forward a motion that the Council should consider three specific sites previously identified for disposal and reviews whether these are suitable for housing development.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 determine that that property decisions are executive functions exercisable by Cabinet. Some of those decisions have been delegated to the relevant Portfolio Holders in accordance with the Property Dealing Procedures contained within Part 5 of the Constitution...

Whilst the spirit of Councillor Placey's motion is welcomed as supporting the delivery of the adopted Housing Strategy, Cabinet cannot support the motion in its original format, because it is important that sites selected for development, disposal or other action are based on identified needs and objective criteria. It is unlikely that a general assumption for one objective or another will be appropriate.

It is proposed that officers should continue analysing sites and bring forward potential sites for decision by the Cabinet in a timely manner as the analysis is complete and resources are available to deal with resulting actions.

It is recommended that the Cabinet suggests to full Council that an amended motion be proposed, as contained within this report or through further debate. Councillor Placey's motion should be welcomed, acknowledging Cabinet's commitment to delivering the Housing Strategy. Prior to making property decisions, full consideration should be given in each case to the use of land to increase the housing stock. Additionally that the criteria set out in the report are considered in each case to give effect to the balancing of needs and priorities.

## **RECOMMENDATION(S)**

**That Cabinet:**

- 1. Thanks Councillor Placey again for her motion and whilst welcoming its spirit proposes an amended motion to better achieve the desired outcomes.**
- 2. Notes and supports the ongoing work by officers in relation to identifying potential sites for development or disposal, identifying potential purchases of dwellings on the market and establishing processes and resources for the construction of new Council Housing.**
- 3. Instructs officers to continue to investigate potential sites and acquisitions, wherever they may be located within the district, reporting to the Cabinet and Portfolio Holders in the exercise of executive functions and Scheme of Delegation.**
- 4. Determines that each report and decision should have regard to the adopted Housing Strategy and:**
  - a. Addressing housing need in the district and area concerned**
  - b. Potential receipts to fund housing construction, acquisition or other Council priorities**
  - c. The specific characteristics of the site and area under consideration including (but not limited to) the current use and contribution to Council Priorities, costs of operation, the proximity of other services and uses economic viability of development, whether transfer to another organisation in current form would better promote the Council's priorities.**
- 5. RECOMMENDS TO COUNCIL an amended motion in accordance with Council Procedure Rule 12.5: That the Council:**
  - i) Notes and supports the ongoing work by officers in relation to identification of potential sites for development or disposal, identifying potential purchases of dwellings on the market and establishing processes and resources for the construction of new Council Housing; and**
  - ii) Notes the instruction from Cabinet to officers to continue to investigate all potential sites and acquisitions, wherever they may be located within the district, reporting to the Cabinet and Portfolio Holders in accordance with the Executive functions and Scheme of Delegation including the various criteria outlined in the Cabinet decision on 19 February 2021 including reference to housing, financial and other priorities and the specific characteristics of the sites and area under consideration and the identified needs of those areas.**

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

Potential disposals and developments are pertinent to the following Council priorities:

• Public spaces to be proud of in urban and rural areas	• Net zero carbon by 2030
• Jaywick sands- More and better housing	• Building and managing our own homes
• Use Assets to support our priorities	• Maximise our coastal and seafront opportunities
• 10 Year financial plan	• Balanced annual budget

### FINANCE, OTHER RESOURCES AND RISK

#### Finance and other resources

The HRA budget for 2021/22 includes an on-going £281k contribution to the HRA capital programme. This budget can be used to directly meet the cost of building / acquiring new homes or could be used to support the cost of financing borrowing costs to deliver the target number of properties. This budget provides a platform to identify further opportunities to increase funding to the Council's house building commitment in future years as part of the HRA 30 year business plan.

The proposed delivery of homes is broadly divided into two halves:

100 to be delivered in Jaywick Sands which is subject to consideration and delivery methods within the context of wider regeneration in that area.

100 to be delivered by other means in the district as a whole.

ONS figures suggest that the average house price in Tendring in 2020 was £228,997. It is likely that acquisition of housing for Council purposes will fall within second quartile of the value range.

The cost of house construction varies widely based on the site conditions, size, design and a range of factors. A useful range for initial consideration would be £100,000 to £200,000 representing a good quality flat at one end of the spectrum and a family house at the other. An average in the order of £150,000 might be an appropriate starting point.

The cost accordingly to construct 100 homes would be around £15m and to acquire them would be in the order of £20m.

It should be noted that building one off individual homes on a single plot by dingle plot basis is likely to be higher because of the fees, site costs and overheads.

Construction of homes has quite a long lead in time compared with the acquisition of existing stock and early progress is likely to hinge around acquisition with construction following.

As highlighted above, the 2021/22 HRA budget includes funding to continue to deliver against the Council's housebuilding commitment, although additional funding will need to be identified in future years to meet the ambitious scale set out. Some risks are set out below. It is proposed to bring forward a separate report looking at risks and options for financing housing acquisition and construction.

More widely the Council faces a tight economic outlook as a whole. Disposal of sites represents an opportunity to fund investment in housing and in other priorities.

If Members wish to use general fund property for housing purposes it must be formally appropriated for housing purposes using the discretionary power outlined in the legal section.

Such an appropriation must also be offset with a balancing transfer of funds within the Council's accounts.

**Risk**

<b>Risk</b>	<b>Control/Mitigation</b>
Acquiring housing with concealed defects	Inspection by in house team prior to purchase.
Increasing house prices	Avoid driving up price expectation by careful negotiation.
Increasing construction costs	Monitor and evaluate design and specification choices. Maximise spread of potential procurement.
Loss of acquired or constructed housing through right to buy	Control not possible.

**LEGAL**

In coming to decisions in relation to management of assets, the Council must act in accordance with its statutory duties and responsibilities. Under case law following Section 120 of Local Government Act 1972, the Council is obliged to ensure that the management of its assets are for the benefit of the district.

Section 120(1) of Local Government Act 1972 provides for the Council to acquire land either within or outside the District for any purpose within that or any other Act or for the benefit, improvement or development of the area.

Section 123(1) Local Government Act 1972 indicates that, a local authority may dispose of land held by it in any way it wishes so long as (section 123 (2)) the land is disposed for a consideration not less than the best that can reasonably be obtained.

The General Disposal Consent Order (England) 2003 gives consent for disposal at below best consideration reasonably obtainable provided that the undervalue is less than £2m and the proposal enhances the environmental economic and social wellbeing of the area.

Section 123(2A) Local Government Act 1972 indicates that, a local authority may not dispose of open space land held by it without advertising its intention to do so in the local press. Any objections received must be taken into account within the decision making on the future of the land.

Section 17 of the Housing Act 1985 provides the Council with the discretionary power to acquire land (including buildings) for housing purposes.

Section 19 of the Housing Act 1985 provides the Council with the discretionary power to appropriate land held by it for housing purposes or to appropriate land held for housing, provided that the consent of the Secretary of State is given.

Section 32 of the Housing Act 1985 together with the General Housing Consent 2013 gives the Council discretionary power to dispose of land held under Part II of the Housing Act 1985 that has not been developed.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 determine that that property decisions are executive functions exercisable by Cabinet. Some of those decisions have been delegated to the relevant Portfolio Holders in accordance with the Property Dealing Procedures contained within Part 5 of the Constitution.

The Housing Strategy was adopted by full Council in September 2020 and forms part of the Council's Policy Framework, consequently, Cabinet, Portfolio Holders and Officers must have regard to the Housing Strategy, where it is relevant to the decision being taken and reference should be made to it within the accompanying report.

#### **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of:

##### **Equality and Diversity:**

Provision of good quality housing can be seen as a progressive step to addressing equality issues with poor or inadequate housing conditions affecting some minority groups.

The Council's activities in general are intended to be delivered in ways that promote equality and diversity.

**Health Inequalities and Crime and Disorder:** Provision of good quality social housing is a key contribution to addressing health and other inequalities and potentially a significant tool in addressing complex social needs that can lead to crime and disorder.

Poor or remote public assets can become foci for antisocial behaviour and investment in good quality accessible public assets can have a suppressing and diversionary effect on anti social behaviours.

##### **Consultation and Public Engagement:**

The development of any site will be subject to planning permission which includes statutory and neighbour consultation. Proposed disposal of public open space has to be advertised in line with the statutory requirement and responses received considered by Cabinet in each case.

##### **Net Zero Carbon:**

Where Council sites are sold for development the standards of energy efficiency are determined by national standards that are intended to establish a direction of travel to carbon neutrality of new housing including being zero carbon ready by 2025. Where housing is developed by the Council the Council can set additional performance standards. The energy performance of new Council building is identified as a target in the Climate Change Action Plan.

##### **Wards:**

Potentially all

### **PART 3 – SUPPORTING INFORMATION**

#### **BACKGROUND**

On 15 September 2020 the Council approved a Housing Strategy. The strategy outlined the ongoing need for social housing. In 2020 1,958 households were listed on the Council's housing register compared with a total Council controlled housing stock of 3,111.

The Housing Strategy and Corporate Plan Priorities both identify proposals to deliver 200 new Council controlled homes within the timescale of the strategy: 2020 to 2025.

The Property Strategy identifies the needs to identify sites for housing development and to rationalise poor quality assets and to invest in others.

The Property Team has been working on an initial list of potential surplus sites as resources permit following the principle established in the Property strategy to dispose of underperforming sites and invest in others. The team has followed the identification of sites with progress towards

disposal including gaining planning permission for sites in Crome Road Clacton and Dover Road Brightlingsea.

The property, housing and surveying teams have been working together on identification of potential development sites held within the Housing Revenue Account.

In October 2020 Cabinet approved a Housing Acquisition and Development Strategy that sets out the framework for the assessment and acquisition of housing and sites for development. The document also explains where in the district the additional homes are to be provided, based on demands on the Housing Register.

The Housing Team has been working on acquisition of housing stock, completing some purchases on the market and working towards acquiring some newly built housing and the reacquisition of stock formerly sold under right to buy legislation.

On 24 November 2020 Councillor Placey moved a motion to the Council that three sites from the initial list, including those at Crome Road, Dover Road and a further site at Hilton Close Manningtree should be considered suitable for Council housing development in line with the Housing Strategy. The motion was referred to Cabinet.

On 18 December 2020 Cabinet resolved to thank Councillor Placey, noted a number of factors around disposals of pieces of land and requested a further report from officers to the Cabinet meeting scheduled for February 2021 with a view to presenting the outcome of Cabinet's review to Full Council in March 2021.

#### **CURRENT POSITION**

The Housing Acquisition and Development Strategy identifies housing need by location as:

Clacton-on-Sea:	940 households	48% of the total
Harwich/Dovercourt:	293 households	15% of the total
Rural Villages:	274 households	14% of the total
Frinton/Walton/Kirby's:	235 households	12% of the total
Manningtree/Mistley/Lawford:	137 households	7% of the total
Brightlingsea:	79 households	4% of the total

Within that need by type as:

Bedrooms	need
1 bedroom	957
2 bedroom	526
3 bedroom	326
4 bedroom	117
5 bedroom	32

The Housing team is progressing with the negotiation and acquisition of properties from developers and on the market. Proposed acquisition of two properties is subject to approval elsewhere on this agenda. Further market acquisitions are being investigated and discussions with a small number of developers is ongoing.

The Council has been selected to participate in a pilot scheme designed to encourage small and medium sized building firms, with land available, to get back building. This scheme has launched and already has interest from local building firms. Firms are invited to submit proposals which if accepted by the Council will be funded by the Council through prudential borrowing.

Property Team has invited (at the time of writing) bids from interested parties in relation to the council's site at Weeley which includes the alternative to accept houses instead of money.

Surveying team has gained consents for the conversion of the old cash office in Dovercourt to a dwelling and of Spendells House in Walton to accommodate urgent housing need. Demolition at Honeycroft is under way, presenting opportunity for development or use.

Property, housing and surveying teams have identified some key sites for progression of feasibility works.

Property and Housing teams are working together to assess both GF and HRA sites for potential additional housing or growth. This work has begun and has ruled out some previously considered sites and added more to the list. The Council owns over 700 general fund properties and a large number of housing sites where further potential may be investigated. The assessment alone is a significant task.

It is important to recognise that these potential sites are subject to ongoing consideration and investigation and that it would not be useful for the Council to debate a list of sites until it is completed. The Council's procedures include specific delegations and authorisations to make property decisions. It is proposed to follow these processes on a site by site basis as the officers complete work on them.

It is proposed that the teams continue with the assessment of General Fund and Housing Revenue Account properties reporting to the portfolio holders and to Cabinet as necessary and that each report and decision should have regard to:

- a. Addressing housing need in the district and area concerned;
- b. Potential receipts to fund housing construction, acquisition or other Council priorities;
- c. The specific characteristics of the site and area under consideration including (but not limited to) the current use and contribution to Council Priorities, costs of operation, the proximity of other services and uses economic viability of development, whether transfer to another organisation in current form would better promote the Council's priorities.

It is likely that some very broad categories of property will emerge:

- Sites where existing provision and ownership is important to Council priorities.
- Sites where direct development of housing to meet need is appropriate.
- Sites where there is development potential that could be best met by others, potentially including self-building, but receipts can support housing or other priorities.
- Sites where contribution to priorities is minimal but there is no development potential and disposal could cut costs and contribute to financing priorities.
- Sites that contribute to priorities but could do so better under control of another party.

It is likely that the use of the Council's resources would be best used by the identification and progression of sites on a pipeline basis with executive decisions made on a site by site basis having regard to the criteria set out in this report.

## **APPENDICES**

None

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## COUNCIL

19 MARCH 2021

### REFERENCE REPORT FROM COMMUNITY LEADERSHIP OVERVIEW AND SCRUTINY COMMITTEE OF 8 FEBRUARY 2021

#### A.1 MITIGATION MEASURES FOR IMPACT OF PUBLIC FIREWORK DISPLAYS ON ANIMALS AND VULNERABLE PEOPLE

(Report prepared by Keith Durran)

#### **BACKGROUND**

Further to both Minute 12 of the meeting of the Committee held on 28 September 2020 and Minute 24 of the meeting of the Full Council held on 24 November 2020 the Community Leadership Overview & Scrutiny Committee at its meeting held on 8 February 2021 heard that in terms of the previous request to Council contained in Councillor Sue Honeywood's motion on this matter the Council had no legal enforcement powers to undertake that work and so any request to organisers would be for them to comply with on a voluntary basis only.

#### **COMMUNITY LEADERSHIP OVERVIEW & SCRUTINY COMMITTEE'S CONSIDERATION OF COUNCILLOR HONEYWOOD'S MOTION TO COUNCIL**

The Committee had before it a report of the Assistant Director (Housing and Environment) which outlined the following:-

**Advertising Events** - the Council had no powers to require organisers of public events to advertise their event prior to it occurring. However, by their very nature public events were routinely advertised in order to ensure that they had a sufficient attendance and on that basis nearby residents were also likely to be aware. In addition, where the organisers of an event attended the Safety Advisory Group and where potential disturbance to neighbours was likely to occur, for example through fireworks or the provision of music, then advice was given to the organisers to contact neighbours to make them aware. However, that advice could not be enforced.

**Animal disturbance** – It was reported that in the last year there had been a number of complaints in terms of fireworks potentially distressing animals (such as horses) and on that basis that an event should not take place. Reference was made to the Animal Welfare Act 2006 which, under section 4, made it an offence to cause an animal to suffer. On the basis that any individual could set off fireworks at their property as a private individual and it was not regarded as an offence in terms of neighbours' pets, the relative infrequency of major public events which tended to operate in early November or on significant dates, and the lack of specific legislation which banned public firework events it was not considered an offence by an event organiser to hold a firework event.

#### **Other Actions**

The Committee also heard that as per the motion as previously approved by Full Council, the Council could determine whether it wished to run a publicity campaign in relation to fireworks. Both the timing of the campaign and content would need to be considered to ensure an effective message was provided at the correct time.

An event proposed within Tendring in November 2020 had been subsequently cancelled due to a social media campaign, originally in terms of distress to animals, which had then developed and resulted in personal threats to the event organiser and potential threats to anyone who attended the event. Therefore any message provided needed to be balanced, highlighted what was permitted but also encouraged achievement of high standards. Within

that campaign the benefits of quieter fireworks could also be identified. However, that would only be on a voluntary basis by event organisers.

The Council had a presence on social media sites for disseminating advice and information which had been found to be effective in reaching significant numbers of people in the area and could be used to promote messages in respect of firework displays.

Tim Clarke (Head of Housing and Environment) reported to the Committee that Central Government had received a report from the Parliamentary Petitions Committee inquiry into Fireworks in March 2020. From that report the Government had subsequently recommended that:

*“While people who want to ban the public from buying and using fireworks have valid concerns that must be addressed, we cannot support a ban before other, less drastic but potentially more effective, options have been fully explored”.*

The Committee heard how Government had commissioned a piece of work from the Office of Product Safety and Standards in relation to the decibel level of fireworks to collate data for an evidence base, however this was still to be produced.

Mr Clarke also reported that Government had recommended that:

*“... the Government work with Local Authorities to identify a best practice approach to a revenue-neutral, mandatory permit system for fireworks displays, where local evidence suggests this is necessary to protect the community. The Government should work with a Local Authority to pilot the approach before the end of 2020, with a view to legislating to empower all Local Authorities to establish mandatory permit schemes where they deem it necessary”.*

That had been supposed to start in autumn of 2020 but Mr Clarke was not aware that any such pilot had commenced to date.

The Members also heard about another recommendation in the report that read:

*“... the Government fund and coordinate a major, national awareness campaign on the responsible use of fireworks to get this message across to the public.”*

That Campaign had started and the advertising material was available for the Council to use.

After a full discussion it had been **RESOLVED** that the Committee **RECOMMENDS** to Council that:

- *The Council is made aware of the Government’s response to the Petitions Committee;*
- *The material already available to the Council from Central Government be used as part of the public relations campaign for firework mitigation;*
- *The Chief Executive write a letter to Central Government in support of any measures coming forth to tighten the restrictions on licensable sales of fireworks; and*
- *A channel is developed for information in relation to the illegal and underage sale of fireworks to be passed along through the Council to Trading Standards.*

## **CURRENT POSITION**

Council is requested to now give its consideration to the recommendations made by the Community Leadership Overview & Scrutiny Committee at its meeting held on 8 February 2021 in relation to the mitigation of the impact of firework displays on animals and vulnerable people in the community.

## **RECOMMENDATIONS TO COUNCIL**

### **That Council:**

- (a) notes the substance of the Government's response to the Petitions Committee;**
- (b) that the material already available to the Council from Central Government be used as part of any Council led public relations campaign for the mitigation of the impact of firework displays;**
- (c) that the Chief Executive be requested to write a letter to Government setting out this Council's support for any forthcoming legislative measures to tighten the restrictions on licensable sales of fireworks; and**
- (d) that Officers work with Essex County Council Trading Standards to develop a conduit whereby information in relation to the illegal and underage sale of fireworks can be passed along through the Council to Trading Standards in a speedy and efficient manner.**

## **APPENDIX**

Appendix - Report of Assistant Director (Housing & Environment) submitted to the Community Leadership Overview & Scrutiny Committee at its meeting held on 8 February 2021.

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## **A.1 APPENDIX**

### **COMMUNITY LEADERSHIP OVERVIEW AND SCRUTINY COMMITTEE**

**8 FEBRUARY 2021**

#### **REPORT OF ASSISTANT DIRECTOR – HOUSING & ENVIRONMENT**

#### **A.2 Mitigation Measures for Impact of Public Firework Displays**

(Report prepared by John Fox and Tim Clarke)

##### **PURPOSE OF THE REPORT**

To provide an update on the current position in respect of Cllr Sue Honeywood's motion to Council on 21<sup>st</sup> January 2020 in respect of public firework displays. Cllr Honeywood's motion was considered at this Committee on 28 September 2020 and discussed at Full Council in November 2020 when a further review by this Committee was requested.

##### **INVITEES**

None

##### **BACKGROUND**

Councillor Sue Honeywood's Motion to Council on 21 January 2020:

"Fireworks are used by many people throughout the year to mark different events. While they can bring much enjoyment to some people, they can also cause significant problems and fear for other people and animals.

This Council therefore resolves:

- to require all public firework displays within the local authority boundaries to be advertised in advance of the event, allowing residents to take precautions for their animals and vulnerable people;
- to actively promote a public awareness campaign about the impact of fireworks on animal welfare and vulnerable people — including the precautions that can be taken to mitigate risks; and
- to encourage local suppliers of fireworks to stock "quieter" fireworks for public display."

At the meeting of the Committee on 28 September it was it was RESOLVED that

a) the Committee supports Councillor S. Honeywood's motion to Council in relation to mitigation measures for the impact of firework displays;

b) the Council should promote responsible approaches to firework displays in relation to the safety of those attending and in order to help to reduce disturbance to local communities including advance public notice of public firework displays;

c) the Council includes an online questionnaire on its website to monitor complaints in relation to fireworks; and

## **A.1 APPENDIX**

d) the Committee adds this matter to its work programme and returns to it in January 2021 in order to look at the data collected.

The draft minutes of Council on 24 November 2020 when considering this item are listed below;

(a) notes that the Community Leadership Overview and Scrutiny Committee supports Councillor S A Honeywood's motion to Council in relation to mitigation measures for the impact of firework displays and further notes its suggestions that the Council should promote responsible approaches to firework displays in relation to the safety of those attending and in order to help to reduce disturbance to local communities including advance public notice of public firework displays and the production of an on-line questionnaire;

(b) notes that the promotional campaign and on-line questionnaire suggested by the Community Leadership Overview and Scrutiny Committee would fall to the responsibility of Cabinet and Environmental Health Services; and

It was then moved by Councillor Calver and seconded by Councillor Stock OBE that –

(a) Councillor S A Honeywood's original motion, as now amended at this meeting, be approved; and

(b) the Community Leadership Overview & Scrutiny Committee be requested to undertake a further examination of the issues surrounding the impact of firework displays on animals and vulnerable people and how that impact could be mitigated and paying particular regard to the matters raised by Members at this meeting with a view to reporting the outcome of that further examination to a future meeting of the Council.

Councillor Calver's amendment on being put to the vote as the substantive motion was declared CARRIED.

### **DETAILED INFORMATION**

With the onset of the latter half of the year a number of events are traditionally marked with firework displays and from mid-October until the end of the year firework sales take place from supermarkets, some convenience stores and a growing number of temporary specialist shops.

During the pandemic organisers of firework events have had to consider the precautions necessary to reduce risk of transmission of COVID-19 infection at gatherings in outdoor areas. This has led to a number of events being cancelled.

Fireworks can only be sold at certain times of the year:

- from 15 October to 10 November
- from 26 December to 31 December
- the first day of Chinese New Year and the 3 days before it
- the first day of Diwali and the 3 days before it

Fireworks are often used in relation to cultural or religious events and can also be associated with significant family events such as weddings. The Council should also be

## **A.1 APPENDIX**

aware of the equality impact of controlling fireworks and to ensure that all events are treated in an equal fashion being mindful of wider diversity issues

A licence from ECC, issued under the Explosives Regulations 2014, is required in order to store up to 2 tonnes of explosives. The sale of fireworks outside of the dates above requires an all year round seller's licence in addition to the storage licence.

Fireworks and bonfire displays for various celebrations have in some instances been the cause of injuries to those attending and disturbance may be caused to local residents' families and pets and animal based business such as riding schools, kennels and catteries. This must however be balanced with the fact that there are no legal restrictions banning firework displays and that there is open sale to members of the public who can set off fireworks on their own properties and have no requirement to inform nearby residents.

There are a number of legal restrictions of a more generic nature which apply to firework displays and are set out below

- A display for a charitable or business purpose will be regarded as a work activity and therefore the person in charge must be able to competently carry out a risk assessment in order to fully consider the hazards to the safety of people attending or working on the site and the control measures that will be necessary to reduce the risks of injury so far as is reasonably practicable.
- Officers from the environmental health department are authorised to take formal action regarding breaches of the Health and Safety at Work, etc. Act 1974 regarding risks to health and safety and the Environmental Protection Act 1990 in relation to statutory nuisance from noise disturbance. As firework displays are often one off events it is extremely difficult to take action in respect of noise disturbance
- The sale of fireworks, including any product safety issue, is regulated by the Trading Standards team at Essex County Council.
- Where the display includes the sale of alcohol or any other licensable activity or is located on licensed premises the person in control of the activity must have regard to the four licensing objectives
  1. Prevention of crime and disorder.
  2. Public safety.
  3. Prevention of public nuisance.
  4. Protection of children from harm
- For single events where up to 500 people are involved (spectators and staff included) a Temporary Event Notice will be required

For events where in excess of 500 people are likely to attend or if it has lower numbers but is a significant event, it may be referred to the Tending Safety Advisory Group. This Group which is led by the Council and also has representatives from partners such as the emergency services and Essex County Council seeks to assist event organisers to undertake events safely by providing advice and guidance.

Any breaches identified would be dealt with directly by the enforcement body which sits on the Group if agreement could not be reached with the organiser. The Safety Advisory

## **A.1 APPENDIX**

Group of itself cannot veto any event occurring. There is also no requirement to attend a Safety Advisory Group so again this is a voluntary issue for organisers of events.

### **What the Council Cannot Enforce**

In terms of the request to Council in Cllr Honeywood's motion the Council has no legal enforcement powers to undertake this work and so any request to organisers would be on a completely voluntary basis for the organiser to comply.

- **Advertising Events** - the Council has no powers to require organisers of public events to advertise their event prior to it occurring. However by their very nature public events are routinely advertised to ensure they get sufficient attendance and on this basis nearby residents are also likely to be aware. In addition where an event attends the Safety Advisory Group and where there is potential disturbance to neighbours likely to occur, for example for fireworks or provision of music, then advice is given to contact neighbours to make them aware. This is only advice and good practice and cannot be enforced.
- **Animal disturbance** - In the last year there have been a number of complaints in terms of fireworks potentially distressing animals such as horses and on that basis that an event should not take place. Reference has been made to the Animal Welfare Act 2006 which under section 4 makes it an offence to cause an animal to suffer. On the basis that any individual can set off fireworks at their property as a private individual and it is not regarded as an offence in terms of neighbours pets, the relative infrequency of major public events which tend to operate in early November or on significant dates, and the lack of specific legislation which bans public firework events it is not considered an offence by an event organiser to hold a firework event.

### **Other Actions**

As per the motion the Council can determine whether it wishes to run a publicity campaign in relation to fireworks.

Both the timing of the campaign and content would need to be considered to ensure an effective message was provided at the correct time.

An event proposed within Tendring for November 2020 was subsequently cancelled when a social media campaign was started, originally in terms of distress to animals, which then developed and resulted in personal threats to the event organiser and potential threats to anyone who attended the site. Therefore any message provided needs to be balanced highlighting what is permitted but encouraging achievement of high standards.

Within this campaign the benefits of quieter fireworks could also be identified. However this would only be on a voluntary basis by event organisers

The Council has a presence on social media sites for disseminating advice and information which has been found to be effective in reaching significant numbers of people in the area and could be used to promote messages in respect of firework displays

## **A.1 APPENDIX**

### **RECOMMENDATION**

**That the Committee recognises the limited enforcement powers available to the Council in relation to fireworks displays and supports a publicity campaign to raise awareness .**

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## COUNCIL

16 MARCH 2021

### REPORT OF CHIEF EXECUTIVE

#### A.2 **CHANGE IN MEMBERSHIP OF POLITICAL GROUPS AND DISSOLUTION OF THE UKIP GROUP**

(Report prepared by Ian Ford)

I formally advise you that, on 29 January 2021 and pursuant to Regulation 10(b) of the Local Government (Committees and Political Groups) Regulations 1990, Councillor James Codling served formal notice on the Council that he no longer wished to be treated as a member of the UKIP political group.

Regulation 8(1) of the Local Government (Committees and Political Groups) Regulations 1990 Regulations require a political group to have a minimum of two members and therefore that meant that the UKIP Group on Tendring District Council automatically ceased to exist as mandated in Regulation 8(2) of those Regulations.

I further advise you that Councillor Codling, 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-authorized 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. This was due to the fact that the outcome of any such review would not have been enacted by Full Council until this meeting and that, in any case, a review of the allocation of seats will automatically be carried out at the end of this month as part of the preparations for the Annual Meeting of the Council due to be held on 27 April 2021.

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

**IAN DAVIDSON**  
**CHIEF EXECUTIVE**

**COUNCIL**

**16 MARCH 2021**

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

**A.2 CHANGE IN MEMBERSHIP OF POLITICAL GROUPS AND DISSOLUTION OF THE UKIP GROUP**

Notice of a Wish to no longer be treated as a Member of a Political Group (UKIP), submitted by Councillor Codling and dated 29 January 2021.

Notice of Wish to be treated as a Member of a Political Group (Conservative) submitted by Councillor Codling and dated 29 January 2021.

## COUNCIL

16 MARCH 2021

### REPORT OF THE MONITORING OFFICER

#### **A.3 REVIEW OF THE CONSTITUTION**

(Report prepared by Ian Ford, Committee Services Manager)

<b>PURPOSE OF THE REPORT</b>
<p>To approve the recommended changes to the Constitution put forward by the Cabinet following a review undertaken by the Corporate Finance and Governance Portfolio Holder through a Working Party constituted for this purpose.</p>

<b>BACKGROUND</b>
<p>On 19 February 2021 Cabinet considered a report of the Corporate Finance and Governance Portfolio Holder which 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.</p> <p>The main proposals cover a number of miscellaneous amendments to the Council Procedure Rules, Article 10 of the Constitution and the Property Dealing Procedure in order to ensure the Council's Constitution remains effective, efficient and consistent at an operational level.</p> <p>The Portfolio Holder's Report and accompanying Appendices which were considered by Cabinet at its meeting on 19 February 2021 are attached as Appendices.</p> <p>The Cabinet's decision at its meeting held on 19 February 2021 was as follows:-</p> <p><b><i>"RESOLVED that Cabinet –</i></b></p> <p><b>1. <u>RECOMMENDS TO COUNCIL:</u></b></p> <p style="margin-left: 20px;">(a) <i>that the Council's Constitution be amended to reflect the proposed changes as set out in the Portfolio Holder's report and the appendices attached hereto;</i></p> <p style="margin-left: 20px;">(b) <i>that the previously approved provisions (i) and (ii), as set out below, should be discontinued:-</i></p> <p style="margin-left: 40px;">(i) <i>Members who were following the proceedings of a meeting via the public 'live stream' should inform Officers that they were doing so via an email to democratic services or to the contact Officer listed on the agenda for that meeting and that they should send a second email when they have ceased to follow the proceedings; and</i></p> <p style="margin-left: 40px;">(ii) <i>in order for that attendance referred to in (i) above to 'count' such attendance must be for a minimum period of time e.g. 30 minutes.</i></p> <p style="margin-left: 20px;">(c) <i>that all changes come into effect on 28<sup>th</sup> April 2021 i.e. the day after the Annual Meeting of the Council.</i></p> <p><b>2. <u>RESOLVES that:</u></b></p> <p style="margin-left: 20px;">(a) <i>the Standards Committee be requested to examine whether a change to the Members'</i></p>

*Code of Conduct is required in relation to Members' Declarations of Interest in virtual meetings and that, in the meantime, the Monitoring Officer be requested to issue a guidance note to Members to re-iterate that Members should adhere to Paragraph 9 of the Code and should withdraw from the meeting connection/link at the appropriate juncture; and*

*(b) the views and wishes expressed by the Review of the Constitution Portfolio Holder Working Party in relation to Members' training and development be endorsed and that the Head of Democratic Services & Elections be requested to take all necessary action to implement those wishes as soon as possible."*

## **RECOMMENDATION**

**That, subject to Members' consideration of the recommendations of the Cabinet arising from its meeting on 19 February 2021, Council resolves:**

- (a) That the Council's Constitution be amended to reflect the proposed changes, as set out in Appendices A to F attached hereto this report;**
- (b) That the previously approved provisions (i) and (ii), as set out below, should be discontinued:-**
  - (i) Members who were following the proceedings of a meeting via the public 'live stream' should inform Officers that they were doing so via an email to democratic services or to the contact Officer listed on the agenda for that meeting and that they should send a second email when they have ceased to follow the proceedings; and**
  - (ii) in order for that attendance referred to in (i) above to 'count' such attendance must be for a minimum period of time e.g. 30 minutes.**
- (c) That all changes come into effect on 28th April 2021 i.e. the day after the Annual Meeting of the Council; and**
- (d) That Cabinet's decisions in respect of the following be endorsed namely:-**
  - (i) that the Standards Committee be requested to examine whether a change to the Members' Code of Conduct is required in relation to Members' Declarations of Interest in virtual meetings and that, in the meantime, the Monitoring Officer be requested to issue a guidance note to Members to re-iterate that Members should adhere to Paragraph 9 of the Code and should withdraw from the meeting connection/link at the appropriate juncture; and**
  - (ii) that the views and wishes expressed by the Review of the Constitution Portfolio Holder Working Party in relation to Members' training and development be endorsed and that the Head of Democratic Services & Elections be requested to take all necessary action to implement those wishes as soon as possible.**

## **BACKGROUND PAPERS**

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

**APPENDICES****A.3**

<b>APPENDIX A</b>	<b>Part 4</b>	<b><u>Council Procedure Rules – Section One</u> Rule 6 – Notice of, and Summons to, Meeting Rule 9 – Duration of Meeting</b>
<b>APPENDIX B</b>	<b>Part 4</b>	<b><u>Council Procedure Rules – Section Two</u> Rule 35 – Meetings of Committees  Rule 33.3 – Training Members of the Audit, Licensing &amp; Registration, Planning and Standards Committees</b>
<b>APPENDIX C</b>		<b>Rule 36 – Attendance at Meetings</b>
<b>APPENDIX D</b>	<b>Part 2</b>	<b>Article 10 – Area Committees &amp; Forums (Community Consultation and Participation)</b>
<b>APPENDIX E</b>	<b>Part 5</b>	<b>Property Dealing Procedure</b>
<b>APPENDIX F</b>	<b>Part 2</b>	<b>Article 2 – Finance, Contracts and Legal Matters</b>
<b>APPENDIX G</b>		<b>Report of the Corporate Finance and Governance Portfolio Holder which was submitted to the meeting of the Cabinet held on 19 February 2021</b>

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## A.3 APPENDIX A

### LENGTH OF MEETINGS & ELECTRONIC DOCUMENTATION ONLY REQUIREMENTS

#### COUNCIL PROCEDURE RULES - SECTION 1 – COUNCIL MEETINGS

##### **5. TIME AND PLACE OF MEETINGS**

The time and place of Council meetings will be notified in the summons.

Meetings will normally be held at 7.30 p.m. in the Princes Theatre, Town Hall, Clacton-on-Sea and the Council may, from time to time, vary the place, date or hour of a meeting or meetings. Such variation will include holding the meeting or meetings by remote means in order to comply with the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020. Where it is not practicable for the Council to meet to agree a variation, such variation shall be determined by the Chairman (or failing him the Vice-Chairman) of the Council.

##### **6. NOTICE OF AND SUMMONS TO MEETING**

The Committee Services Manager will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. In addition to sending an electronic notification, at least five clear days before a meeting, the Committee Services Manager will send a summons by post to every member of the Council or leave it at their usual place of residence. **Although this is the default position, all members of the Council, are encouraged to opt out of receiving paper copies and elect to solely receive the summons via electronic notification at least five clear working days before the meeting.** The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

##### **6A. ACCESS TO INFORMATION**

For all purposes of the Constitution, the terms “notice”, “summons”, “agenda”, “report”, “written record” and “background papers” when referred to as being a document that is:

(a) “open to inspection” shall include for these and all other purposes as being published on the website of the Council; and

(b) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

##### **6B. REMOTE ACCESS TO MEETINGS**

(a) For all purposes of the Constitution the term “meeting” is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:

- (i) “place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers: and
  - (ii) “open to the public” includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person; and
- (b) If the Chairman is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chairman shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chairman. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9. DURATION OF MEETING**

- 9.1** The business of ordinary meetings of the Council shall cease at 10.30 p.m. **(or after a duration of three hours, whichever is the earliest)** on the day on which the meeting commenced, or such earlier, or later, time as the Chairman shall consider appropriate. **In the event that the Chairman wishes to extend the meeting beyond 10.30 p.m. (or beyond three hours) they will be expected to give an indication of the length of that extension and secure the consent of the Council in doing so.**
- 9.2** When the business of a meeting is terminated in accordance with 9.1 above any remaining business shall stand adjourned until a date and time to be fixed by the Chairman.
- 9.3** Where 9.2 applies, given that the agenda and associated reports and papers for the original meeting have been published, the adjourned meeting can be called as soon as practicable and without necessary delay, having regard to the remaining business and venue availability. In the case of Committees and Sub-Committees, where Substitutes have been appointed the same Members should attend (the Substituted Members must not take their seats).
- 9.4** Notice of the adjourned meeting will be published on the Council’s website, unless the adjourned meeting is held within 24 hours.

## **COUNCIL PROCEDURE RULES - PART 2 – COMMITTEE MEETINGS**

### **35. MEETINGS OF COMMITTEES**

#### **35.1 Ordinary Meetings**

The Committees of the Council will normally hold meetings (known as Ordinary Meetings for the purposes of these Procedure Rules) on dates and at times as the Council decides at its Annual Meeting.

The Chairman (or failing him the Vice-Chairman) of a Committee may, from time to time, vary the place, date or hour of a meeting or meetings of that Committee. Such variation will include holding the meeting or meetings by remote means in order to comply with the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

**The business of ordinary meetings of a Committee etc. shall cease after a duration of three hours on the day on which the meeting commenced, or such earlier, or later, time as the Chairman shall consider appropriate. In the event that the Chairman wishes to extend the meeting beyond three hours they will be expected to give an indication of the length of that extension and secure the consent of the Committee etc. in doing so.**

**For the avoidance of any doubt the above requirement does not extend to a meeting of any committee or sub-committee which is conducting a Hearing into licensing or standards/conduct or other regulatory matters. On such occasions the Chairman will be expected to call regular adjournments of the Hearing in order for participants to have comfort and/or refreshment breaks.**

## **35.2 Special Meetings**

1. The Chairman of a Committee can call a Special Meeting of a Committee at any time.
2. A Special Meeting shall also be called on the requisition of a not less than a quarter of the whole number of Members of the Committee, delivered in writing, or by email to the Chief Executive but in no case shall less than three Members requisition a Special Meeting.

No business except that set out in the Summons and Agenda shall be carried out at a Special Meeting of a Committee.

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## A.3 APPENDIX B

### AUDIT COMMITTEE & STANDARDS COMMITTEE TRAINING

#### COUNCIL PROCEDURE RULES - PART 2 – COMMITTEE MEETINGS

#### 33. APPOINTMENT OF MEMBERS OF COMMITTEES AND SUB-COMMITTEES/VACANCIES IN CHAIRMANSHIP

##### **33.3 Training Members of the Audit, Licensing and Registration, Planning and Standards Committees**

In addition to specific training required as and when necessary, training shall be provided to all Members appointed to the Audit, Licensing and Registration, Planning and Standards Committees on an annual basis at an appropriate date and time after each annual meeting of the Council and such training shall be mandatory.

A Member cannot sit as a member of the Planning Committee unless they have received specific training with regard to the determination of planning applications.

A Member cannot sit as a member of the Licensing and Registration Committee unless they have received specific training with regard to the determination of applications for personal or premises licences submitted under the Licensing Act 2003.

**A Member cannot sit as a member of the Audit Committee unless they have received specific training with regard to the determination of the Council's Statement of Accounts and comprehension of Auditor reports.**

**A Member cannot sit as a member of the Standards Committee unless they have received specific training with regard to the Hearings Procedure and participation in Hearings.**

No Member can continue to sit as a member of the above committees if they have gone more than two years without attending any of the relevant training events.

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## A.3 APPENDIX C

### EXCLUSION OF MEMBERS DURING HEARINGS WHEN DECISION IS BEING DELIBERATED

#### COUNCIL PROCEDURE RULES - PART 2 – COMMITTEE MEETINGS

##### **36. ATTENDANCE AT MEETINGS**

- 36.1** Every Member of the Council shall be entitled to attend all meetings of Committees and Sub-Committees. This does not include attendance at Portfolio Holder Working Parties. A Member of the Council shall not take part in any discussion at a meeting of a Committee or Sub-Committee of which he is not a Member, unless specifically invited to do so by the Chairman of that meeting, or unless he is attending the meeting of the Committee under the provisions of Rule 12.6, and he shall in no case be entitled to vote. The Member shall obtain the permission of the appropriate Chairman prior to the relevant meeting if he wishes to speak at that meeting. Where a Member has, pursuant to notice duly given under Rule 12.6, moved a motion which has been referred to a Committee, he shall be given an opportunity of explaining that motion.

Where the public speaking scheme (Rule 40) applies to a particular application or matter before the Planning Committee, no Member shall be entitled to address or speak to the Planning Committee under this Rule. This does not detract from any rights the Member has under the public speaking scheme.

**At such times as the Standards Committee (in respect of Hearings on standards/conduct related matters) or the Premises/Personal Licences Sub-Committee (in respect of Hearings on licensing related matters) exclude the press and the public and retire to deliberate and reach their decision ‘in camera’ only the duly appointed members of the decision making body will be allowed to remain in the meeting. All other Councillors will be treated as members of the public and will be excluded from the meeting at that time.**

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**ARTICLE 10 – COMMUNITY CONSULTATION AND PARTICIPATION**

**KEY – Additional text shown in yellow highlight. Deletions shown in red text with strikethrough. Notes shown as just red type (not to be included in the final version). Text highlighted Green are further changes proposed since the meeting of the Constitution Review Working Group**

\* The Council does not operate Area Committees with delegated powers for Executive or Non-Executive functions.

**10.01 Community Consultation and Participation**

The Council will promote community consultation and participation through a range of opportunities as set out in Table 1 below. Where Councillors are appointed to outside bodies this information is included within the Council’s website.

Table 1

Consultation and Participation Opportunity	Form, Function and Scope
Local Councils	Autonomous local authorities within a set area able to raise funds through the Council Tax to provide local services (i.e. Town and Parish Councils). Consultation with local Councils could also <del>This includes</del> consultation with the Tendring District Association of Local Councils (TDALC). It should be remembered that not all areas in the District have Local Councils.
Community Forums	Public meetings designed to enable the Council to engage with specific sections or areas of the local community so that services are designed to meet their needs.
Community/Business Groups	Organisations that represent individuals, businesses etc. They may be solely local in nature or affiliated to regional/national bodies. Consultation will depend entirely on the nature of the organisation and the interests they seek to represent or provide for. Organisations will vary in size and the administrative support available to them.

Part 2 – ARTICLES

ARTICLE 10 – AREA COMMITTEES AND FORUMS

Tenants and Sheltered Housing Panels	Organised through the Tenants' Compact as a consultation and participation opportunity for tenants and private owners of properties in estates. These Panels provide an opportunity for general consultation and participation by area.
Service Users	Consultation with those who use a particular service can provide extensive information about how that service can meet expectations about it.
Petitions	The Council has approved and published a Petitions Scheme detailing how it will respond to petitions received from the community.
Surveys, feedback and Consultations	Throughout the year a number of paper based and on-line surveys and consultations are undertaken to seek residents' views. Through complaints monitoring the Council can examine feedback the complaints provide to identify areas to address. The Council's social media accounts provide opportunities for the public to seek responses and express views.
Public Invitation/ Notice	Whether required by statute or otherwise, public notices on the Council's website, principal offices, 'site notices', notices to adjoining owners and in newspapers can invite comments on issues set out in the invitation/notice. Examples include notices to business ratepayers on the draft budget/capital programme under Section 65 of the Local Government Act 1992, with neighbours/interested parties under Article 15 of the Town and Country Planning (Development Management Procedure) Order 2015 in respect of planning applications and Regulation 38 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 in respect of review applications.
Participation in Overview and Scrutiny Reviews	Reviews undertaken by Overview and Scrutiny (including Task and Finish Groups) may include consultation with the local community, where appropriate and/or representatives of community or other groups to inform their enquiries.
Ward Councillors	The Council will seek to consult with the relevant Ward Councillor(s) on issues that directly affect their Ward. In particular, Article 7 of this Constitution (The Executive), sets out in section 3 consultation requirements with Ward Councillors.
Boards and Panels with various Partner Organisations: details of the specific Boards are set out in Table 2 below.	

Table 2

Board:	Role and Objectives	Partnership Stakeholders
<p><b>THE LOCALITY BOARD</b></p> <p>The Locality Board is non-budget holding and non-decision-making and:-</p> <ul style="list-style-type: none"> <li>• provides a high-level political steer to shape the future of the locality;</li> <li>• delivers a co-ordinated public service approach across a number of key County and District services and projects; and</li> <li>• enables joined-up delivery of key services with a wide range of partners.</li> </ul>	<ol style="list-style-type: none"> <li>1. Ensures value for money public service outcomes, through ensuring that the Locality Board oversees and advises on specific areas of public sector activity/spend according to a shared understanding of the priority outcomes for the Locality Board area;</li> <li>2. Enables closer collaboration between the various tiers of local government with a focus on joining up delivery and resources and doing things more efficiently, through providing the challenge to ensure that the Locality Board actively identifies and promotes opportunities for public sector reforms;</li> <li>3. Exerts local influence over commissioning decisions affecting the Locality Board area, through ensuring strong links between local governance, community engagement and commissioning arrangements; and</li> <li>4. Promotes localism and ensures that decisions are taken at the most appropriate level, through discussion and negotiation across the two tiers, monitoring and reviewing, using local insight and holding others to account where necessary.</li> </ol>	<p>Essex County Council (host authority) with TDG</p>
<p><b>NOTE – THE CHANGE HERE WAS TO REFLECT THE MERGER OF THE TWO</b></p>		

<p><b>SEPARATE BODIES AND UPDATE REFERENCES</b></p> <p><b>Community Safety &amp; Health &amp; Well-Being Board</b></p> <p>The Crime and Disorder Act came into force in July 1998 and required CDRPs (now known as CSP's) to be set up in each District in England and Wales. The Act placed an obligation on local authorities and the Police, (amongst others), to work together to develop and implement a strategy to tackle crime and disorder in the area.</p> <p>Under the Act and the subsequent Police Reform Act 2002, the named stakeholders have been designated "Responsible Authorities" and are held responsible for this work.</p> <p>To improve the health and well-being of the population of the District and reduce health inequalities.</p>	<p>The Tendring Community Safety Partnership has identified 4 key strategic themes to reduce crime and the fear of crime in the District and to improve community safety.</p> <p>These are:</p> <ol style="list-style-type: none"> <li>1. Tackling and Enforcement of ASB issues;</li> <li>2. To reduce harm to and safeguard vulnerable victims (including Children);</li> <li>3. Reducing Violence and Knife Crime</li> <li>4. Reduce youth offending and re-offending of adults and young people and thus supports the overarching theme for Safer Essex.</li> </ol> <ol style="list-style-type: none"> <li>1. Provide strong and effective political and public leadership for health and well-being locally;</li> <li>2. Engage with the local population to better understand the health and well-being issues and needs in Tendring and ensure that this is captured in County and District needs assessments.</li> </ol>	<p>Tendring District Council</p> <p>Essex Police</p> <p>Police, Fire and Crime Commissioner</p> <p>Essex County Fire and Rescue Service</p> <p>Essex Community Rehabilitation Company</p> <p>National Probation Service</p> <p>North East Essex Clinical Commissioning Group</p> <p>and members of the voluntary sector</p> <p>Essex County Council (host authority)</p>
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ARTICLE 10 – AREA COMMITTEES AND FORUMS

Board:	Role and Objectives	Partnership Stakeholders
	<p>3. Through the JSNA and local stakeholder engagement, identify key priorities for health and local government commissioning and develop clear plans for using combined resources;</p> <p>4. Realise opportunities to engage with the Essex Health and Well-being Board work streams and other initiatives such as Community Budgets;</p> <p>5. Foster good engagement with the North East Essex Clinical Commissioning Group.</p> <p>6. Take an overview of the delivery of the strategic plans of the North East Essex CCG plan and the County Health and Well-being Strategy and identify the role other sectors, public, voluntary and private, could contribute;</p> <p>7. Monitor and review the implementation of the County Joint Health and Well-being Strategy locally.</p>	<p>Community Voluntary Sector</p> <p>Essex Carers</p> <p>Clinical Commissioning Group</p> <p>St Helena Hospice</p> <p>Job Centre Plus</p> <p>Health Watch</p> <p>Citizens Advice Bureau</p>

Board:	Role and Objectives	Partnership Stakeholders
<p><b>REPLACING THE TENDRING EDUCATION IMPROVEMENT GROUP</b></p> <p><b>Tendring Education Strategic Board (TESB)</b></p> <p>A strategic board with responsibility for supporting improvement in the quality of education and outcomes for children and young people across the Tendring District. The County and District Councils work collaboratively with schools and education partners to bring their collective effort and energy to address key priorities.</p>	<p>The purpose of the TESB is to:</p> <ul style="list-style-type: none"> <li>• Raise educational outcomes for the children and young people of Tendring</li> <li>• Positively impact on the wider society of Tendring through improvement of education</li> <li>• Influence other programmes to specifically support CYP and their families</li> <li>• Connect with other organisations to target funding and initiatives towards Tendring e.g. lottery funding, commissioned contracts</li> <li>• Identifying and delivering collective solutions which increase the consistency of best practice and offer for CYP in Tendring</li> </ul> <p>In order to meet the above, the board have targeted their focus on 3 key areas. The priorities which have been agreed by the TESB for 2020/21 academic year are:</p> <ol style="list-style-type: none"> <li>1. Recruitment of high-quality staff</li> <li>2. Retention of high-quality staff</li> <li>3. Improved Pupil Attendance and Engagement of Children, Young People and their Families</li> </ol> <p>There is also a sub-group working on the development of the Post 16 local offer who will report into the TESB as well as a regional/national</p>	<p>TDC is the host authority</p> <p>Essex County Council (Officer Chair of Board)</p> <p>Secondary school head teachers</p> <p>Representation from primary school head teachers</p> <p>Local Education Partners</p>

ARTICLE 10 – AREA COMMITTEES AND FORUMS

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	barriers subgroup looking at solutions to any potential barriers within the locality.	
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<p><b>RURAL INFRASTRUCTURE PANEL</b></p> <p>The Rural Projects Panel tackles issues affecting residents living in rural communities such as lack of mains sewerage, highway maintenance, how to make more of rural amenities, improving broadband speeds, mains sewerage, inland flooding and energy switching.</p>	<p>The work will focus on the rural communities of Tendring, however there is potential for positive outcomes that will impact all residents irrespective of their location. Many of the issues are outside of the Council's control and therefore are undertaken with partners to jointly address such issues impacting the rural community. The focus of the budget is for an enabling role rather than predominantly for capital projects and any recommendations involving the use of this fund will be agreed by Cabinet.</p>	<p>TDC is the host authority</p>
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Board:	Role and Objectives	Partnership Stakeholders
<p><b>Local Highways Panel</b></p> <p>Each District or Borough Council has a local Highways Panel set up with Essex County Council as a new way of working to improve highway amenities in each individual district using the County Council’s local highway budget.</p>	<ul style="list-style-type: none"> <li>• Improve local highway amenities;</li> <li>• To consider proposed schemes and recommendations from the County Councillors elected to represent the District to the relevant County Council Portfolio Holder; but</li> <li>• Excluding the scheduled maintenance and improvement programme.</li> </ul>	<p>Membership of the Panel is made up of all 8 County Members representing Tendring, 4 District Councillors, and a Member of Tendring District Association of Local Councils. Essex County Council host the meeting.</p>
<p><b>Tendring Community Safety Partnership</b></p> <p><del>The Crime and Disorder Act came into force in July 1998 and required CDRPs (now known as CSP’s) to be set up in each District in England and Wales. The Act placed an obligation on local authorities and the Police, (amongst others), to work together to develop and implement a strategy to tackle crime and disorder in the area.</del></p> <p><del>Under the Act and the subsequent Police Reform Act 2002, the named stakeholders have been designated</del></p>	<p><del>The Tendring CSP has identified 4 key strategic themes to reduce crime and the fear of crime in the District and to improve community safety.</del></p> <p><del>These are:</del></p> <ol style="list-style-type: none"> <li><del>1. Tackling Anti-Social Behaviour;</del></li> <li><del>2. Reducing Crime and the Fear of Crime;</del></li> <li><del>3. Reducing alcohol and drug misuse within the community; and</del></li> <li><del>4. Reducing re-offending is a statutory duty for all community safety partnerships and thus supports the overarching theme for Safer Essex.</del></li> </ol>	<p><del>TDG</del></p> <p><del>Essex Police</del></p> <p><del>Essex County Council</del></p> <p><del>Police and Crime Commissioner</del></p> <p><del>Essex Fire Authority</del></p> <p><del>Essex Probation Service</del></p> <p><del>North East Essex NHS</del></p> <p><del>and members of the voluntary sector</del></p>

“Responsible Authorities” and are held responsible for this work.		
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Board:	Role and Objectives	Partnership Stakeholders
<p>Suffolk and North East Essex Integrated Care System (ICS)</p> <p>The ICS brings partners together in relation to health and care to join up provision and improve the health and wellbeing of the population.</p>	<p>Suffolk and North East Essex Integrated Care System (ICS) brings together the full spectrum of partners responsible for planning and delivering health and care across North East Essex, Ipswich and East Suffolk and West Suffolk to ensure shared leadership and joint action to improve the health and wellbeing of the one million people who live locally.</p> <p>The ICS has a key role to ensure joint working across the NHS and local authorities to make shared commissioning decisions together with providers on how to use resources, design services and improve population health</p> <p>The ICS seeks to improve the health and wellbeing of populations and reduce the health gap.</p> <p>The ICS outcomes are that everyone;</p> <ul style="list-style-type: none"> <li>- has a good start in life</li> <li>- is able to live as healthy a life as possible</li> <li>- has a good experience of ageing</li> <li>- has a good experience at the end of their life</li> </ul> <p>and in addition to meet the East of England ambition that everyone has an extra 3 years of healthy life by 2029</p>	<p>NHS Commissioners</p> <p>NHS Provider Trusts,</p> <p>Local government including Tendring District Council and Essex County Council</p> <p>NHS regulators</p> <p>Primary care – GPs, community pharmacists, optometrists and dentists, independent sector providers</p> <p>Community and voluntary sector, public, patient and carer groups</p> <p>Education , research and police</p>

Board:	Role and Objectives	Partnership Stakeholders
<p>North East Essex Health and Wellbeing Alliance</p> <p>The Alliance is a collaboration of commissioners, providers and other system partners working together as an integrated system to transform the health and wellbeing of the population of North East Essex</p>	<p>To support the Alliance vision of reducing inequality there is a focus on the wider determinants of health and a Live Well approach has been adopted to ensure communities are supported and empowered at each stage of their life</p> <ul style="list-style-type: none"> <li>- Start Well – children and young people have the best start in life</li> <li>- Fell well – people enjoy mental wellbeing</li> <li>- Be Well – adults are empowered to make healthy lifestyle choices</li> <li>- Age Well – people live safely and independently as they grow older</li> <li>- Stay Well – Adults with health or care concerns are supported to maintain healthy, productive and fulfilling lives</li> <li>- Die Well – individuals nearing end of life have choice around their care</li> </ul> <p>Six neighbourhood teams will be developed across North East Essex including three in Tendring and each will have a multi-disciplinary team empowered and supported to deliver the Live Well outcomes in their area</p>	<p>Anglian Community Enterprise (ACE)</p> <p>Colchester Borough Council</p> <p>Community 360</p> <p>Community Voluntary Services Tendring</p> <p>East of England Ambulance Service</p> <p>East Suffolk and North Essex NHS Foundation Trust</p> <p>Essex County Council</p> <p>Essex Partnership University NHS Foundation Trust</p>

		<p>Healthwatch</p> <p>North East Essex Clinical Commissioning Group</p> <p>St Helena Hospice</p> <p>Tendring District Council</p> <p>Virgin Care</p>
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Board:	Role and Objectives	Partnership Stakeholders
<p><b>Youth Strategy Group</b></p> <p>To act as local champions for young people’s services within the District.</p> <p>To act as a consultative body to support the development of local provision, to provide guidance on the type and quality of provision as required in the District and influence the use of existing youth work resources.</p> <p>To act as a catalyst to draw together partners and key stakeholders to identify priorities and delivery provision for young people.</p>	<p>To identify the needs of young people in their local area, in partnership with district/borough/city councils and other agencies to develop a joint strategy for addressing gaps in provision.</p> <p>For articulating the local needs of young people, to understand the current provision and to set priorities in order to avoid duplication and fill gaps.</p> <p>To identify and build relationships with the voluntary sector and/or private sector partners to attract new provision and funding opportunities to meet priorities and extend the offer to young people.</p> <p>To ensure that measures are in place to safeguard the financial probity of any projects, programmes or arrangements that the Group would enter into.</p> <p>To provide a local forum through which informed debate in relation to services and support for young people can take place.</p> <p>To make recommendations to appropriate local agencies and commissioning boards about local service priorities.</p> <p>To inform how services for young people might be delivered and co-ordinated to avoid duplication.</p> <p>To consider and advise the relevant cabinet member on the use of local allocations of capital expenditure.</p>	<p>The Group consist of agencies and organisations delivering services to young people within the age range 11-25 with a priority on those aged 13-19.</p> <p>In addition representatives from:</p> <ul style="list-style-type: none"> <li>• All local Essex County Councillors</li> <li>• 1 District Councillor</li> <li>• 1 district Council officer</li> <li>• 1 Youth Service worker involved in local area delivery</li> <li>• 3 young people: one Young Essex Assembly Member (YEA) and two other young people (aged between 13-19 years) who are service users and/or from the local community</li> </ul>

Board:	Role and Objectives	Partnership Stakeholders
<p><b>North East Essex Local Children’s Partnership Board (LCPB)</b></p> <p>Brings together partners at local level and is underpinned by the Children’s Act 2004 duty to co-operate (as amended). The purpose of the LCPB is for partners to work together to determine local needs, identify priorities and develop action plans to secure better outcomes for children and young people in the District/Borough.</p> <p>The LCPB is accountable to the Essex Children’s Partnership Board (ECPB). Undertaking its activity within the framework of the Essex Children and Young People’s Plan, reflecting the relevant Health and Well-Being Plan Priorities for children, young people and families.</p> <p>The LCPB engages with the local community, analysing and determining local need and informing the county wide Joint Strategic Needs Analysis and the Strategy of the ECPB. The LCPB</p>	<p>The primary aim of the LCPB is to improve the outcomes for children and young people in the area by:</p> <ul style="list-style-type: none"> <li>strengthening the services and processes that keep children and young people safe from neglect and abuse;</li> <li>developing an action plan within its overarching priorities which enables children and young people to aspire, learn, achieve highly and realise their potential;</li> <li>improving the life chances of Looked After Children, young carers and all other children and families at risk of poor outcomes;</li> <li>reducing the impact of poverty and recession on the lives of children, young people and their families thereby providing children, young people and families with opportunities to contribute meaningfully and be involved in the development and delivery of services in their local communities.</li> </ul> <p>The LCPB will ensure that a robust and effective relationship with the Essex Safeguarding Children’s Board exists through the local Stay Safe Group which is a sub group of, and accountable to, the LCPB, consulting with them on safeguarding issues and on the development of the local Stay Safe Plan.</p> <p>The LCPB will also ensure that there are appropriate links and</p>	<p>The LCPB will be made up of the leaders of local agencies and the Board may co-opt members as they see appropriate.</p> <p>Current membership is:</p> <p>NHS</p> <p>District Council</p> <p>Essex Police</p> <p>Local Safeguarding Panel</p> <p>Job Centre Plus</p> <p>Voluntary – community sector</p> <p>Essex School Governors Association</p> <p>Education Service of Essex County Council</p>

ARTICLE 10 – AREA COMMITTEES AND FORUMS

Board:	Role and Objectives	Partnership Stakeholders
<p>provides a local governance structure for integrated working practise and a local focus for collaboration.</p>	<p>reporting arrangements to other relevant local bodies and boards associated with District/Borough/City Councils, Education, Health and Social Care.</p>	
<p><b>Tendring Independent Advisory Group (TIAG)</b></p> <p><b>Purpose of IAG:</b></p> <p>To assist in the communication exchange between Essex Police and all Essex communities (Tendring), and provide independent advice to Essex Police to ensure a fair and non-discriminatory police service to all communities gaining their trust and confidence and promoting community cohesion.</p>	<ol style="list-style-type: none"> <li>1. Provide a channel for the exchange of information between the police and diverse communities/groups of Essex (Tendring)</li> <li>2. Provide advice to Essex Police, in particular in the areas of;                             <ul style="list-style-type: none"> <li>• Hate crime</li> <li>• Policing operations, critical and/or Major Incidents</li> <li>• Police training</li> <li>• Stop and Search</li> </ul> </li> <li>3. Share knowledge, awareness and experience of community issues, good practice and areas of development with the group</li> <li>4. Work at the direction of the Strategic IAG when required In particular to provide advice and guidance to Essex Police on the development and introduction of policies and practices to ensure they do not exclude, discriminate or have an unjustifiable adverse impact on any community</li> </ol> <p>To assist Essex Police in developing their understanding of the needs and expectations of the diverse communities of Essex, as</p>	<p>Tendring District Council (Chair)</p> <p>Essex Police</p> <p>Voluntary and Community Groups</p> <p>Members of the Black, Asian and Minority Ethnic communities</p> <p>Faith Groups</p>

ARTICLE 10 – AREA COMMITTEES AND FORUMS

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	<p>5. they relate to providing a fair and non-discriminatory police service</p> <p>A Critical Incident is defined as: “any incident where the effectiveness of the Police response is likely to have a significant impact upon the confidence of the victim, their family, and/or the community”.</p>	
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### A.3 APPENDIX E

## PROPOSED AMENDMENT TO THE PROPERTY DEALING PROCEDURE

### APPENDIX A Levels of Decision Making

Right or interest to be granted/acquired	Officer who is Head of Department or Corporate Director	Officer who is Corporate Director (Operations & Delivery)	Relevant Portfolio Holder for Assets	Cabinet
<b>Reporting</b>	<b>Formal Record of Officer Decision to be completed and published*</b>		<b>Formal Report and Record of Decision required to be completed and published</b>	
1. A licence or access agreement for 12 months or less				
2. a licence or access agreement for more than 12 months or any tenancy at will				
3. Tenancies for less than seven years excluding security of tenure				
4. Renewal, assignment or surrender of tenancies as 3 above				
5. Tenancies for seven years or more or tenancies not excluding security of tenure				
6. Renewal, assignment or surrender of tenancies as 5 above				
7. Grant, acquisition or release of Rights of Way, Easements or other permanent rights				
8. Freehold property interest less than £100,000				
9. Freehold property interest more than £100,000				
10. Any disposal of open space where objections have been received				

11. Any disposal at less than the Best Consideration Reasonably Obtainable				
12. <b>New Lease to residential tenant under Chapter II of Part I of the Leasehold Reform, Housing and Urban Development Act 1993 (commonly referred to as a lease extension).</b>			<b>This box to be Shaded – but state Portfolio Holder for Housing has decision making responsibility rather than the Portfolio Holder with responsibility for Assets</b>	

\*Subject to access to information rules  
 Greyed box indicates level of decision making

A.3 APPENDIX F

**ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS**

**14.01 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules as set out in Part 5 of this Constitution.

**14.02 Contracts**

Every contract made by the Council will comply with the Procurement Procedure Rules as set out in Part 5 of this Constitution and any guidance issued by the Monitoring Officer.

**14.03 Legal Proceedings**

The Corporate Directors, in consultation with the Assistant Director (Governance), are authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to the decisions of the Council, or in any case where they and the Assistant Director (Governance) consider that such action is necessary to protect the Council's interests.

**14.04 Authentication of Documents**

Where any document is necessary in any legal procedure or proceedings on behalf of the Council, it will be signed by Assistant Director (Governance) or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value up to £10,000, entered into on behalf of the Council, shall be recorded through the Council's official order system and in accordance with Section 6 of the Procurement Procedure Rules, subject to any emergency requirement agreed with the Chief Financial Officer.

Any contract with a value of £10,000 to £50,000, entered into on behalf of the Council shall be in writing and in accordance with Section 5 of the Procurement Procedure Rules. Such contracts must be signed by at least two Officers of the Authority authorised by the Chief Executive.

Any contract with a value in excess of £50,000 must be made in writing and under the Common Seal of the Council attested by at least one Proper Officer and in accordance with Section 5.

**14.05 Common Seal of the Council**

- (a) The Common Seal of the Council will be kept in a safe place under the control of the Assistant Director (Governance).

- (b) Authority for using the Common Seal of the Council is provided by:
- (i) A decision of the Council, Cabinet, a member of the Executive, a Committee or a Sub-Committee; or
  - (ii) A (duly authorised) Officer’s Decision recording:
    - Entering into a Contract with a value exceeding £50,000 and/or
    - Issuing certificates for corporate award schemes.
  - (iii) Any other documents which should be sealed in the opinion of the Assistant Director (Governance) including (but not limited to):
    - Leases and transfers;
    - Licences to Assign;
    - Deeds and Agreements (property related)
    - Byelaws;
    - Miscellaneous Orders (such as Tree Preservation Orders or Traffic/Road Orders);
    - Legal Charges in the Council’s favour on private properties (including secure repayment of local loans).

The affixing of the Common Seal will be attested by the Assistant Director (Governance) or some other person authorised by them.

***The Assistant Director (Governance) is authorised to amend those documents listed in 14.05 (b)(iii), if permitted by law and it is considered necessary to do so as a result of urgent requirements and circumstances restricting access to the Council offices.***

## **A.3 APPENDIX G**

<b>Key Decision Required:</b>	<b>NO</b>	<b>In the Forward Plan:</b>	<b>YES</b>
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### **CABINET**

**19 FEBRUARY 2021**

#### **REPORT OF THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER**

##### **A.5 REVIEW OF THE COUNCIL'S CONSTITUTION**

(Report prepared by Lisa Hastings, Assistant Director (Governance) & Monitoring Officer and Ian Ford, Committee Services Manager)

##### **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 Procedure Rules, Article 10 of the Constitution and the Property Dealing Procedure in order to ensure the Council's Constitution remains 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**

The Review of the Constitution Portfolio Holder Working Party (CRWP)'s membership included the Portfolio Holder and Councillors Allen, Barry, Coley, I J Henderson, M E Stephenson, Talbot, Wiggins and Winfield. The CRWP met on 18 December 2020 and 22 January 2021.

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 up to date working practices for both Members and Officers and also to ensure it is in accordance with legislation, where necessary.

###### **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;**
- (b) that the previously approved provisions (i) and (ii), as set out below, should be discontinued:-**

## **A.3 APPENDIX G**

*(i) Members who were following the proceedings of a meeting via the public 'live stream' should inform Officers that they were doing so via an email to democratic services or to the contact Officer listed on the agenda for that meeting and that they should send a second email when they have ceased to follow the proceedings; and*

*(ii) in order for that attendance referred to in (i) above to 'count' such attendance must be for a minimum period of time e.g. 30 minutes.*

**(c) that all changes come into effect on 28<sup>th</sup> April 2021 i.e. the day after the Annual Meeting of the Council.**

**2. That Cabinet resolves that:**

**(a) the Standards Committee be requested to examine whether a change to the Members' Code of Conduct is required in relation to Members' Declarations of Interest in virtual meetings and that, in the meantime, the Monitoring Officer be requested to issue a guidance note to Members to re-iterate that Members should adhere to Paragraph 9 of the Code and should withdraw from the meeting connection/link at the appropriate juncture; and**

**(b) the views and wishes expressed by the Review of the Constitution Portfolio Holder Working Party in relation to Members' training and development be endorsed and that the Head of Democratic Services & Elections be requested to take all necessary action to implement those wishes as soon as possible.**

## **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.

The Council has adopted a Climate Change Action Plan and the encouragement of Members to opt out of the default position of receiving printed copies of the summons of a meeting (with agendas and reports) and reverting to solely receiving summons via electronic notifications is consistent with the Council's Policy of its operations becoming carbon neutral by 2030.

### **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.

## **A.3 APPENDIX G**

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) Council Procedure Rules – Section 1 (Full Council)(Part 4.1 to 4.24):**

##### Rule 6 – Notice of, and Summons to Meeting

To make it clear that although, the default position is for a printed copy of the summons (including the agenda and any reports) for meetings are posted to a Councillor, Councillors are encouraged to opt to receive electronic versions of the agenda by notifying the Committee Services Manager of their request, where they are happy to do so.

##### Rule 9 – Duration of Meeting:

To make it clear that a Full Council Meeting (regardless of its start time) will last a maximum of three hours. In the event that the Chairman wishes to extend the meeting beyond three hours they will be expected to give an indication of the length of that extension and secure the consent of the Council in doing so.

*The proposed changes to the Council Procedure Rules (Section 1) are shown attached as **Appendix A**.*

#### **(b) Council Procedure Rules – Section 2 (Committees)(Part 4.25 to 4.30):**

## **A.3 APPENDIX G**

### **Rule 35.1 – Meetings of Committees:**

To make it clear that the business of ordinary meetings of a Committee etc. shall cease after a duration of three hours on the day on which the meeting commenced, or such earlier, or later, time as the Chairman shall consider appropriate. In the event that the Chairman wishes to extend the meeting beyond three hours they will be expected to give an indication of the length of that extension and secure the consent of the Committee etc. in doing so. This requirement does not extend to a meeting of any committee or sub-committee which is conducting a Hearing into licensing or standards/conduct or other regulatory matters.

*The proposed change to Section 2 of the Council Procedure Rules is shown attached in **Appendix A.***

### **Rule 33.3 – Training Members of the Audit, Licensing & Registration, Planning and Standards Committees**

To make it clear that members of the Audit Committee must have received specific training with regard to the determination of the Council's Statement of Accounts and comprehension of Auditor reports and that members of the Standards Committee must have received specific training with regard to the Hearings Procedure and participation in Hearings.

*The proposed changes to Section 2 of the Council Procedure Rules are shown attached in **Appendix B.***

### **Rule 36 – Attendance at Meetings**

To make it clear that at such times as the Standards Committee (in respect of Hearings on standards/conduct related matters) or the Premises/Personal Licences Sub-Committee (in respect of Hearings on licensing related matters) exclude the press and the public and retire to deliberate and reach their decision 'in camera' only the duly appointed members of the decision making body will be allowed to remain in the meeting. Otherwise it would leave the Council open to challenge for failing to follow its adopted procedure. The Council would have to justify why it allowed another Councillor to listen and potentially influence the outcome. Statutory appeals against licensing decisions are to the Magistrates' Court and in the Monitoring Officer's view, it certainly would also be a breach of fair and natural justice

*The proposed change to Section 2 of the Council Procedure Rules are shown attached as **Appendix C.***

### **(c) Article 10 - Area Committees & Forums (Community Consultation and Participation) (Part 2): (Part 2.28 to 2.35):**

In order to reflect the outcome of a light touch review by Officers. The CRWP was also made aware that a more comprehensive review will be undertaken by a small officer working group of community consultation and engagement and that this could well lead to further amendments to the Constitution in due course.

*Proposed changes to Article 10 are shown attached as **Appendix D.***

### **(d) Property Dealing Procedure (Part 5): (Part 5.62 to 5.64)**

In order to include an express authority within the Property Dealing Procedure confirming how the Council will deal with requests submitted in accordance with the Leasehold Reform, Housing and Urban Development Act 1993, whereby a residential tenant (previously granted a lease under the Right To Buy provisions) has a statutory

## **A.3 APPENDIX G**

right to an extension of their lease under Chapter II of Part I.

*Proposed changes to the Property Dealing Procedure are shown attached as Appendix E.*

### **OTHER MATTERS CONSIDERED:**

#### **1. MEMBERS' ATTENDANCE AT MEETINGS AND COMPLIANCE WITH SECTION 85 OF THE LOCAL GOVERNMENT ACT 1972 IN THE LIGHT OF MEETINGS CURRENTLY BEING HELD REMOTELY**

Council, at its meeting held in September 2020, had decided, inter alia, that:

- (i) Members who were following the proceedings of a meeting via the public 'live stream' should inform Officers that they were doing so via an email to democratic services or to the contact Officer listed on the agenda for that meeting and that they should send a second email when they have ceased to follow the proceedings; and*
- (ii) in order for that attendance referred to in (i) above to 'count' such attendance must be for a minimum period of time e.g. 30 minutes.*

At that meeting Councillor M E Stephenson had moved an amendment to the above (which was then subsequently withdrawn), namely:

*"that the relevant period of time to 'count' as attendance and ensure compliance with Section 85 of the Local Government Act 1972 should be for duration of the meeting 'attended' with such requirement being formalised within the Constitution."*

Following an undertaking given by the Chairman of the CRWP, Councillor G V Guglielmi, in his capacity as the Corporate Finance and Governance Portfolio Holder, the CRWP considered the matter that Councillor Stephenson had raised in his amendment.

The Assistant Director (Governance) & Monitoring Officer informed the CRWP that, at a joint meeting of the PLP and the Eastern Region Lawyers in Local Government and Monitoring Officers, this subject matter had been discussed and it had been ascertained that no other local authority had adopted TDC's practice. It was highlighted that the public would not be aware at the time of the meeting that Councillors had registered themselves as "Also Present".

It was agreed by the CRWP that the Portfolio Holder's final report to Cabinet would recommend that the previously approved provisions (i) and (ii), as set out below, should be discontinued forthwith:-

- (i) Members who were following the proceedings of a meeting via the public 'live stream' should inform Officers that they were doing so via an email to democratic services or to the contact Officer listed on the agenda for that meeting and that they should send a second email when they have ceased to follow the proceedings; and*
- (ii) in order for that attendance referred to in (i) above to 'count' such attendance must be for a minimum period of time e.g. 30 minutes.*

Consequently, Members would only be recorded as attending the remote meeting, if they were a Member of the Cabinet or Committee, there as of right through an invitation or had requested to attend for a specific purpose.

## **A.3 APPENDIX G**

### **2. MEMBERS' DECLARATIONS OF INTEREST AND USE OF 'CHAT' FUNCTION IN VIRTUAL MEETINGS**

It relation to Members' Declarations of Interest at virtual meetings it was agreed by the CRWP that this matter should be referred to the Standards Committee to examine whether a change to the Members' Code of Conduct is required and that, in the meantime, the Monitoring Officer issue a guidance note to Members to re-iterate that Members should adhere to Paragraph 9 of the Code and should withdraw from the connection/link. This in the expectation that it should be fairly easy for an Officer to either re-join a Member or notify them to re-join, once the relevant item is finished.

In relation to the use of the 'Chat' function the Monitoring Officer requested the members of the Working Party to feedback to their respective Groups that the 'chat' function should be used solely to help facilitate the Chairman in running the meeting and not for any purpose that would not be permitted to take place in a 'physically present' meeting.

### **3. PUBLIC SPEAKING SCHEME FOR THE PLANNING COMMITTEE**

The CRWP discussed feedback from Members' respective political groups on the principle of whether the order of speakers should be rearranged so that the Ward Councillor spoke last on a planning application at a Planning Committee meeting rather than the Applicant/Developer, who was currently listed last under that Committee's public speaking scheme.

The Working Party **AGREED** that –

- (a) the Planning Committee be requested to consider amending its Public Speaking Scheme and re-arrange the order of speakers to ensure that the Ward Councillor spoke last on a planning application at a Planning Committee meeting rather than the Applicant/Developer, who was currently listed last under that Committee's public speaking scheme; and*
- (b) examples of the practice used at other local authorities be provided to the Planning Committee in order to assist it in its deliberations.*

A report has been presented to the Planning Committee on 17<sup>th</sup> February 2021 and the outcome of the Committee's consideration will be provided at the meeting of Cabinet.

### **4. MEMBERS' TRAINING AND DEVELOPMENT**

The CRWP re-iterated the views put forward by Members previously on this matter namely that:-

- Officers would re-visit the issue of Member training and development and that the covering report to Cabinet on the review of the Constitution should mention this;
- there was support from Members for E-learning and a webinar based approach especially an E-learning modular approach whereby participants had to answer Questions to a high enough success rate in order to be deemed to have sufficient knowledge of that topic and be Passed;
- Essex County Council be put forward as an approach to emulate; and

## A.3 APPENDIX G

- Officers investigate a suitable mechanism for regular Member input going forward such as a cross-party Member Working Group.

### **MONITORING OFFICER'S REQUEST FOR AN AMENDMENT – ARTICLE 14 Part 2.49:**

Since the last meeting of the CRWP, the Monitoring Officer has requested a further amendment to the Constitution relating to the completion of legal documents on behalf of the Council. Article 14 provides the requirements for Finance, Contracts and Legal Matters and includes a list of documents which are required to have the Common Seal affixed to them, in the opinion of the Assistant Director Governance. The list does not expressly provide flexibility and during the pandemic officers have had to go into the office unnecessarily or delay completion of legal documentation, which could have been avoided.

The Monitoring Officer suggests that the following words to be added to Article 14:

***“The Assistant Director (Governance) is authorised to amend those documents listed in 14.05 (b)(iii), if permitted by law and it is considered necessary to do so as a result of urgent requirements and circumstances restricting access to the Council offices”.***

### **BACKGROUND PAPERS**

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

### **APPENDICES**

#### **A.5**

<b>APPENDIX A</b>	<b>Part 4</b>	<b><u>Council Procedure Rules – Section One</u></b> <b>Rule 6 – Notice of, and Summons to, Meeting</b> <b>Rule 9 – Duration of Meeting</b>
<b>APPENDIX B</b>	<b>Part 4</b>	<b><u>Council Procedure Rules – Section Two</u></b> <b>Rule 35 – Meetings of Committees</b>  <b>Rule 33.3 – Training Members of the Audit, Licensing &amp; Registration, Planning and Standards Committees</b>
<b>APPENDIX C</b>		<b>Rule 36 – Attendance at Meetings</b>
<b>APPENDIX D</b>	<b>Part 2</b>	<b>Article 10 – Area Committees &amp; Forums (Community Consultation and Participation)</b>
<b>APPENDIX E</b>	<b>Part 5</b>	<b>Property Dealing Procedure</b>
<b>APPENDIX F</b>	<b>Part 2</b>	<b>Article 2 – Finance, Contracts and Legal Matters</b>

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## COUNCIL

16 MARCH 2021

### REPORT OF THE MONITORING OFFICER

#### **A.4 PROTOCOL FOR CABINET AND OVERVIEW & SCRUTINY ROLES**

(Report prepared by Ian Ford, Committee Services Manager)

<b>PURPOSE OF THE REPORT</b>
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To enable Full Council to consider the draft Protocol for Cabinet and Overview and Scrutiny roles, which has been produced following consultation undertaken with the Cabinet and the Council's two Overview and Scrutiny Committees with the view of approving its adoption and incorporation into the Council's Constitution.
---

<b>EXECUTIVE SUMMARY</b>
--------------------------

Cabinet, at its meeting held on 29 January 2021 (Minute 122 refers), considered the draft Protocol and:-
--

***“RESOLVED** that Cabinet –*

- (1) approves the draft Protocol for Cabinet and Overview and Scrutiny roles, as set out in Appendix B to item A.7 of the Report of the Corporate Finance & Governance Portfolio Holder;*
- (2) recommends the Protocol to both Overview and Scrutiny Committees for their agreement; and*
- (3) recommends to Council that the Protocol be adopted for inclusion within Part 6 of the Council's Constitution.”*

The Resources and Services Overview & Scrutiny Committee, at its meeting held on 1 February 2021 (Minute 125 refers), considered the draft Protocol and:-

***“RESOLVED** that the Committee notes and endorses the contents of the report and that it be added it to the work programme for a future review.”*

The Community Leadership Overview & Scrutiny Committee, at its meeting held on 8 February 2021 (Minute 19 refers), considered the draft Protocol and:-

***“RESOLVED** that the Committee **RECOMMENDS** that:*

- Full Council approves the draft Protocol for Cabinet and Overview and Scrutiny roles, as set out in Appendix B to the Portfolio Holder's report;*
- the adopted Protocol be incorporated within Part 6 of the Council's Constitution; and*
- The Constitution Review Working Party revisits the Committee structure in due course.”*

Full Council is now requested to firstly consider the contents of the draft Protocol for the Cabinet and Overview and Scrutiny roles (as set out in Appendix B to this report) and secondly to then decide whether to approve its adoption and subsequent incorporation

within Part 6 of the Council's Constitution.

## RECOMMENDATION

**That Council resolves:**

- (a) that the draft Protocol for the Cabinet and Overview and Scrutiny roles, as set out in Appendix B to item A.4 of the Report of the Monitoring Officer, be approved and adopted;**
- (b) that the Protocol, as so adopted, be incorporated within Part 6 of the Council's Constitution;**
- (c) that the Protocol comes into formal effect on 28th April 2021 i.e. the day after the Annual Meeting of the Council (along with the changes to the Council's Constitution that will have been approved earlier in the meeting); and**
- (d) that the Review of the Constitution Portfolio Holder Working Party be requested, as part of its next annual review of the Council's Constitution, to revisit the committee structure of the Council.**

## BACKGROUND INFORMATION

In May 2019, Statutory Guidance was published by the Ministry of Housing, Communities & Local Government on Overview and Scrutiny in Local and Combined Authorities. This Council, in operating a Leader and Executive Governance Model, must have regard to it when exercising its functions and it should be followed unless there is a good reason not to in a particular case. That Statutory Guidance is attached as Appendix A to this Report.

Section 2 of the Government's Statutory Guidance refers to Culture and expressly states:-

*"The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.*

*While everyone in an authority can play a role in creating an environment conducive to effective scrutiny, it is important that this is led and owned by members, given their role in setting and maintaining the culture of an authority.*

*Creating a strong organisational culture supports scrutiny work that can add real value by, for example, improving policy-making and the efficient delivery of public services. In contrast, low levels of support for and engagement with the scrutiny function often lead to poor quality and ill-focused work that serves to reinforce the perception that it is of little worth or relevance.*

*Members and senior officers should note that the performance of the scrutiny function is not just of interest to the authority itself. Its effectiveness, or lack thereof, is often considered by external bodies such as regulators and inspectors, and highlighted in public reports. Failures in scrutiny can therefore help to create a negative public image of the work of an authority as a whole."*

The Guidance recommends an 'executive-scrutiny protocol' in order to help define the relationship between these two arms of the organisation, dealing with the practical expectations of scrutiny committee members and the Executive, as well as the cultural

dynamics. All Councils should consider adopting a protocol, e.g. formal agreement at scrutiny committees and Cabinet, then formal integration into the Council's constitution.

The Council already has strong measures in place to demonstrate the openness of Cabinet being held to account having introduced some years ago that Group Leaders of all political groups would have the right to attend Cabinet meetings and to speak on agenda items whilst not being able to vote. The Terms of Reference of the Resources and Services Overview and Scrutiny Committee state that the positions of its Chairman and Vice-Chairman will normally be filled by a Member of a political group not represented on the Cabinet. Informal Group Leaders' meetings are also held at which the Leader or Deputy Leader can share information in advance of going to Cabinet or on other topics, which has proved particularly useful during the Council's response to the on-going COVID-19 pandemic. The Chief Executive holds regular All Member Briefings, at which Portfolio Holders have presented initial ideas on strategies and policies for discussion. Furthermore, the Deputy Leader chairs a Constitution Review Working Party (CRWP), whose membership is made up by representatives from all political groups on the Council.

As required by the Leader of the Council, who was acting on behalf of the Cabinet (see the Review of the Constitution Executive Decision published on 24 April 2020), Senior Officers initially produced a draft Protocol for Cabinet and Overview and Scrutiny roles for consultation with the Chairmen of both Overview and Scrutiny Committee and the Audit Committee, the Deputy Leader and Portfolio Holder for Partnerships and the members of the CRWP. The Statutory Guidance was considered in the production of the draft Protocol together with taking into account comments received through the aforementioned consultation. That draft Protocol, as described below, was considered by the Cabinet at its meeting held on 29 January 2021 (Minute 122 refers); by the Resources and Services Overview & Scrutiny Committee at its meeting held on 1 February 2021 (Minute 125 refers); and by the Community Leadership Overview & Scrutiny Committee at its meeting held on 8 February 2021 (Minute 19 refers).

The draft Protocol introduces a number of principles and how it applies between the roles of Cabinet and Overview and Scrutiny building upon a relationship of trust whilst both bodies are performing their statutory functions, whilst also acknowledging the inter-relationship with the Audit Committee. It is designed to sit alongside the range of other commitments to openness and inclusiveness as described above.

The draft Protocol sets out how Policy Development Overview and Pre-Decision Scrutiny can work in addition to the traditional 'view' of solely holding the Cabinet to account. The importance of timely overview and scrutiny in budget setting and monitoring throughout the year to show how the process can add value as well as by reviewing whether the financial plans and strategies of the Council are sound and have taken into consideration all relevant factors has been proved by this Council's experience over many years.

Performance Measurement and reporting provides insight into whether value is being achieved and whether improvements are necessary, feasible and affordable. The purpose of reporting general performance data to an Overview & Scrutiny Committee enables scrutiny as to capturing the right level of data to support delivery of services or priorities – and to make recommendations, if necessary. In some instances further enquiry of an activity may be warranted and the relevant Overview and Scrutiny Committee will factor how that work can be accommodated in its work programme.

Through their individual work programmes the Overview and Scrutiny Committees will consider the Cabinet's adopted priorities in support of the Council's Corporate Plan. Areas of planned policy development over the relevant Municipal Year (and the next) will be

provided and Cabinet will be asked to highlight any areas where overview & scrutiny may be specifically invited to assist in its work (including Community Leadership areas). The enquiries included within the work programme shall be designed to add value to the Council as a whole and the District of Tendring. The allocation of enquires to a specific Overview and Scrutiny Committee will be made in accordance with their respective terms of reference.

The draft Protocol also refers to how Overview & Scrutiny recommendations to the Cabinet will be dealt with including Cabinet seeking further clarity if needed.

Some additional operational matters have been included for completeness in determining the relationship covering responding to urgent items of Cabinet Business, Scrutiny Consideration of Confidential Decisions, Call-in and Councillor Call to Action which builds upon the existing requirements within the Constitution.

With due regard to the Council's Statement on Council development, training will be made available for Overview & Scrutiny Committee members, Cabinet Members and support Officers on the Protocol and elements referenced in it including work planning, budget scrutiny, using performance data and key lines of enquiry.

In the Overview & Scrutiny Annual Report submitted to Full Council each year there will be a section demonstrating the impact of Overview & Scrutiny and the effectiveness of the Protocol.

All Members will be expected to adhere to the Protocol in their respective roles, and once it is formally adopted by Council, the Protocol will be incorporated within Part 6 of the Council's Constitution.

## **BACKGROUND PAPERS**

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

## **APPENDICES**

### **A.4**

<b>APPENDIX A</b>	<b>MHCLG Statutory Guidance on Overview and Scrutiny on Overview and Scrutiny in Local and Combined Authorities published May 2019</b>
<b>APPENDIX B</b>	<b>Draft Protocol for Cabinet and Overview and Scrutiny roles</b>



Ministry of Housing,  
Communities &  
Local Government

# Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities



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Ministry of Housing, Communities and Local Government  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF  
Telephone: 030 3444 0000

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# Ministerial Foreword

The role that overview and scrutiny can play in holding an authority's decision-makers to account makes it fundamentally important to the successful functioning of local democracy. Effective scrutiny helps secure the efficient delivery of public services and drives improvements within the authority itself. Conversely, poor scrutiny can be indicative of wider governance, leadership and service failure.

It is vital that councils and combined authorities know the purpose of scrutiny, what effective scrutiny looks like, how to conduct it and the benefits it can bring. This guidance aims to increase understanding in all four areas.

In writing this guidance, my department has taken close note of the House of Commons Select Committee report of December 2017, as well as the written and oral evidence supplied to that Committee. We have also consulted individuals and organisations with practical involvement in conducting, researching and supporting scrutiny.

It is clear from speaking to these practitioners that local and combined authorities with effective overview and scrutiny arrangements in place share certain key traits, the most important being a strong organisational culture. Authorities who welcome challenge and recognise the value scrutiny can bring reap the benefits. But this depends on strong commitment from the top - from senior members as well as senior officials.

Crucially, this guidance recognises that authorities have democratic mandates and are ultimately accountable to their electorates, and that authorities themselves are best-placed to know which scrutiny arrangements are most appropriate for their own individual circumstances.

I would, however, strongly urge all councils to cast a critical eye over their existing arrangements and, above all, ensure they embed a culture that allows overview and scrutiny to flourish.



A handwritten signature in blue ink, appearing to read 'Rishi Sunak'.

**Rishi Sunak MP**  
**Minister for Local Government**

# About this Guidance

## Who the guidance is for

This document is aimed at local authorities and combined authorities in England to help them carry out their overview and scrutiny functions effectively. In particular, it provides advice for senior leaders, members of overview and scrutiny committees, and support officers.

## Aim of the guidance

This guidance seeks to ensure local authorities and combined authorities are aware of the purpose of overview and scrutiny, what effective scrutiny looks like, how to conduct it effectively and the benefits it can bring.

As such, it includes a number of policies and practices authorities should adopt or should consider adopting when deciding how to carry out their overview and scrutiny functions.

The guidance recognises that authorities approach scrutiny in different ways and have different processes and procedures in place, and that what might work well for one authority might not work well in another.

The hypothetical scenarios contained in the annexes to this guidance have been included for illustrative purposes, and are intended to provoke thought and discussion rather than serve as a 'best' way to approach the relevant issues.

While the guidance sets out some of the key legal requirements, it does not seek to replicate legislation.

## Status of the guidance

This is statutory guidance from the Ministry of Housing, Communities and Local Government. Local authorities and combined authorities must have regard to it when exercising their functions. The phrase 'must have regard', when used in this context, does not mean that the sections of statutory guidance have to be followed in every detail, but that they should be followed unless there is a good reason not to in a particular case.

Not every authority is required to appoint a scrutiny committee. This guidance applies to those authorities who have such a committee in place, whether they are required to or not.

This guidance has been issued under section 9Q of the Local Government Act 2000 and under paragraph 2(9) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009, which requires authorities to have regard to this guidance. In addition, authorities may have regard to other material they might choose to consider, including that issued by the Centre for Public Scrutiny, when exercising their overview and scrutiny functions.

## Terminology

Unless 'overview' is specifically mentioned, the term 'scrutiny' refers to both overview and scrutiny.<sup>1</sup>

Where the term 'authority' is used, it refers to both local authorities and combined authorities.

Where the term 'scrutiny committee' is used, it refers to an overview and scrutiny committee and any of its sub-committees. As the legislation refers throughout to powers conferred on scrutiny committees, that is the wording used in this guidance. However, the guidance should be seen as applying equally to work undertaken in informal task and finish groups, commissioned by formal committees.

Where the term 'executive' is used, it refers to executive members.

For combined authorities, references to the 'executive' or 'cabinet' should be interpreted as relating to the mayor (where applicable) and all the authority members.

For authorities operating committee rather than executive arrangements, references to the executive or Cabinet should be interpreted as relating to councillors in leadership positions.

## Expiry or review date

This guidance will be kept under review and updated as necessary.

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<sup>1</sup> A distinction is often drawn between 'overview' which focuses on the development of policy, and 'scrutiny' which looks at decisions that have been made or are about to be made to ensure they are fit for purpose.

# 1. Introduction and Context

1. Overview and scrutiny committees were introduced in 2000 as part of new executive governance arrangements to ensure that members of an authority who were not part of the executive could hold the executive to account for the decisions and actions that affect their communities.
2. Overview and scrutiny committees have statutory powers<sup>2</sup> to scrutinise decisions the executive is planning to take, those it plans to implement, and those that have already been taken/implemented. Recommendations following scrutiny enable improvements to be made to policies and how they are implemented. Overview and scrutiny committees can also play a valuable role in developing policy.

Effective overview and scrutiny should:

- Provide constructive 'critical friend' challenge;
- Amplify the voices and concerns of the public;
- Be led by independent people who take responsibility for their role; and
- Drive improvement in public services.

3. The requirement for local authorities in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011.
4. The Localism Act 2011 amended the Local Government Act 2000 to allow councils to revert to a non-executive form of governance - the 'committee system'. Councils who adopt the committee system are not required to have overview and scrutiny but may do so if they wish. The legislation has been strengthened and updated since 2000, most recently to reflect new governance arrangements with combined authorities. Requirements for combined authorities are set out in Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.
5. Current overview and scrutiny legislation recognises that authorities are democratically-elected bodies who are best-placed to determine which overview and scrutiny arrangements best suit their own individual needs, and so gives them a great degree of flexibility to decide which arrangements to adopt.
6. In producing this guidance, the Government fully recognises both authorities' democratic mandate and that the nature of local government has changed in recent years, with, for example, the creation of combined authorities, and councils increasingly delivering key services in partnership with other organisations or outsourcing them entirely.

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<sup>2</sup> Section 9F of the Local Government Act 2000; paragraph 1 of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

## 2. Culture

7. The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.
8. While everyone in an authority can play a role in creating an environment conducive to effective scrutiny, it is important that this is led and owned by members, given their role in setting and maintaining the culture of an authority.
9. Creating a strong organisational culture supports scrutiny work that can add real value by, for example, improving policy-making and the efficient delivery of public services. In contrast, low levels of support for and engagement with the scrutiny function often lead to poor quality and ill-focused work that serves to reinforce the perception that it is of little worth or relevance.
10. Members and senior officers should note that the performance of the scrutiny function is not just of interest to the authority itself. Its effectiveness, or lack thereof, is often considered by external bodies such as regulators and inspectors, and highlighted in public reports, including best value inspection reports. Failures in scrutiny can therefore help to create a negative public image of the work of an authority as a whole.

### How to establish a strong organisational culture

11. Authorities can establish a strong organisational culture by:

- a) **Recognising scrutiny's legal and democratic legitimacy** – all members and officers should recognise and appreciate the importance and legitimacy the scrutiny function is afforded by the law. It was created to act as a check and balance on the executive and is a statutory requirement for all authorities operating executive arrangements and for combined authorities.

Councillors have a unique legitimacy derived from their being democratically elected. The insights that they can bring by having this close connection to local people are part of what gives scrutiny its value.

- b) **Identifying a clear role and focus** – authorities should take steps to ensure scrutiny has a clear role and focus within the organisation, i.e. a niche within which it can clearly demonstrate it adds value. Therefore, prioritisation is necessary to ensure the scrutiny function concentrates on delivering work that is of genuine value and relevance to the work of the wider authority – this is one of the most challenging parts of scrutiny, and a critical element to get right if it is to be recognised as a strategic function of the authority (see chapter 6).

Authorities should ensure a clear division of responsibilities between the scrutiny function and the audit function. While it is appropriate for scrutiny to pay due regard to the authority's financial position, this will need to happen in the context of the formal audit role. The authority's section 151 officer should advise scrutiny on how to manage this dynamic.

While scrutiny has no role in the investigation or oversight of the authority's whistleblowing arrangements, the findings of independent whistleblowing investigations might be of interest to scrutiny committees as they consider their wider implications. Members should always follow the authority's constitution and associated Monitoring Officer directions on the matter. Further guidance on whistleblowing can be found at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf).

- c) **Ensuring early and regular engagement between the executive and scrutiny** – authorities should ensure early and regular discussion takes place between scrutiny and the executive, especially regarding the latter's future work programme. Authorities should, though, be mindful of their distinct roles:

In particular:

- The executive should not try to exercise control over the work of the scrutiny committee. This could be direct, e.g. by purporting to 'order' scrutiny to look at, or not look at, certain issues, or indirect, e.g. through the use of the whip or as a tool of political patronage, and the committee itself should remember its statutory purpose when carrying out its work. All members and officers should consider the role the scrutiny committee plays to be that of a 'critical friend' not a de facto 'opposition'. Scrutiny chairs have a particular role to play in establishing the profile and nature of their committee (see chapter 4); and
- The chair of the scrutiny committee should determine the nature and extent of an executive member's participation in a scrutiny committee meeting, and in any informal scrutiny task group meeting.

- d) **Managing disagreement** – effective scrutiny involves looking at issues that can be politically contentious. It is therefore inevitable that, at times, an executive will disagree with the findings or recommendations of a scrutiny committee.

It is the job of both the executive and scrutiny to work together to reduce the risk of this happening, and authorities should take steps to predict, identify and act on disagreement.

One way in which this can be done is via an 'executive-scrutiny protocol' (see annex 1) which can help define the relationship between the two and mitigate any differences of opinion before they manifest themselves in unhelpful and unproductive ways. The benefit of this approach is that it provides a framework for disagreement and debate, and a way to manage it when it happens. Often,

the value of such a protocol lies in the dialogue that underpins its preparation. It is important that these protocols are reviewed on a regular basis.

Scrutiny committees do have the power to 'call in' decisions, i.e. ask the executive to reconsider them before they are implemented, but should not view it as a substitute for early involvement in the decision-making process or as a party-political tool.

- e) **Providing the necessary support** – while the level of resource allocated to scrutiny is for each authority to decide for itself, when determining resources an authority should consider the purpose of scrutiny as set out in legislation and the specific role and remit of the authority's own scrutiny committee(s), and the scrutiny function as a whole.

Support should also be given by members and senior officers to scrutiny committees and their support staff to access information held by the authority and facilitate discussions with representatives of external bodies (see chapter 5).

- f) **Ensuring impartial advice from officers** – authorities, particularly senior officers, should ensure all officers are free to provide impartial advice to scrutiny committees. This is fundamental to effective scrutiny. Of particular importance is the role played by 'statutory officers' – the monitoring officer, the section 151 officer and the head of paid service, and where relevant the statutory scrutiny officer. These individuals have a particular role in ensuring that timely, relevant and high-quality advice is provided to scrutiny.
- g) **Communicating scrutiny's role and purpose to the wider authority** – the scrutiny function can often lack support and recognition within an authority because there is a lack of awareness among both members and officers about the specific role it plays, which individuals are involved and its relevance to the authority's wider work. Authorities should, therefore, take steps to ensure all members and officers are made aware of the role the scrutiny committee plays in the organisation, its value and the outcomes it can deliver, the powers it has, its membership and, if appropriate, the identity of those providing officer support.
- h) **Maintaining the interest of full Council in the work of the scrutiny committee** – part of communicating scrutiny's role and purpose to the wider authority should happen through the formal, public role of full Council – particularly given that scrutiny will undertake valuable work to highlight challenging issues that an authority will be facing and subjects that will be a focus of full Council's work. Authorities should therefore take steps to ensure full Council is informed of the work the scrutiny committee is doing.

One way in which this can be done is by reports and recommendations being submitted to full Council rather than solely to the executive. Scrutiny should decide when it would be appropriate to submit reports for wider debate in this way, taking into account the relevance of reports to full Council business, as well as full Council's capacity to consider and respond in a timely manner. Such

reports would supplement the annual report to full Council on scrutiny's activities and raise awareness of ongoing work.

In order to maintain awareness of scrutiny at the Combined Authority and provoke dialogue and discussion of its impact, the business of scrutiny should be reported to the Combined Authority board or to the chairs of the relevant scrutiny committees of constituent and non-constituent authorities, or both. At those chairs' discretion, particular Combined Authority scrutiny outcomes, and what they might mean for each individual area, could be either discussed by scrutiny in committee or referred to full Council of the constituent authorities.

- i) **Communicating scrutiny's role to the public** – authorities should ensure scrutiny has a profile in the wider community. Consideration should be given to how and when to engage the authority's communications officers, and any other relevant channels, to understand how to get that message across. This will usually require engagement early on in the work programming process (see chapter 6).
- j) **Ensuring scrutiny members are supported in having an independent mindset** – formal committee meetings provide a vital opportunity for scrutiny members to question the executive and officers.

Inevitably, some committee members will come from the same political party as a member they are scrutinising and might well have a long-standing personal, or familial, relationship with them (see paragraph 25).

Scrutiny members should bear in mind, however, that adopting an independent mind-set is fundamental to carrying out their work effectively. In practice, this is likely to require scrutiny chairs working proactively to identify any potentially contentious issues and plan how to manage them.

### Directly-elected mayoral systems

12. A strong organisational culture that supports scrutiny work is particularly important in authorities with a directly-elected mayor to ensure there are the checks and balances to maintain a robust democratic system. Mayoral systems offer the opportunity for greater public accountability and stronger governance, but there have also been incidents that highlight the importance of creating and maintaining a culture that puts scrutiny at the heart of its operations.
13. Authorities with a directly-elected mayor should ensure that scrutiny committees are well-resourced, are able to recruit high-calibre members and that their scrutiny functions pay particular attention to issues surrounding:
  - rights of access to documents by the press, public and councillors;
  - transparent and fully recorded decision-making processes, especially avoiding decisions by 'unofficial' committees or working groups;
  - delegated decisions by the Mayor;
  - whistleblowing protections for both staff and councillors; and
  - powers of Full Council, where applicable, to question and review.

14. Authorities with a directly-elected mayor should note that mayors are required by law to attend overview and scrutiny committee sessions when asked to do so (see paragraph 44).

## 3. Resourcing

15. The resource an authority allocates to the scrutiny function plays a pivotal role in determining how successful that function is and therefore the value it can add to the work of the authority.
16. Ultimately it is up to each authority to decide on the resource it provides, but every authority should recognise that creating and sustaining an effective scrutiny function requires them to allocate resources to it.
17. Authorities should also recognise that support for scrutiny committees, task groups and other activities is not solely about budgets and provision of officer time, although these are clearly extremely important elements. Effective support is also about the ways in which the wider authority engages with those who carry out the scrutiny function (both members and officers).

When deciding on the level of resource to allocate to the scrutiny function, the factors an authority should consider include:

- Scrutiny's legal powers and responsibilities;
- The particular role and remit scrutiny will play in the authority;
- The training requirements of scrutiny members and support officers, particularly the support needed to ask effective questions of the executive and other key partners, and make effective recommendations;
- The need for ad hoc external support where expertise does not exist in the council;
- Effectively-resourced scrutiny has been shown to add value to the work of authorities, improving their ability to meet the needs of local people; and
- Effectively-resourced scrutiny can help policy formulation and so minimise the need for call-in of executive decisions.

### Statutory scrutiny officers

18. Combined authorities, upper and single tier authorities are required to designate a statutory scrutiny officer,<sup>3</sup> someone whose role is to:
  - promote the role of the authority's scrutiny committee;
  - provide support to the scrutiny committee and its members; and
  - provide support and guidance to members and officers relating to the functions of the scrutiny committee.

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<sup>3</sup> Section 9FB of the Local Government Act 2000; article 9 of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017

19. Authorities not required by law to appoint such an officer should consider whether doing so would be appropriate for their specific local needs.

#### Officer resource models

20. Authorities are free to decide for themselves which wider officer support model best suits their individual circumstances, though generally they adopt one or a mix of the following:

- Committee – officers are drawn from specific policy or service areas;
- Integrated – officers are drawn from the corporate centre and also service the executive; and
- Specialist – officers are dedicated to scrutiny.

21. Each model has its merits – the committee model provides service-specific expertise; the integrated model facilitates closer and earlier scrutiny involvement in policy formation and alignment of corporate work programmes; and the specialist model is structurally independent from those areas it scrutinises.

22. Authorities should ensure that, whatever model they employ, officers tasked with providing scrutiny support are able to provide impartial advice. This might require consideration of the need to build safeguards into the way that support is provided. The nature of these safeguards will differ according to the specific role scrutiny plays in the organisation.

## 4. Selecting Committee Members

23. Selecting the right members to serve on scrutiny committees is essential if those committees are to function effectively. Where a committee is made up of members who have the necessary skills and commitment, it is far more likely to be taken seriously by the wider authority.
24. While there are proportionality requirements that must be met,<sup>4</sup> the selection of the chair and other committee members is for each authority to decide for itself. Guidance for combined authorities on this issue has been produced by the Centre for Public Scrutiny<sup>5</sup>.

Members invariably have different skill-sets. What an authority must consider when forming a committee is that, as a group, it possesses the requisite expertise, commitment and ability to act impartially to fulfil its functions.

25. Authorities are reminded that members of the executive cannot be members of a scrutiny committee.<sup>6</sup> Authorities should take care to ensure that, as a minimum, members holding less formal executive positions, e.g. as Cabinet assistants, do not sit on scrutinising committees looking at portfolios to which those roles relate. Authorities should articulate in their constitutions how conflicts of interest, including familial links (see also paragraph 31), between executive and scrutiny responsibilities should be managed, including where members stand down from the executive and move to a scrutiny role, and vice-versa.
26. Members or substitute members of a combined authority must not be members of its overview and scrutiny committee.<sup>7</sup> This includes the Mayor in Mayoral Combined Authorities. It is advised that Deputy Mayors for Policing and Crime are also not members of the combined authority's overview and scrutiny committee.

### Selecting individual committee members

27. When selecting individual members to serve on scrutiny committees, an authority should consider a member's experience, expertise, interests, ability to act impartially, ability to work as part of a group, and capacity to serve.

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<sup>4</sup> See, for example, regulation 11 of the Local Authorities (Committee System) (England) Regulations 2012 (S.I. 2012/1020) and article 4 of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (S.I. 2017/68).

<sup>5</sup> See pages 15-18 of 'Overview and scrutiny in combined authorities: a plain English guide': <https://www.cfps.org.uk/wp-content/uploads/Overview-and-scrutiny-in-combined-authorities-a-plain-english-guide.pdf>

<sup>6</sup> Section 9FA(3) of the Local Government Act 2000.

<sup>7</sup> 2(3) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009

28. Authorities should not take into account a member's perceived level of support for or opposition to a particular political party (notwithstanding the wider legal requirement for proportionality referred to in paragraph 24).

### Selecting a chair

29. The Chair plays a leadership role on a scrutiny committee as they are largely responsible for establishing its profile, influence and ways of working.

30. The attributes authorities should and should not take into account when selecting individual committee members (see paragraphs 27 and 28) also apply to the selection of the Chair, but the Chair should also possess the ability to lead and build a sense of teamwork and consensus among committee members.

Chairs should pay special attention to the need to guard the committee's independence. Importantly, however, they should take care to avoid the committee being, and being viewed as, a de facto opposition to the executive.

31. Given their pre-eminent role on the scrutiny committee, it is strongly recommended that the Chair not preside over scrutiny of their relatives<sup>8</sup>. Combined authorities should note the legal requirements that apply to them where the Chair is an independent person<sup>9</sup>.

32. The method for selecting a Chair is for each authority to decide for itself, however every authority should consider taking a vote by secret ballot. Combined Authorities should be aware of the legal requirements regarding the party affiliation of their scrutiny committee Chair<sup>10</sup>.

### Training for committee members

33. Authorities should ensure committee members are offered induction when they take up their role and ongoing training so they can carry out their responsibilities effectively. Authorities should pay attention to the need to ensure committee members are aware of their legal powers, and how to prepare for and ask relevant questions at scrutiny sessions.

34. When deciding on training requirements for committee members, authorities should consider taking advantage of opportunities offered by external providers in the sector.

### Co-option and technical advice

35. While members and their support officers will often have significant local insight and an understanding of local people and their needs, the provision of outside expertise can be invaluable.

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<sup>8</sup> A definition of 'relative' can be found at section 28(10) of the Localism Act 2011.

<sup>9</sup> See article 5(2) of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (S.I. 2017/68).

<sup>10</sup> Article 5(6) of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

36. There are two principal ways to procure this:

- Co-option – formal co-option is provided for in legislation<sup>11</sup>. Authorities must establish a co-option scheme to determine how individuals will be co-opted onto committees; and
- Technical advisers – depending on the subject matter, independent local experts might exist who can provide advice and assistance in evaluating evidence (see annex 2).

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<sup>11</sup> Section 9FA(4) Local Government Act 2000

## 5. Power to Access Information

37. A scrutiny committee needs access to relevant information the authority holds, and to receive it in good time, if it is to do its job effectively.
38. This need is recognised in law, with members of scrutiny committees enjoying powers to access information<sup>12</sup>. In particular, regulations give enhanced powers to a scrutiny member to access exempt or confidential information. This is in addition to existing rights for councillors to have access to information to perform their duties, including common law rights to request information and rights to request information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
39. When considering what information scrutiny needs in order to carry out its work, scrutiny members and the executive should consider scrutiny's role and the legal rights that committees and their individual members have, as well as their need to receive timely and accurate information to carry out their duties effectively.
40. Scrutiny members should have access to a regularly available source of key information about the management of the authority – particularly on performance, management and risk. Where this information exists, and scrutiny members are given support to understand it, the potential for what officers might consider unfocused and unproductive requests is reduced as members will be able to frame their requests from a more informed position.
41. Officers should speak to scrutiny members to ensure they understand the reasons why information is needed, thereby making the authority better able to provide information that is relevant and timely, as well as ensuring that the authority complies with legal requirements.

While each request for information should be judged on its individual merits, authorities should adopt a default position of sharing the information they hold, on request, with scrutiny committee members.

42. The law recognises that there might be instances where it is legitimate for an authority to withhold information and places a requirement on the executive to provide the scrutiny committee with a written statement setting out its reasons for that decision<sup>13</sup>. However, members of the executive and senior officers should take particular care to avoid refusing requests, or limiting the information they provide, for reasons of party political or reputational expediency.

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<sup>12</sup> Regulation 17 - Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; article 10 Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

<sup>13</sup> Regulation 17(4) – Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; article 10(4) Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

Before an authority takes a decision not to share information it holds, it should give serious consideration to whether that information could be shared in closed session.

43. Regulations already stipulate a timeframe for executives to comply with requests from a scrutiny member<sup>14</sup>. When agreeing to such requests, authorities should:

- consider whether seeking clarification from the information requester could help better target the request; and
- Ensure the information is supplied in a format appropriate to the recipient's needs.

44. Committees should be aware of their legal power to require members of the executive and officers to attend before them to answer questions<sup>15</sup>. It is the duty of members and officers to comply with such requests.<sup>16</sup>

#### Seeking information from external organisations

45. Scrutiny members should also consider the need to supplement any authority-held information they receive with information and intelligence that might be available from other sources, and should note in particular their statutory powers to access information from certain external organisations.

46. When asking an external organisation to provide documentation or appear before it, and where that organisation is not legally obliged to do either (see annex 3), scrutiny committees should consider the following:

- a) **The need to explain the purpose of scrutiny** – the organisation being approached might have little or no awareness of the committee's work, or of an authority's scrutiny function more generally, and so might be reluctant to comply with any request;
- b) **The benefits of an informal approach** – individuals from external organisations can have fixed perceptions of what an evidence session entails and may be unwilling to subject themselves to detailed public scrutiny if they believe it could reflect badly on them or their employer. Making an informal approach can help reassure an organisation of the aims of the committee, the type of information being sought and the manner in which the evidence session would be conducted;

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<sup>14</sup> Regulation 17(2) – Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; article 10(2) Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

<sup>15</sup> Section 9FA(8) of the Local Government Act 2000; paragraph 2(6) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

<sup>16</sup> Section 9FA(9) of the Local Government Act 2000; paragraph 2(7) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

- c) **How to encourage compliance with the request** – scrutiny committees will want to frame their approach on a case by case basis. For contentious issues, committees might want to emphasise the opportunity their request gives the organisation to ‘set the record straight’ in a public setting; and
- d) **Who to approach** – a committee might instinctively want to ask the Chief Executive or Managing Director of an organisation to appear at an evidence session, however it could be more beneficial to engage front-line staff when seeking operational-level detail rather than senior executives who might only be able to talk in more general terms. When making a request to a specific individual, the committee should consider the type of information it is seeking, the nature of the organisation in question and the authority’s pre-existing relationship with it.

**Following ‘the Council Pound’**

Scrutiny committees will often have a keen interest in ‘following the council pound’, i.e. scrutinising organisations that receive public funding to deliver goods and services.

Authorities should recognise the legitimacy of this interest and, where relevant, consider the need to provide assistance to scrutiny members and their support staff to obtain information from organisations the council has contracted to deliver services. In particular, when agreeing contracts with these bodies, authorities should consider whether it would be appropriate to include a *requirement* for them to supply information to or appear before scrutiny committees.

## 6. Planning Work

47. Effective scrutiny should have a defined impact on the ground, with the committee making recommendations that will make a tangible difference to the work of the authority. To have this kind of impact, scrutiny committees need to plan their work programme, i.e. draw up a long-term agenda and consider making it flexible enough to accommodate any urgent, short-term issues that might arise during the year.
48. Authorities with multiple scrutiny committees sometimes have a separate work programme for each committee. Where this happens, consideration should be given to how to co-ordinate the various committees' work to make best use of the total resources available.

### Being clear about scrutiny's role

49. Scrutiny works best when it has a clear role and function. This provides focus and direction. While scrutiny has the power to look at anything which affects 'the area, or the area's inhabitants', authorities will often find it difficult to support a scrutiny function that carries out generalised oversight across the wide range of issues experienced by local people, particularly in the context of partnership working. Prioritisation is necessary, which means that there might be things that, despite being important, scrutiny will not be able to look at.
50. Different overall roles could include having a focus on risk, the authority's finances, or on the way the authority works with its partners.
51. Applying this focus does not mean that certain subjects are 'off limits'. It is more about looking at topics and deciding whether their relative importance justifies the positive impact scrutiny's further involvement could bring.
52. When thinking about scrutiny's focus, members should be supported by key senior officers. The statutory scrutiny officer, if an authority has one, will need to take a leading role in supporting members to clarify the role and function of scrutiny, and championing that role once agreed.

### Who to speak to

53. Evidence will need to be gathered to inform the work programming process. This will ensure that it looks at the right topics, in the right way and at the right time. Gathering evidence requires conversations with:
  - *The public* – it is likely that formal 'consultation' with the public on the scrutiny work programme will be ineffective. Asking individual scrutiny members to have conversations with individuals and groups in their own local areas can work better. Insights gained from the public through individual pieces of scrutiny work can be fed back into the work programming process. Listening to and participating in conversations in places where local people come together, including in online forums, can help authorities engage people on their own terms and yield more positive results.

Authorities should consider how their communications officers can help scrutiny engage with the public, and how wider internal expertise and local knowledge from both members and officers might make a contribution.

- *The authority's partners* – relationships with other partners should not be limited to evidence-gathering to support individual reviews or agenda items. A range of partners are likely to have insights that will prove useful:
  - Public sector partners (like the NHS and community safety partners, over which scrutiny has specific legal powers);
  - Voluntary sector partners;
  - Contractors and commissioning partners (including partners in joint ventures and authority-owned companies);
  - In parished areas, town, community and parish councils;
  - Neighbouring principal councils (both in two-tier and unitary areas);
  - Cross-authority bodies and organisations, such as Local Enterprise Partnerships<sup>17</sup>; and
  - Others with a stake and interest in the local area – large local employers, for example.
- *The executive* – a principal partner in discussions on the work programme should be the executive (and senior officers). The executive should not direct scrutiny's work (see chapter 2), but conversations will help scrutiny members better understand how their work can be designed to align with the best opportunities to influence the authority's wider work.

#### Information sources

54. Scrutiny will need access to relevant information to inform its work programme. The type of information will depend on the specific role and function scrutiny plays within the authority, but might include:

- Performance information from across the authority and its partners;
- Finance and risk information from across the authority and its partners;
- Corporate complaints information, and aggregated information from political groups about the subject matter of members' surgeries;
- Business cases and options appraisals (and other planning information) for forthcoming major decisions. This information will be of particular use for pre-decision scrutiny; and
- Reports and recommendations issued by relevant ombudsmen, especially the Local Government and Social Care Ombudsman.

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<sup>17</sup> Authorities should ensure they have appropriate arrangements in place to ensure the effective democratic scrutiny of Local Enterprise Partnerships' investment decisions.

As committees can meet in closed session, commercial confidentiality should not preclude the sharing of information. Authorities should note, however, that the default for meetings should be that they are held in public (see 2014 guidance on '*Open and accountable local government*':

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/343182/140812\\_Openness\\_Guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/343182/140812_Openness_Guide.pdf)).

55. Scrutiny members should consider keeping this information under regular review. It is likely to be easier to do this outside committee, rather than bringing such information to committee 'to note', or to provide an update, as a matter of course.

### Shortlisting topics

Approaches to shortlisting topics should reflect scrutiny's overall role in the authority. This will require the development of bespoke, local solutions, however when considering whether an item should be included in the work programme, the kind of questions a scrutiny committee should consider might include:

- Do we understand the benefits scrutiny would bring to this issue?
- How could we best carry out work on this subject?
- What would be the best outcome of this work?
- How would this work engage with the activity of the executive and other decision-makers, including partners?

56. Some authorities use scoring systems to evaluate and rank work programme proposals. If these are used to provoke discussion and debate, based on evidence, about what priorities should be, they can be a useful tool. Others take a looser approach. Whichever method is adopted, a committee should be able to justify how and why a decision has been taken to include certain issues and not others.

57. Scrutiny members should accept that shortlisting can be difficult; scrutiny committees have finite resources and deciding how these are best allocated is tough. They should understand that, if work programming is robust and effective, there might well be issues that they want to look at that nonetheless are not selected.

### Carrying out work

58. Selected topics can be scrutinised in several ways, including:

- a) **As a single item on a committee agenda** – this often presents a limited opportunity for effective scrutiny, but may be appropriate for some issues or where the committee wants to maintain a formal watching brief over a given issue;
- b) **At a single meeting** – which could be a committee meeting or something less formal. This can provide an opportunity to have a single public meeting about a

given subject, or to have a meeting at which evidence is taken from a number of witnesses;

- c) **At a task and finish review of two or three meetings** – short, sharp scrutiny reviews are likely to be most effective even for complex topics. Properly focused, they ensure members can swiftly reach conclusions and make recommendations, perhaps over the course of a couple of months or less;
- d) **Via a longer-term task and finish review** – the ‘traditional’ task and finish model – with perhaps six or seven meetings spread over a number of months – is still appropriate when scrutiny needs to dig into a complex topic in significant detail. However, the resource implications of such work, and its length, can make it unattractive for all but the most complex matters; and
- e) **By establishing a ‘standing panel’** – this falls short of establishing a whole new committee but may reflect a necessity to keep a watching brief over a critical local issue, especially where members feel they need to convene regularly to carry out that oversight. Again, the resource implications of this approach means that it will be rarely used.

## 7. Evidence Sessions

59. Evidence sessions are a key way in which scrutiny committees inform their work. They might happen at formal committee, in less formal ‘task and finish’ groups or at standalone sessions.

Good preparation is a vital part of conducting effective evidence sessions. Members should have a clear idea of what the committee hopes to get out of each session and appreciate that success will depend on their ability to work together on the day.

### How to plan

60. Effective planning does not necessarily involve a large number of pre-meetings, the development of complex scopes or the drafting of questioning plans. It is more often about setting overall objectives and then considering what type of questions (and the way in which they are asked) can best elicit the information the committee is seeking. This applies as much to individual agenda items as it does for longer evidence sessions – there should always be consideration in advance of what scrutiny is trying to get out of a particular evidence session.

Chairs play a vital role in leading discussions on objective-setting and ensuring all members are aware of the specific role each will play during the evidence session.

61. As far as possible there should be consensus among scrutiny members about the objective of an evidence session before it starts. It is important to recognise that members have different perspectives on certain issues, and so might not share the objectives for a session that are ultimately adopted. Where this happens, the Chair will need to be aware of this divergence of views and bear it in mind when planning the evidence session.
62. Effective planning should mean that at the end of a session it is relatively straightforward for the chair to draw together themes and highlight the key findings. It is unlikely that the committee will be able to develop and agree recommendations immediately, but, unless the session is part of a wider inquiry, enough evidence should have been gathered to allow the chair to set a clear direction.
63. After an evidence session, the committee might wish to hold a short ‘wash-up’ meeting to review whether their objectives were met and lessons could be learned for future sessions.

### Developing recommendations

64. The development and agreement of recommendations is often an iterative process. It will usually be appropriate for this to be done only by members, assisted by co-optees where relevant. When deciding on recommendations, however, members should have due regard to advice received from officers, particularly the Monitoring Officer.

65. The drafting of reports is usually, but not always, carried out by officers, directed by members.

66. Authorities draft reports and recommendations in a number of ways, but there are normally three stages:

- i. the development of a 'heads of report' – a document setting out general findings that members can then discuss as they consider the overall structure and focus of the report and its recommendations;
- ii. the development of those findings, which will set out some areas on which recommendations might be made; and
- iii. the drafting of the full report.

67. Recommendations should be evidence-based and SMART, i.e. specific, measurable, achievable, relevant and timed. Where appropriate, committees may wish to consider sharing them in draft with interested parties.

68. Committees should bear in mind that often six to eight recommendations are sufficient to enable the authority to focus its response, although there may be specific circumstances in which more might be appropriate.

Sharing draft recommendations with executive members should not provide an opportunity for them to revise or block recommendations before they are made. It should, however, provide an opportunity for errors to be identified and corrected, and for a more general sense-check.

# Annex 1: Illustrative Scenario – Creating an Executive-Scrutiny Protocol

An executive-scrutiny protocol can deal with the practical expectations of scrutiny committee members and the executive, as well as the cultural dynamics.

Workshops with scrutiny members, senior officers and Cabinet can be helpful to inform the drafting of a protocol. An external facilitator can help bring an independent perspective.

Councils should consider how to adopt a protocol, e.g. formal agreement at scrutiny committee and Cabinet, then formal integration into the Council's constitution at the next Annual General Meeting.

The protocol, as agreed, may contain sections on:

- The way scrutiny will go about developing its work programme (including the ways in which senior officers and Cabinet members will be kept informed);
- The way in which senior officers and Cabinet will keep scrutiny informed of the outlines of major decisions as they are developed, to allow for discussion of scrutiny's potential involvement in policy development. This involves the building in of safeguards to mitigate risks around the sharing of sensitive information with scrutiny members;
- A strengthening and expansion of existing parts of the code of conduct that relate to behaviour in formal meetings, and in informal meetings;
- Specification of the nature and form of responses that scrutiny can expect when it makes recommendations to the executive, when it makes requests to the executive for information, and when it makes requests that Cabinet members or senior officers attend meetings; and
- Confirmation of the role of the statutory scrutiny officer, and Monitoring Officer, in overseeing compliance with the protocol, and ensuring that it is used to support the wider aim of supporting and promoting a culture of scrutiny, with matters relating to the protocol's success being reported to full Council through the scrutiny Annual Report.

## Annex 2: Illustrative Scenario – Engaging Independent Technical Advisers

This example demonstrates how one Council's executive and scrutiny committee worked together to scope a role and then appoint an independent adviser on transforming social care commissioning. Their considerations and process may be helpful and applicable in other similar scenarios.

Major care contracts were coming to an end and the Council took the opportunity to review whether to continue with its existing strategic commissioning framework, or take a different approach – potentially insourcing certain elements.

The relevant Director was concerned about the Council's reliance on a very small number of large providers. The Director therefore approached the Scrutiny and Governance Manager to talk through the potential role scrutiny could play as the Council considered these changes.

The Scrutiny Chair wanted to look at this issue in some depth, but recognised its complexity could make it difficult for her committee to engage – she was concerned it would not be able to do the issue justice. The Director offered support from his own officer team, but the Chair considered this approach to be beset by risks around the independence of the process.

She talked to the Director about securing independent advice. He was worried that an independent adviser could come with preconceived ideas and would not understand the Council's context and objectives. The Scrutiny Chair was concerned that independent advice could end up leading to scrutiny members being passive, relying on an adviser to do their thinking for them. They agreed that some form of independent assistance would be valuable, but that how it was provided and managed should be carefully thought out.

With the assistance of the Governance and Scrutiny Manager, the Scrutiny Chair approached local universities and Further Education institutions to identify an appropriate individual. The approach was clear – it set out the precise role expected of the adviser, and explained the scrutiny process itself. Because members wanted to focus on the risks of market failure, and felt more confident on substantive social care matters, the approach was directed at those with a specialism in economics and business administration. The Council's search was proactive – the assistance of the service department was drawn on to make direct approaches to particular individuals who could carry out this role.

It was agreed to make a small budget available to act as a 'per diem' to support an adviser; academics were approached in the first instance as the Council felt able to make a case that an educational institution would provide this support for free as part of its commitment to Corporate Social Responsibility.

Three individuals were identified from the Council's proactive search. The Chair and Vice-Chair of the committee had an informal discussion with each – not so much to establish their skills and expertise (which had already been assessed) but to give a sense about

their 'fit' with scrutiny's objectives and their political nous in understanding the environment in which they would operate, and to satisfy themselves that they will apply themselves even-handedly to the task. The Director sat in on this process but played no part in who was ultimately selected.

The independent advice provided by the selected individual gave the Scrutiny Committee a more comprehensive understanding of the issue and meant it was able to offer informed advice on the merits of putting in place a new strategic commissioning framework.

# Annex 3: Illustrative Scenario – Approaching an External Organisation to Appear before a Committee

This example shows how one council ensured a productive scrutiny meeting, involving a private company and the public. Lessons may be drawn and apply to other similar scenarios.

Concerns had been expressed by user groups, and the public at large, about the reliability of the local bus service. The Scrutiny Chair wanted to question the bus company in a public evidence session but knew that she had no power to compel it to attend. Previous attempts to engage it had been unsuccessful; the company was not hostile, but said it had its own ways of engaging the public.

The Monitoring Officer approached the company's regional PR manager, but he expressed concern that the session would end in a 'bunfight'. He also explained the company had put their improvement plan in the public domain, and felt a big council meeting would exacerbate tensions.

Other councillors had strong views about the company – one thought the committee should tell the company it would be empty-chaired if it refused to attend. The Scrutiny Chair was sympathetic to this, but thought such an approach would not lead to any improvements.

The Scrutiny Chair was keen to make progress, but it was difficult to find the right person to speak to at the company, so she asked council officers and local transport advocacy groups for advice. Speaking to those people also gave her a better sense of what scrutiny's role might be.

When she finally spoke to the company's network manager, she explained the situation and suggested they work together to consider how the meeting could be productive for the Council, the company and local people. In particular, this provided her with an opportunity to explain scrutiny and its role. The network manager remained sceptical but was reassured that they could work together to ensure that the meeting would not be an 'ambush'. He agreed in principle to attend and also provide information to support the Committee's work beforehand.

Discussions continued in the four weeks leading up to the Committee meeting. The Scrutiny Chair was conscious that while she had to work with the company to ensure that the meeting was constructive – and secure their attendance – it could not be a whitewash, and other members and the public would demand a hard edge to the discussions.

The scrutiny committee agreed that the meeting would provide a space for the company to provide context to the problems local people are experiencing, but that this would be preceded by a space on the agenda for the Chair, Vice-chair, and representatives from two local transport advocacy groups to set out their concerns. The company were sent in

advance a summary of the general areas on which members were likely to ask questions, to ensure that those questions could be addressed at the meeting.

Finally, provision was made for public questions and debate. Those attending the meeting were invited to discuss with each other the principal issues they wanted the meeting to cover. A short, facilitated discussion in the room led by the Chair highlighted the key issues, and the Chair then put those points to the company representatives.

At the end of the meeting, the public asked questions of the bus company representative in a 20-minute plenary item.

The meeting was fractious, but the planning carried out to prepare for this – by channelling issues through discussion and using the Chair to mediate the questioning – made things easier. Some attendees were initially frustrated by this structure, but the company representative was more open and less defensive than might otherwise have been the case.

The meeting also motivated the company to revise its communications plan to become more responsive to this kind of challenge, part of which involved a commitment to feed back to the scrutiny committee on the recommendations it made on the night.

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### **TENDRING DISTRICT COUNCIL'S PROTOCOL FOR CABINET AND OVERVIEW & SCRUTINY ROLES**

#### **1. Introduction**

- 1.1 The counterpart to operating Cabinet arrangements within a Council is the provision of Overview & Scrutiny functions. You cannot have Cabinet arrangements without its counterpart.
- 1.2 Overview & Scrutiny has the following powers in law:
  - (a) to scrutinise any decision made by the Cabinet,
  - (b) to make recommendations to the Council/Cabinet with respect to functions/responsibility of the Cabinet,
  - (c) to scrutinise decisions made by non-executive functions of the Council
  - (d) to make recommendations to the Council/Cabinet with respect to the non-executive functions/responsibilities,
  - (e) to make recommendations to the Council/Cabinet on matters which affect the Council's area or the those living there.
- 1.3 The Council's Constitution sets out how those powers are to be managed and the standards Members and Officers will adhere to. The purpose of this Protocol is not to repeat the Constitutional Articles, Rules and Procedures but to focus on how the relationship between the roles of Cabinet and Overview & Scrutiny will be exercised.
- 1.4 Officers must act with political impartiality, serving the whole council rather than particular groups or members; as such they serve the Members of the Cabinet and of the Overview & Scrutiny Committees equally.
- 1.5 In operating its Overview & Scrutiny functions, the Council will have regard to the statutory guidance for this function. This Protocol is one of the measures the Council has adopted to address the following statement in the statutory guidance:

*“Effective scrutiny involves looking at issues that can be politically contentious. It is therefore inevitable that, at times, an executive will disagree with the findings or recommendations of a scrutiny committee.”*

#### **2. Application of the Protocol**

- 2.1 In utilising its powers in 1.2, Overview & Scrutiny will act as a 'critical friend' to the Leader and Cabinet.
- 2.2 This Protocol applies to all members of Overview & Scrutiny Committees, any Member who may sit on a Scrutiny Task and Finish Group, the Leader of the Council and all Members of the Cabinet.
- 2.3 All Members will promote the legitimate role of Overview & Scrutiny as outlined in 1.2 above.
- 2.4 All Members must have regard to the Corporate Plan adopted by Council and its capacity and resources to deliver services efficiently, effectively, to achieve value for money and outcomes. Overview & Scrutiny Committees will be mindful of this in its work planning.

#### **3. Trust**

- 3.1 All Members should promote an atmosphere of openness at Overview & Scrutiny Committee meetings and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust.

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- 3.2 Overview & Scrutiny Members need to trust that Cabinet Members are being open, honest and fulsome when participating in the enquiries being undertaken.
- 3.3 Cabinet Members need to trust Overview & Scrutiny Members with information and to trust in their views.
- 3.4 While Members on the Overview & Scrutiny Committees will come from different political groups including those not aligned with a registered political party, the public must trust that they will act with an independence in determining the work programme of the Committees and in undertaking enquiries identified in the work programmes.

### **4. Policy Development and Pre-Decision Scrutiny**

- 4.1 The value of early input from Overview & Scrutiny into policy development is recognised. Through early consultation, Overview & Scrutiny can act as a sounding board and a think tank in enquiring into issues coming up on the horizon, bringing in added value. The Leader and Cabinet Members (as well as Officers) will draw to the attention of the relevant Overview & Scrutiny committee, policies and strategies that are being developed or are due for review to enable Overview & Scrutiny to build this into their work programme and thereby have a timely input.
- 4.2 All policy development will be carried out in a way to promote inclusive dialogue and to capture views of Members' with a report submitted to the relevant Overview & Scrutiny Committee for consideration by the appropriate Member of Cabinet. The Cabinet and relevant (Assistant) Director will consider the views of Overview & Scrutiny members in the development of the policy and provide a response to the Overview & Scrutiny Committee on the recommendations. The detail of the Overview & Scrutiny involvement shall also be included within the body of the report to Cabinet. The Cabinet/Full Council will continue to be responsible for approving and adopting policy whether this accepts all, some or none of the recommendations from Overview & Scrutiny.
- 4.3 Cabinet Members may wish to request views from Overview & Scrutiny Members on an individual decision before it is taken. The Cabinet Member will be responsible for circulating the details to the relevant Committee Members, through the designated Scrutiny Officer. Utilising this as an option does not exclude the decision from being subject to call-in, however, it will give the Cabinet Member the ability to consider different views and perspectives of a decision to be taken before it is taken.
- 4.4 Like all parts of the Council, Overview & Scrutiny only has a certain capacity and cannot scrutinise everything. It is for Overview & Scrutiny to determine its work programme, in an informed way, and the views of Cabinet are always welcome. Just as Cabinet is not required to accept all recommendations from Overview & Scrutiny on enquiries undertaken, Overview & Scrutiny is not required to accept recommendations from Cabinet concerning the work programme of the Committee. Both should actively consider the other's recommendations and set out reasons for its decision. Both share the ambition of quality public services for residents in, businesses of and visitors to the Council's area.

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### 5. Holding the Cabinet to Account

5.1 A key role of Overview & Scrutiny is in holding the Cabinet to account for decisions taken and performance of services. In holding the Cabinet to account Overview & Scrutiny Members will:

- Consider decisions taken by the Cabinet, individually and collectively and items on the Notice of Forthcoming Decisions through formal Overview & Scrutiny Committee meetings;
- Review service performance and performance against policy and targets;
- Respect the 'safe space' required by Cabinet Members and senior officers to think freely and offer frank advice to each other (and to receive the same) as they formulate substantial changes to services, responses to important pressing issues or pursue intense negotiations to resolve disputes.
- Be prepared to ask searching questions that provide a constructive challenge for the purposes of undertaking the Overview & Scrutiny function and not solely for individual information gathering purposes;
- Be positive and respectful in their interactions with Cabinet Members. This will include being clear whether the Cabinet Member is specifically invited, sending invitations in a timely way, acknowledging the attendance of the Cabinet Member at the meeting and allowing the Cabinet Member to address the Committee and respond to questions;
- Respond positively to a Cabinet Member if that Member wishes to attend a particular meeting for a given item and they have not been formally invited to confirm whether an invitation is to be extended to them to attend.
- Represent (and amplify) the voices of the public;
- Listen to the responses provided and to assist the Cabinet in identifying areas for further consideration and improvement, where necessary;
- Recognise that not all reviews require recommendations back to Cabinet, if the Overview & Scrutiny Committee were satisfied with the subject matter under consideration

5.2 In return, Cabinet Members will:

- Be willing to be open, honest and engaged in providing responses to constructive challenge and, where 'safe space' to give/receive frank advice is required, what time frame that will be needed for that 'safe space', subject to resources and Officers time;
- Value the importance of Overview & Scrutiny;
- Be supportive of the Overview & Scrutiny process and invite and seek opinion from Overview & Scrutiny Members on decisions to be taken, where appropriate;
- Provide a positive contribution to scrutiny meetings;
- Attend meetings when invited to do so to answer questions and present information:
  - ✓ By way of a direct answer
  - ✓ By reference to published publications
  - ✓ By referring a matter to an officer in attendance, if they are not able to respond

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- ✓ If an answer cannot immediately be given, by providing a written answer within five working days unless it is not reasonable to do so. If considered unreasonable, an explanation as to why will be given.
  - ✓ A combination of the above options.
  - Depart the Overview & Scrutiny Committee meeting when that Committee expresses a wish to deliberate on a matter after hearing from the Cabinet Member.
- 5.3 Continuing dialogue should underpin Overview & Scrutiny enquiries. As such, pre-meetings (or other communication) between Cabinet Members and the Overview & Scrutiny Committee Chairman is encouraged about a forthcoming enquiry. Where possible, Overview & Scrutiny Committee Members will be encouraged to pass questions on the subject of the enquiry to the Cabinet Member/relevant Officer or outside representative in advance of a Committee meeting. As identified elsewhere, after the meeting and where recommendations are made to the Cabinet there should be a discussion between the Cabinet Member and the Chairman of the Overview & Scrutiny Committee.
- 5.4 The purpose of any pre-meeting (or other communication) referred to above involving a Cabinet Member is not to replace consideration of any agenda item at the published formal meeting, as it is only this setting which the formal business of the Committee can be undertaken.

### **6. Budget setting and monitoring - The importance of scrutiny**

- 6.1 Budget scrutiny must also be carried out on a rolling programme. Quarterly throughout the year proactive scrutiny assists to inform the next financial year's budget and long term forecast, work can involve:
- Challenging how the budget has been constructed before it is agreed. In particular, probing any assumptions that lie behind the executive's budget strategy, i.e. is the approach incremental or is it starting from a base budget, what are the main savings proposals, how will any growth be funded, are the financial implications of proposals from departments or committees built into the overall budget and has an appropriate level of reserves been set?
  - Carrying out budget monitoring activity, for example in areas where expenditure against budget looks to be well above or below forecasts and where growth/savings targets and revised forecasts are involved.
  - Undertaking some evaluation of performance and value for money including how it aligns to the Council's Corporate Plan and Priorities.
  - Maintaining a 'big picture' view of the financial pressures affecting the council and continuously challenging how these might impact on existing budgets and budget setting in subsequent years.
- 6.2 It is important to ensure that this work is undertaken throughout the year and not left until the last Budget Report to Overview and Scrutiny Committee, which is for the final consultation purposes prior to Cabinet's recommendations to Full Council. There is insufficient time to properly respond to the proposals or matters raised, due to the statutory timetable to set a budget. The Overview & Scrutiny function in this important process must be timely and add value, at the point Cabinet recommends its detailed budget proposals including the setting

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the level of Council Tax increase, the comments received from Overview and Scrutiny during the year will be regarded. The Council's Budget & Policy Framework Procedure Rules sets out the Process for Developing the Budget.

### **7. Performance Measurement and Reporting**

- 7.1 Measures of performance provide insight into whether value is being achieved and whether improvements are necessary, feasible and affordable. An open sharing of performance data will take place across the Council; including between Cabinet and Overview & Scrutiny. The purpose of reporting general performance data to the Overview & Scrutiny Committee is so that it can undertake scrutiny of it in so far as:
- (a) Is the performance monitoring system capturing the right level of data to support delivery of services – and to make recommendations thereon; and
  - (b) Is there performance as identified in the monitoring data that warrants further enquiry of an activity – and to determine whether and how that enquiry should take place; including it as appropriate in the work programme for that enquiry.
- 7.2 When enquiring into an individual service or subject, Overview & Scrutiny Committee Members will consider the performance measurements available. They will naturally assess whether this aligns with your own research; particularly the experience of service-users.
- 7.3 When considering the performance against the Cabinet's approved annual priority list of actions against the Corporate Plan Themes, Overview & Scrutiny will not normally seek to use the process to question that approved list of actions during the year. There are other Council procedures that can and should be used if there is a compelling need to review those actions. Overview & Scrutiny may legitimately have a view on what the annual priority list of actions should be the following year and these can be set out in recommendations to Cabinet.
- 7.4 Where a service of the Council is being delivered by a third party/outside company or where the matter under enquiry is the responsibility of a partner organisation, they will be encouraged to respond to enquiries from Overview & Scrutiny Committees relevant to the service/enquiry. This will include their own performance data.

### **8. The Inter-relationship between Cabinet, Audit and Overview & Scrutiny**

- 8.1 It is important that Cabinet receives clear advice within the respective responsibilities of the Overview & Scrutiny Committees and the Audit Committee. It is therefore equally important that the formal audit role of the Audit Committee is left to that Committee. Areas in which financial scrutiny can add value, complementary to the work of the Audit Committee, including the following according to the Local Government Association:
- Reviewing draft (medium-term) financial plans
  - Monitoring internal and external audit reports, in order to identify areas where further scrutiny may be beneficial

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- Responding to requests from the public for greater clarity on the council's finance and spending plans
- Periodically carrying out post-implementation reviews of large (in terms of revenue or capital) projects
- Challenging decisions related to new service commitments, investments, and previously unbudgeted demands
- Scrutinising the financial implications of greater partnership working
- Keeping a regular 'watching brief' on important matters affecting general resource management.

8.2 The above matters will inform the work planning of Overview & Scrutiny of Council functions and those of partners.

8.3 Cabinet, Audit and Overview & Scrutiny Committees will be guided by advice from the Council's Section 151 Officer on the boundary of responsibility between Audit and Overview & Scrutiny.

### **9. Overview & Scrutiny Work planning**

9.1 Around the start of each Municipal Year, the Overview & Scrutiny committees will hold a work planning workshop. As part of this workshop the views of the relevant Cabinet Member(s) will be inputted alongside the views received from others. The Cabinet's adopted priorities in support of the Corporate Plan will be considered, areas of planned policy development over the relevant Municipal Year (and the next) will be provided and they will be asked to highlight any areas where overview & scrutiny may be specifically invited to assist in work (including Community Leadership areas).

9.2 The Chairmen and Vice-Chairmen of the Overview & Scrutiny Committees will meet quarterly with representatives of the Cabinet in order to ensure ongoing opportunities for Cabinet input into Overview & Scrutiny Committee work plans, ongoing opportunities for Overview & Scrutiny to input into Cabinet policy development or to address performance issues and to build on the positive working relationship between the two functions.

9.3 Overview & Scrutiny Committees may legitimately expect to receive a written report with relevant details for each item on its work programme and, where possible, this report should always be circulated with the agenda for the meeting.

### **10. Overview & Scrutiny Recommendations to the Cabinet**

10.1 Overview & Scrutiny Committees may make recommendations to the Cabinet on functions the Council is responsible for through a formal committee meeting or, say, by way of a Task & Finish Group's Final Report.

10.2 Upon receipt of a recommendation from Overview & Scrutiny, Cabinet Members will:

- Give due consideration to any recommendations or views expressed;
- Provide an explanation for the reasons why recommendations made by Overview & Scrutiny have or have not been pursued.

10.3 Once approved by the relevant Overview & Scrutiny Committee, the views of the Cabinet Member on any recommendations will be sought and included within the report. The Chairman of the Overview & Scrutiny Committee/Task & Finish Group will have the opportunity to meet with the relevant Cabinet

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Member(s) to discuss the recommendations and the response to those recommendations. The Final Report will then be submitted to the Cabinet for consideration. Should any of the recommendations not be approved or be only partially supported, the Cabinet will provide details of the reason why. The response of Cabinet to recommendations will be reported to the next available meeting of the Overview & Scrutiny Committee.

### **11. Urgent Items of Cabinet Business**

- 11.1 The Chairman of the appropriate Overview and Scrutiny Committee may be requested to consent to certain decision being taken by the Cabinet/a Cabinet Member if there is an urgent decision needing to be taken and, due to that urgency, the required notice cannot be given and/or the normal call-in procedures of a decision cannot be applied. The Committee Chairman will consider each request and will not unreasonably withhold consent where the purpose of granting consent is in accordance with the legislative provisions and thereby permit the urgent decision to be made. Notice of the urgency reasons and the consent of the Committee Chairman will then follow.

### **12. Scrutiny Consideration of Confidential Decisions**

- 12.1 Overview & Scrutiny Committee Members have a right to access exempt information supporting decisions that have been taken in order to allow an effective enquiry of the decision. Should an Overview & Scrutiny Member wish to ask questions at a public Committee meeting around an decision that itself is exempt from publication or is based on information that is so exempt, the press and public may be excluded in accordance with the Council's Constitution and the Cabinet Member will be expected to answer in an open and transparent manner. The exempt information will remain confidential and all elected members and officers who receive that information shall maintain that confidentiality in line with the codes of conduct for Elected Members and Officers.

### **13. Call-in**

- 13.1 Following the mediation process provided for in the Constitution, and on the basis of a continuing call-in situation, Cabinet Members will be expected to attend any meetings of Overview & Scrutiny committees at which a call-in request in relation to their area of responsibility is being considered. Summarising the requirements of the relevant Procedure Rules in the Constitution, if the relevant Cabinet Member cannot attend, the Leader, should attend in their absence or designate another Cabinet Member to do so. The purpose of their attendance will be to present the decision and the basis for it and to answer questions of fact. The following procedure will take place where call-ins are being considered:
- i. One of the Members who called in the decision will speak first.
  - ii. The Chair will invite the Cabinet Member (decision maker) to respond.
  - iii. The Committee will then ask questions of the decision maker, who may ask a relevant officer to supply further information if necessary.
  - iv. The Committee debates the issue and votes on the outcome.

### **14. Councillor Call to Action**

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- 14.1 Cabinet Members will be invited and expected to attend any meetings of Overview & Scrutiny Committees at which a call to action request in relation to their area of responsibility is being considered. A similar process will apply as outlined for Call-In decisions referred to earlier.
- 14.2 Overview & Scrutiny Committee members are not entitled to draft materials while policy is being developed unless the Cabinet consults the relevant Overview and Resources Committee through the formulation of policy. This is to ensure resources are used in an efficient manner. Cabinet Members and Officers are expected to ensure the Schedule of Forthcoming Decisions is up to date and accurate to assist with this for work programming purposes.

### **15. Ensuring Compliance with the Protocol**

- 15.1 The Head of Democratic Services & Elections (in his role as the designated Scrutiny Officer) and the Assistant Director of Governance (in their role as Monitoring Officer) will be responsible for overseeing compliance with the Cabinet/Overview & Scrutiny Protocol which should be used by Members to support the wider aim of supporting and promoting a culture of overview & scrutiny. The success of the protocol will be determined by:
- Recognition of the value of overview & scrutiny;
  - A clear record of constructive challenge;
  - Valuable Overview & Scrutiny reviews that achieve outcomes;
  - An open and accountable decision making process.
- 15.2 With due regard to the Council's Statement on Council development, training will be made available for those on Overview & Scrutiny Committees and those in the Cabinet on this protocol and elements referenced in it including work planning, budget scrutiny, using performance data and key lines of enquiry.
- 15.3 In the Overview & Scrutiny Annual Report submitted to Full Council each year there will be a section demonstrating the impact of Overview & Scrutiny and effectiveness of the Protocol.
- 15.4 All Members have agreed to adhere to the Council's Policies and Procedures through the Members' Code of Conduct. Any Member who considers the principles of this Protocol had been compromised will raise the issue with the Leader or relevant Chairman of the Overview & Scrutiny to seek resolution in the first instance. Where appropriate, the Group Leader will be notified. In circumstances, where a suitable resolution has not been reached between Members, the matter can be raised with the Monitoring Officer.
- 15.5 Any concerns regarding the behaviours between Members and Officers will be dealt with in accordance with the Member Officer Relationship Protocol.

## COUNCIL

16 MARCH 2021

### REPORT OF THE MONITORING OFFICER

#### **A.5 THE PLANNING COMMITTEE'S PUBLIC SPEAKING SCHEME**

(Report prepared by Ian Ford, Committee Services Manager)

##### **PURPOSE OF THE REPORT**

To enable Full Council to consider the Planning Committee's recommendation to re-arrange the order of speakers in that Committee's Public Speaking Scheme to ensure that the applicant (or their agent or their representative) speaks first after the Officer presentation of the planning application at the Planning Committee's meeting.

##### **EXECUTIVE SUMMARY**

At its meeting held on 17 February 2021 the Planning Committee, in response to a request made by the Review of the Constitution Portfolio Holder Working Party (CRWP), discussed the order of speakers within the Public Speaking Scheme for the Planning Committee and considered whether it should be changed, for example, in order to allow the relevant Ward Member(s) to speak last (rather than the applicant/agent as at the present time).

The Planning Committee's decision at its meeting held on 17 February 2021 was as follows:-

***“RESOLVED*** that the Planning Committee agrees to its Public Speaking Scheme being revised to re-arrange the order of speakers so that the applicant (or their agent or their representative) speaks first after the Officer presentation of the planning application at the Planning Committee's meeting and are then followed by:-

- One member of the public who wishes to speak in favour of the application;
- One member of the public who wishes to speak against the application;
- A representative of the relevant Parish/Town Council for the application site;
- All District Councillors for the Ward in which the application site is situated.

*For the avoidance of any doubt the Committee confirms that the rights of members of the Executive under the Scheme remain unchanged. In addition, the Committee will undertake a review after six months' operation of the amended Public Speaking Scheme (Planning Committee).*

***RECOMMENDED TO COUNCIL*** that the Planning Committee's Public Speaking Scheme be amended so that the applicant (or their agent or their representative) speaks first after the Officer presentation of the planning application at the Planning Committee's meeting.”

Members will be aware that Council Procedure Rule (CPR) 40 (which relates to the public speaking schemes operated by the Planning Committee and the Planning Policy & Local Plan Committee) currently states (following an amendment Council approved in July 2020):-

*“The schemes shall be in such a form as the Full Council determines having considered a recommendation from the relevant Committee.”*

Therefore any amendment to the Public Speaking Scheme proposed by the Planning Committee has to be submitted to Full Council for its formal adoption.

The Monitoring Officer's Report and accompanying Appendices which were considered by the Planning Committee at its meeting held on 17 February 2021 are attached as Appendices to this report.

#### **RECOMMENDATION**

**That, subject to Members' consideration of the recommendations of the Planning Committee arising from its meeting held on 17 February 2021, Council resolves:**

- (a) that the Planning Committee's Public Speaking Scheme be amended so that the applicant (or their agent or their representative) speaks first after the Officer presentation of the planning application at the Planning Committee's meeting;**
- (b) that this change comes into effect on 28th April 2021 i.e. the day after the Annual Meeting of the Council (along with the changes to the Council's Constitution that will have been approved earlier in the meeting); and**
- (c) to note that a review will be undertaken by the Planning Committee after six months' operation of the amended Public Speaking Scheme (Planning Committee).**

#### **BACKGROUND INFORMATION**

At its meeting held on 18 December 2020, 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 (rather than the applicant/agent as at the present time).

Members of the CRWP then consulted with their respective political groups to canvass opinions on the principle of whether the order of speakers should be rearranged, so that the Ward Councillor spoke last rather than the Applicant/Developer. The outcome of such consultation, was that the majority of Members felt that the Scheme should be amended to allow the Ward Councillor to speak last during the public speaking part of the Planning Committee meeting.

Consequently, the CRWP at its meeting held on 22 January 2021 agreed that –

- (a) the Planning Committee be requested to consider amending its Public Speaking Scheme and re-arrange the order of speakers to ensure that the Ward Councillor spoke last on a planning application at a Planning Committee meeting rather than the Applicant/Developer, who was currently listed last under that Committee's public speaking scheme; and*
- (b) examples of the practice used at other local authorities be provided to the Planning Committee in order to assist it in its deliberations.*

The Planning Committee thereupon considered that request together with the additional information and guidance provided by the Monitoring Officer in her report at its meeting

held on 17 February 2021.

### **BACKGROUND PAPERS**

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

### **APPENDICES**

#### **A.5**

<b>APPENDIX A</b>	<b>Local Government Association Probity in Planning Guidance – Advice for Councillors and Officers making planning decisions</b>
<b>APPENDIX B</b>	<b>Tendring District Council’s Public Speaking Scheme</b>
<b>APPENDIX C</b>	<b>Report of the Monitoring Officer which was submitted to the meeting of the Planning Committee held on 17 February 2021</b>

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# Probity in planning

Advice for councillors  
and officers making  
planning decisions

This advice was first published in 1992. This version has been prepared by CITIESMODE Planning. It updates and expands the April 2013 document prepared by Trevor Roberts Associates for the Planning Advisory Service.

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# 1. Introduction

## Background

Probity in planning is about ensuring that decisions on plan making and planning applications are undertaken, on behalf of communities, in a fair, impartial and transparent way. This guide has been written for officers and councillors involved in making planning decisions in their local authority. It is informed by contributions from councillors and officers and includes:

- a brief overview of the planning system and the role of decision makers
- councillor and officer conduct
- registration and disclosure of interests
- predisposition, predetermination or bias
- lobbying of and by councillors
- discussions before a decision is taken
- officer reports
- public speaking at planning committees
- decisions which differ from an officer's recommendation
- committee site visits
- reviewing past planning decisions and the outcomes
- complaints and record keeping.

Councillors and officers should be familiar with, and adhere to, their own local authority codes of conduct and guidance. This advice is not intended to be prescriptive. Local circumstances may necessitate local variations of policy and practice. Every council should regularly review the way in which it conducts its planning business.

The Local Government Association (LGA) endorses the good practice of many councils who ensure their councillors receive training on planning when first appointed to the planning committee or local plan steering group. It is recommended that councillors receive regular ongoing training on probity in decision making and the local code of conduct as well as on planning matters. The Planning Advisory Service (PAS) can provide training to councillors.<sup>1</sup>

**“To new committee members... Get as much training as you can, and not just the standard ‘in house’ two hour session with your own planning officers – but also from other bodies like PAS, Urban Design London<sup>2</sup> and the Royal Town Planning Institute (RTPI), and look at how colleagues in other authorities do things.”**

**Councillor Sue Vincent, Camden**

This guide does not constitute legal advice. Councillors and officers will need to obtain their own legal advice on any matters of a legal nature concerning matters of probity. Where there are any doubts or queries, advice should always be sought from the council's monitoring officer.

<sup>1</sup> [contact\\_pas@local.gov.uk](mailto:contact_pas@local.gov.uk)

<sup>2</sup> [www.urbandesignlondon.com/library/sourcebooks/councillors-companion-design-planning-2018](http://www.urbandesignlondon.com/library/sourcebooks/councillors-companion-design-planning-2018)

# 2. The planning system and the role of decision makers

The National Planning Policy Framework 2019 (NPPF)<sup>3</sup> states that the purpose of the ‘planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.’ Planning has a positive and proactive role to play at the heart of local government and local communities. It can:

- help councils stimulate growth and translate goals into action
- balance social, economic and environmental needs to achieve sustainable development
- deliver important public benefits such as new housing, infrastructure and local employment opportunities.

“Everything starts with planning! The way our neighbourhoods develop to meet the challenges of a growing population is determined by the placemaking that is done through the planning policy process, which in turn informs the development management process. It is important for the planning committee members to give careful consideration to the impact that all applications will have on an area, as they will (hopefully) be in place for many

<sup>3</sup> [www.gov.uk/government/publications/national-planning-policy-framework--2](http://www.gov.uk/government/publications/national-planning-policy-framework--2)

years to come.”

**Councillor Adele Morris, Southwark**

Planning law requires that applications for planning permission be determined in accordance with the development plan (the ‘local plan’ document(s) and if relevant spatial development strategy), unless ‘material considerations’ indicate otherwise. National planning practice guidance<sup>4</sup> (NPPG) explains that a material planning consideration is one which is relevant to making a planning decision to grant or refuse an application for planning permission. It states that the ‘scope of what can constitute a material consideration is very wide and so the courts often do not indicate what cannot be a material consideration.’<sup>5</sup> However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.’

Local planning authorities are tasked with both preparing the development plan that applications will be assessed against and making planning decisions. In England the NPPF must be taken into account in preparing the development plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect other relevant international obligations and statutory requirements. Local planning decisions are made in this wider national and international context.

<sup>4</sup> [www.gov.uk/government/collections/planning-practice-guidance](http://www.gov.uk/government/collections/planning-practice-guidance)

<sup>5</sup> However, for a recent judicial interrogation of material consideration, see the recent case of R (Wright) v Resilient Energy Severdale Ltd and Forest of Dean District Council [2019] UKSC 53

The determination of a planning application is a formal administrative process involving:

- the application of national and local planning policies
- reference to legislation, case law and rules of procedure
- rights of appeal and an expectation that local planning authority will act transparently, reasonably and fairly.

Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework in the wider public interest. Planning affects people's lives and land and property interests, particularly the financial value of landholdings, and the quality of their settings. Opposing views are often strongly held by those involved. Whilst councillors must take account of these views, they should not favour any person, company, group or locality, or appear to be doing so. Decisions need to be taken in the wider public interest on what can be controversial proposals.

Because planning decisions can be controversial, it is particularly important that the process is open and transparent. The risk of controversy and conflict is heightened by a system which invites public opinion before taking decisions. The legal and procedural nature of the planning system means there is a risk of complaints to the Ombudsman for maladministration or a breach of the authority's code. There may also be a legal challenge, in the form of a judicial review in which a judge reviews the lawfulness of a decision or action made by a public body.

Councillors and officers have different but complementary roles within this system, and effective communication and a positive working relationship between officers and councillors is essential to delivering a good planning service.

Officers prepare the development plan (the local plan document or documents) which must conform to the policies set out in the NPPF and be adopted by a meeting of the full council. Applications for planning permission submitted to the local planning authority are assessed by planning officers who will, based on the development plan and any material planning considerations, make recommendations to planning committees who then resolve to grant or refuse the application. Councillors can be involved in decisions on planning enforcement action or compulsory purchase orders.

Most councils also delegate powers to senior officers to determine a large proportion of planning applications – the advice in this document and the council's code of conduct as it relates to planning decisions will apply to these officers too. The applications that go to committee, or are determined by an officer, will be set out in the local authority's scheme of delegation. Effective delegation can help ensure that decisions on planning applications that raise no significant planning issues are made quickly, and that resources are appropriately concentrated on the applications of greatest significance to the local area. These will typically be larger or more complex applications and potentially controversial – and are defined locally through authority schemes of delegation.

Therefore, whilst councillors are ultimately responsible for decision making in local planning authorities, officers who have delegated authority to make decisions need to be aware of the issues covered in this document – and the advice and principles discussed apply to them too.

# 3. Councillor and officer conduct

The seven principles of public life apply to anyone who works as a public office-holder. This includes people who are elected or appointed to public office, both nationally and locally, and as such applies to councillors and officers. The overarching principles were first set out by Lord Nolan in 1995 in the Government's First Report on Standards in Public Life. They were reasserted and refined in subsequent reports of the Committee on Standards in Public Life, most recently the Local Government Ethical Standards Report published in 2019.<sup>6</sup> These principles are:

- **Selflessness:** holders of public office should act solely in terms of the public interest.
- **Integrity:** holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity:** holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness:** holders of public office should act and take decisions in an open and transparent manner. Information should not

be withheld from the public unless there are clear and lawful reasons for so doing.

- **Honesty:** holders of public office should be truthful.
- **Leadership:** holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Section 27 of the Localism Act 2011 (as amended)<sup>7</sup> requires local planning authorities to promote and maintain high standards of conduct and adopt a local code of conduct, which should reflect these principles. It must cover:

- the registration of pecuniary interests (explained in Section 4)
- the role of an 'independent person' to investigate alleged breaches
- sanctions, to be imposed on any councillors who breach the code.

Parish and town councils are covered by the requirements to have a code of conduct and to register interests. They can choose to 'opt in' to the code of conduct adopted by their principal authority (the local district or unitary council).

The Local Government Ethical Standards Report published in 2019 suggests that many codes of conduct fail to adequately address important areas of behaviour, such as social media use and bullying and harassment.

<sup>6</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/777315/6.4896\\_CO\\_CSPL\\_Command\\_Paper\\_on\\_Local\\_Government\\_Standards\\_v4\\_WEB.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF)

<sup>7</sup> [www.gov.uk/government/collections/planning-practice-guidance](http://www.gov.uk/government/collections/planning-practice-guidance)

It includes a number of recommendations for codes of conduct – some of which will require changes to primary or secondary legislation. It also includes a series of best practice recommendations, which they recommend are addressed in codes.

Many local planning authorities have also adopted their own codes relating specifically to planning, which should be read alongside the substantive code of conduct for the council. In addition to these codes, a council's standing orders also set down rules which govern the conduct of council business.

Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct,<sup>8</sup> breaches of which may be subject to disciplinary action by the Institute. The RTPI provides advice for planning professionals on matters of probity aimed at supporting planners in exercising their independent professional judgement, and promoting public confidence in the planning system.

Officers and serving councillors must not act as agents for people pursuing planning matters within their authority, even if they are not involved in the decision making on them.

In addition, officers must always act impartially and in a politically neutral manner. The Local Government and Housing Act 1989 (as amended)<sup>9</sup> enables restrictions to be set on the outside activities of senior officers, such as membership of political parties and serving on another council. Councils should carefully consider which of their officers are subject to such restrictions and review this regularly.

Care needs to be taken in the use of social media, such as Twitter, Facebook or Instagram, by officers and councillors, where it relates to decision making functions (see Section 5 on predetermination and bias). The Local Government Ethical Standards Report 2019 also addresses issues related to social media use.

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8 [www.rtpi.org.uk/media/1736907/rtpi\\_code\\_of\\_professional\\_conduct\\_-\\_feb\\_2016.pdf](http://www.rtpi.org.uk/media/1736907/rtpi_code_of_professional_conduct_-_feb_2016.pdf)

9 [www.legislation.gov.uk/ukpga/1989/42/contents](http://www.legislation.gov.uk/ukpga/1989/42/contents)

# 4. Registration and disclosure of interests

## Pecuniary interests

Decision makers must make known any pecuniary interests – that is any business or wider financial interests – and other personal interests their code requires them to disclose.

Councillors must provide the monitoring officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must also be registered with the monitoring officer within 28 days of the councillor becoming aware of them.

Each council's code of conduct should establish what interests need to be disclosed. The council's monitoring officer should maintain a register of these disclosable interests, which should be made available to the public. Councillors should also disclose any interest orally at a committee meeting if it relates to an item under discussion.

Chapter 7 of the Localism Act 2011 (as amended)<sup>10</sup> places explicit requirements on councillors to register and disclose their pecuniary interests. The definitions of disclosable pecuniary interests are set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.<sup>11</sup> It is a criminal offence to:

- Fail to register a disclosable pecuniary interest within 28 days of election or co-option
- Give false or misleading information on registration
- Participate in discussion or vote in a meeting on a matter in which a councillor or co-opted member has a disclosable pecuniary interest.

<sup>10</sup> [www.legislation.gov.uk/all?title=Localism%20Act](http://www.legislation.gov.uk/all?title=Localism%20Act)

<sup>11</sup> [www.legislation.gov.uk/uksi/2012/1464/made](http://www.legislation.gov.uk/uksi/2012/1464/made)

## Personal Interests

The Localism Act also includes the need to register and disclose personal interests with other councillors, officers, and the public.

A councillor with a disclosable pecuniary interest relating to an item under discussion must withdraw from the committee (or other decision forum) and not participate in discussions and debate, nor vote. This applies to all planning decisions and not just on individual planning applications. For example, a development plan document might cover sites or property where a councillor has an interest in the land. Officers involved in making recommendations and decisions should adopt the same approach, and seek advice from the authority's monitoring officer.

If a councillor has a non-pecuniary personal interest, including being a member of an outside body, they should disclose that interest, but then may still speak and vote on that particular item. However, the Local Government Ethical Standards Report (2019) highlights the potential for conflicts and potential need to withdraw from committee in relation to non-pecuniary interests as well.

## Dispensation and handling relevant interests

In certain circumstances, a dispensation can be sought from the appropriate body or officer to take part in that particular item of business. A dispensation may be granted for any reason, but the Act specifies a number of scenarios where this might apply.

This includes the number of councillors having an interest being so great that the meeting cannot proceed, with the political balance of the meeting being substantially affected.

It is always best to identify a potential interest in a planning decision early on and raise this with the monitoring officer as soon as possible. Advice should always be sought from the council's monitoring officer. Ultimately, responsibility for fulfilling the requirements rests with each councillor.

Appendix 1 on page 25 includes a flowchart of how councillors' interests should be handled. For comprehensive guidance on interests, see Openness and transparency on personal interests: guidance for councillors, Department for Communities and Local Government, March 2013.<sup>12</sup>

The provisions of the Localism Act 2011 (as amended) seek to separate interests arising from the personal and private interests of the councillor from those arising from the councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the councillor's involvement would be appropriate or not.

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<sup>12</sup> [www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors](http://www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors)

# 5. Predisposition, predetermination or bias

## Predetermination

Members of a planning committee, local plan steering group or full council (when the local plan is being considered) need to avoid any appearance of bias or having 'predetermined' views when making a decision on a planning application or policy.

Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is indicative of a 'closed mind' approach and may leave the grant of planning permission vulnerable to challenge by Judicial Review.

## Predisposition

Predisposition is where a councillor may have a pre-existing opinion or attitude about the matter under discussion, but remains open to listening to all the arguments and changing their mind in light of the information presented at the meeting. Section 25 of the Localism Act 2011 (as amended) clarifies that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicates what view they might take in relation to any particular matter.

A councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased. For example, a councillor who says or 'tweets' from their Twitter account: 'Wind farms are blots on the landscape and I will oppose each and every wind farm application that comes before the committee' will be perceived very differently from a councillor who states: 'Many people

find wind farms ugly and noisy and I will need a lot of persuading that any more wind farms should be allowed in our area'.

## Impartiality and avoiding bias

Planning issues must be assessed fairly and on their planning merits, even when there is a predisposition in favour of one side of the argument or the other. Avoiding predetermination and the impression of it is essential. The decision making process must be seen to be fair and impartial from the perspective of an external observer.

If a decision maker has predetermined their position, they should withdraw from being a member of the decision making body for that matter. This applies to any member of the planning committee who wants to speak for or against a proposal as a campaigner (for example on a proposal within their ward).

Local planning authorities will usually have a cabinet or executive member responsible for development and planning (sometimes known as the portfolio holder). PAS advise that the leader and portfolio holder of a local authority, who play an important role driving planning policies and proposals, should normally exclude themselves from decision making committees. This is to avoid the perception of a conflict of interests and predisposition.

In smaller councils it may be necessary for a portfolio holder to be on a planning committee. PAS suggest that in these situations they will need to be extremely careful and will need to withdraw when the committee is considering the council's own schemes or other applications that they have been seen to support previously.

# 6. Development proposals

Planning applications or proposals for changes to a local plan submitted by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Such proposals must be handled in a way that gives no grounds for accusations of favouritism. Any local guidance should address the following points in relation to proposals submitted by councillors and planning officers:

- if they submit their own proposal to their authority they should play no part in its consideration
- a system should be devised to identify and manage such proposals and ensure probity in decision making
- the council's monitoring officer should be informed of such proposals.

A councillor would undoubtedly have a disclosable pecuniary interest in their own application and should not participate in its consideration. They have the same rights as any applicant in seeking to explain their proposal to an officer, but the councillor, as an applicant, should also not seek to improperly influence the decision.

Proposals for a council's own development should be treated with the same transparency and impartiality as those of private developers.

# 7. Lobbying of and by councillors

## Reporting on local concerns

Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee.

As the Nolan Committee's 1997 report<sup>13</sup> states: 'It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves'.

Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, and so care and common sense must be exercised by all parties involved.

## Expressing opinions

As noted earlier in this guidance note, the common law permits predisposition. However it remains good practice that, when being lobbied, councillors (members of the planning committee in particular) should try to take care expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have considered all the application materials and arguments for and against the development proposal.

In such situations, a councillor could restrict themselves to giving advice about the process and what can and can't be taken into account. Councillors can raise issues which have been raised by their constituents with officers. If councillors do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after they have heard all the relevant arguments, and have taken into account all relevant material and planning considerations at committee.

## Conduct at committee

If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the decision making committee, they would be well advised to withdraw from the meeting once any public or ward member speaking opportunities have been completed. This is to counter any suggestion that members of the committee may have been influenced by their continuing presence. This should be set out in the authority's code of conduct for planning matters.

It is very difficult to convey every nuance of these situations and get the balance right between the duty to be an active local representative, and the need to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual councillor. Again, where there are concerns, advice should immediately be sought from the local authority's Monitoring Officer.

<sup>13</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/336864/3rdInquiryReport.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336864/3rdInquiryReport.pdf)

## Local codes

A local code on planning should also address the following more specific issues about lobbying:

- planning decisions cannot be made on a party political basis in response to lobbying - the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration
- planning committee or local plan steering group members should in general avoid organising support for or against a planning application, and avoid lobbying other councillors
- councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.

Call-in procedures, whereby councillors can require a proposal that would normally be determined under the delegated authority to be called in for determination by the planning committee, should require the reasons for call-in to be recorded in writing and to refer solely to matters of material planning concern. As previously outlined, councillors must always be mindful of their responsibilities and duties under their local codes of conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this guidance.

## Gifts and hospitality

Councillors and officers should be cautious about accepting gifts and hospitality in general and especially where offered by lobbyists. It is not enough to register such gifts. Any councillor or officer receiving offers over an agreed value should let the council's monitoring officer know, in writing, and seek advice as to whether they should be accepted or declined. Councillors and officers involved in planning decisions should not accept over-frequent or over-generous hospitality, especially where from the same organisation. They should always ensure that acceptance of such hospitality does not constitute a conflict of interest. Guidance on these issues should be included in the local code of conduct, and the Local Government Ethical Standards Report suggests adherence to consideration be given to the purpose of the hospitality, proportionality and the avoidance of any conflict of interest.

# 8. Discussions before a decision is taken

## Early engagement and pre-application discussions

Early councillor engagement is encouraged to ensure that proposals for sustainable development will lead to settlements that communities need. This guidance is intended to reinforce councillors' community engagement role whilst maintaining good standards of probity to minimise the risk of legal challenges. It is also important to encourage good decision-making that is transparent and upholds public confidence in the planning system. Ultimately, the public are a critical part of the planning process and the role of councillors provides democratic legitimacy for decisions.

Pre-application discussions between a potential applicant and a council can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.

## Avoiding predetermination

Some councils have been concerned about probity issues raised by involving councillors in pre-application discussions, worried that councillors would be accused of predetermination when the subsequent application came in for consideration. The Localism Act 2011 (as amended) acknowledges that councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise along with an understanding of community views.

There is a difference between being predisposed to the planning policies set out in the NPPF or adopted development plan principles such as delivering housing, sustainable transport or good design and expressing views on this – and being predetermined in relation to a specific case.

Some local planning authorities have, or encourage, public planning forums to explore major pre-application proposals, with the developer outlining their ideas and inviting speakers to represent differing interests and consultees. As well as being transparent, these forums allow councillors and consultees to seek information and identify important issues for the proposal to address, although such discussions still need to avoid pre-determination.

Councillor involvement can help identify issues early on, help councillors lead on community issues, and help to make sure that issues don't come to light for the first time at committee. PAS recommends a 'no shocks' at committee approach.

## Meetings and discussions before a decision

The Localism Act, particularly Section 25, which establishes prior indications of view of a matter not to amount to predetermination, has given councillors much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid the perception that councillors might have fettered their discretion, such discussions should take place within clear, published guidelines.

Discussions before a decision is taken should ensure:

- Clarity at the outset that the discussions will not bind a council to making a particular decision and that any views expressed are provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- Consistent advice is given by officers based upon the development plan and material planning considerations.
- That councillors avoid giving separate advice on the development plan or other material planning considerations, as they may not be aware of all the issues at an early stage. Councillors should not become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the authority's position is co-ordinated.
- A commitment is made that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to committee could appear to be advocacy.

Officers should arrange any meetings, attend these with councillors and make a written record of the meeting placing this note on the case file. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.

Councillors also talk regularly to constituents to gauge their views on matters of local concern – which can include planning applications. The Nolan Committee acknowledged that keeping a register of these conversations would be impractical and unnecessary; however, local planning authorities should think about when discussions should be registered and notes written.

## Other approaches to early engagement

Local planning authorities have other mechanisms to involve councillors in pre-application discussions including:

- committee information reports by officers
- discussions to enable councillors to raise issues, identify items of interest and seek further information
- developer presentations to committees which have the advantage of transparency if held in public as a committee would normally be (with notes taken).
- ward councillor briefing by officers on pre-application discussions.

Similar arrangements can also be used when local planning authorities are looking at new policy documents and particularly when making new site allocations in emerging development plans and wish to engage with different parties, including councillors, at an early stage in the process.

# 9. Officer reports

Officer reports are a critical part of the decision-making process. They can also be difficult to write, as officers have to grapple with complex and technical information such as viability and daylight and sunlight analysis along with matters such as any equalities impacts of the proposed development. Conclusions can be finely balanced, having exercised planning judgement as to the merits of a scheme.

Sometimes, the local planning authority will engage external consultants to interrogate the applicant's material on specialist areas of expertise, and advise the officer accordingly. The presentation of this information in the report is particularly important – along with the availability of any background papers. Whilst the Courts are generally reluctant to interfere in the exercise of planning judgement, officer reports can nonetheless be fertile ground for judicial review challenges. This is particularly so where there is a risk that the officer may have inadvertently misled the committee, therefore tainting the resulting decision.

Careful reviews of draft reports, which may involve consultation with the council's legal team, is always recommended. Similarly, appropriate interventions by the legal officer at the committee meeting itself might be needed in order to correct any misconceptions on specific issues.

As a result of decisions made by the courts and Ombudsman, officer reports on planning applications must have regard to the following:

- Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
- Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the NPPF, any local finance considerations, and any other material planning considerations.
- Reports should have a written recommendation for a decision to be made.
- Reports should contain, where relevant, technical appraisals which clearly justify the recommendation.
- If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but failure to do so may constitute maladministration or give rise to a Judicial Review on the grounds that the decision was not taken in accordance with the provisions of the development plan and the council's statutory duty under Section 38A of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990.
- Any oral updates or changes to the report should be recorded.

# 10. Public speaking at planning committees

Whether to allow public speaking at a planning committee or not is up to each local authority. Most local planning authorities do allow it and some authorities film and broadcast committee meetings. As a result, public confidence is generally enhanced and direct lobbying may be reduced. The disadvantage is that it can make the meetings longer and sometimes harder to manage.

Where public speaking is allowed, clear protocols should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councils and third party objectors.

In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the local planning authority in writing.

New documents should not be circulated to the committee as councillors may not be able to give proper consideration to the new information, and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. Late information might lead to a deferral. This should be made clear to those who intend to speak.

Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.

# 11. Decisions which differ from a recommendation

The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (Section 38A of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990).

This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.

The courts have expressed the view that the committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other non material considerations which might cause local controversy, will rarely satisfy the relevant tests.

Planning committees can, and do, make decisions which are different from the officer recommendation. Sometimes this will relate to conditions attached to the permission or planning obligations secured through a legal agreement pursuant to Section 106 (S106) of the Town and Country Planning Act 1990 (as amended).<sup>14</sup> A S106 legal agreement, or undertaking, includes obligations entered into by the developer, landowner and other relevant parties to mitigate the impacts of a development proposal.

Sometimes the committee's decision will change the outcome from an approval to a refusal, or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.

<sup>14</sup> [www.legislation.gov.uk/ukpga/1990/8/contents](http://www.legislation.gov.uk/ukpga/1990/8/contents)

Planning committees are advised to take the following steps before making a decision which differs from the officer recommendation:

- If a councillor is concerned about an officer's recommendation they should discuss their areas of difference and the reasons for that with officers in advance of the committee meeting. Care should be taken however to ensure that this does not lead to predetermination of a decision.
- Recording the detailed reasons as part of the mover's motion.
- Adjourning for a few minutes for those reasons to be discussed and then agreed by the committee.
- Where there is concern about the validity of reasons, considering deferring to another meeting to have the reasons tested and discussed.

If the planning committee makes a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or S106 planning obligations), a detailed minute of the committee's reasons should be made and a copy placed on the application file. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation, which should be set in the context of the development plan or the NPPF. The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome based on policies set out in the development plan and the NPPF, and chances of a successful award of costs against the local authority, should one be made.

The decision is ultimately the committee's; however, it is imperative that the decision is made with regard to relevant planning considerations.

All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departures' from the development plan. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.

The application may then have to be referred to the relevant secretary of state, and/or the Mayor, depending upon the type and scale of the development proposed (Section 77 of the Town and Country Planning Act 1990).<sup>15</sup> If the officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.

The common law on giving a statement of reasons for decisions has developed significantly in the last few years. It is important that the report that supports planning decisions clearly shows how that decision has been reached – whether for the grant or refusal of permission.

Whilst a committee giving reasons for refusing an application might be common, it may also be sensible to give reasons for resolving to grant permission, and having those accurately captured in minutes of the meeting. This may be particularly so where there is an overturn of an officer recommendation and/or where the application is particularly controversial due to planning policy protections and/or weight of objections. Where the development is EIA development, there is, in any event, a separate statutory requirement to give reasons for the grant of permission.

It should always be remembered that the public have a stake in the planning process and are entitled to understand how decisions are reached.

<sup>15</sup> [www.legislation.gov.uk/ukpga/1990/8/section/77](http://www.legislation.gov.uk/ukpga/1990/8/section/77)

# 12. Committee site visits

National standards and local codes also apply to site visits. Local planning authorities should have a clear and consistent approach on when and why to hold a site visit and how to conduct it. This should avoid accusations that visits are arbitrary, unfair or a covert lobbying device. The following points may be helpful:

- visits should only be used where the benefit is clear and substantial. Officers will have visited the site and assessed the scheme against policies and material considerations already
- the purpose, format and conduct should be clear at the outset and adhered to throughout the visit
- where a site visit can be 'triggered' by a request from the ward councillor, the 'substantial benefit' test should still apply
- a record should be kept of the reasons why a site visit is called.

A site visit is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
- the comments of the applicant and objectors cannot be expressed adequately in writing
- the proposal is particularly contentious.

Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters. This should be made clear to any members of the public who are there.

Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.

# 13. Reviewing past planning decisions and the outcomes

It is good practice for councillors to visit a sample of implemented planning permissions to assess the quality of the decisions and the development, ideally on an annual or more frequent basis. This should improve the quality and consistency of decision making, strengthen public confidence in the planning system, and can help with reviews of planning policy.

Reviews should include visits to a range of developments such as major and minor schemes, upheld appeals, listed building works and enforcement cases. Briefing notes should be prepared on each case. The planning committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

Scrutiny or standards committees may be able to assist in this process but the essential purpose of these reviews is to assist planning committee members to refine their understanding of the impact of their decisions. Planning committee members should be fully engaged in such reviews.

# 14. Complaints and record keeping

All local planning authorities should have a complaints procedure which may apply to all of its activities. Local planning authorities should also consider how planning related complaints will be handled, in relation to the code of conduct adopted by the authority.

So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by committee and under delegated powers, and to applications, enforcement and development plan matters.

# List of references

## **The Localism Act 2011**

[www.legislation.gov.uk/all?title=Localism%20Act](http://www.legislation.gov.uk/all?title=Localism%20Act)

## **National Planning Policy Framework Department for Communities and Local Government, March 2019**

[www.gov.uk/government/publications/national-planning-policy-framework--2](http://www.gov.uk/government/publications/national-planning-policy-framework--2)

## **Committee on Standards in Public Life (1995) First Report: Standards of Conduct in Local Government in England, Scotland and Wales, Volume 1 Report**

<https://webarchive.nationalarchives.gov.uk/20131205113448/http://www.archive.official-documents.co.uk/document/cm28/2850/285002.pdf>

## **Committee on Standards in Public Life (1997) Third Report: Standards of Conduct in Local Government in England, Scotland and Wales, Volume 1 Report**

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/336864/3rdInquiryReport.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336864/3rdInquiryReport.pdf)

## **Royal Town Planning Institute Code of Professional Conduct**

[www.rtpi.org.uk/media/1736907/rtpi\\_code\\_of\\_professional\\_conduct\\_-\\_feb\\_2016.pdf](http://www.rtpi.org.uk/media/1736907/rtpi_code_of_professional_conduct_-_feb_2016.pdf)

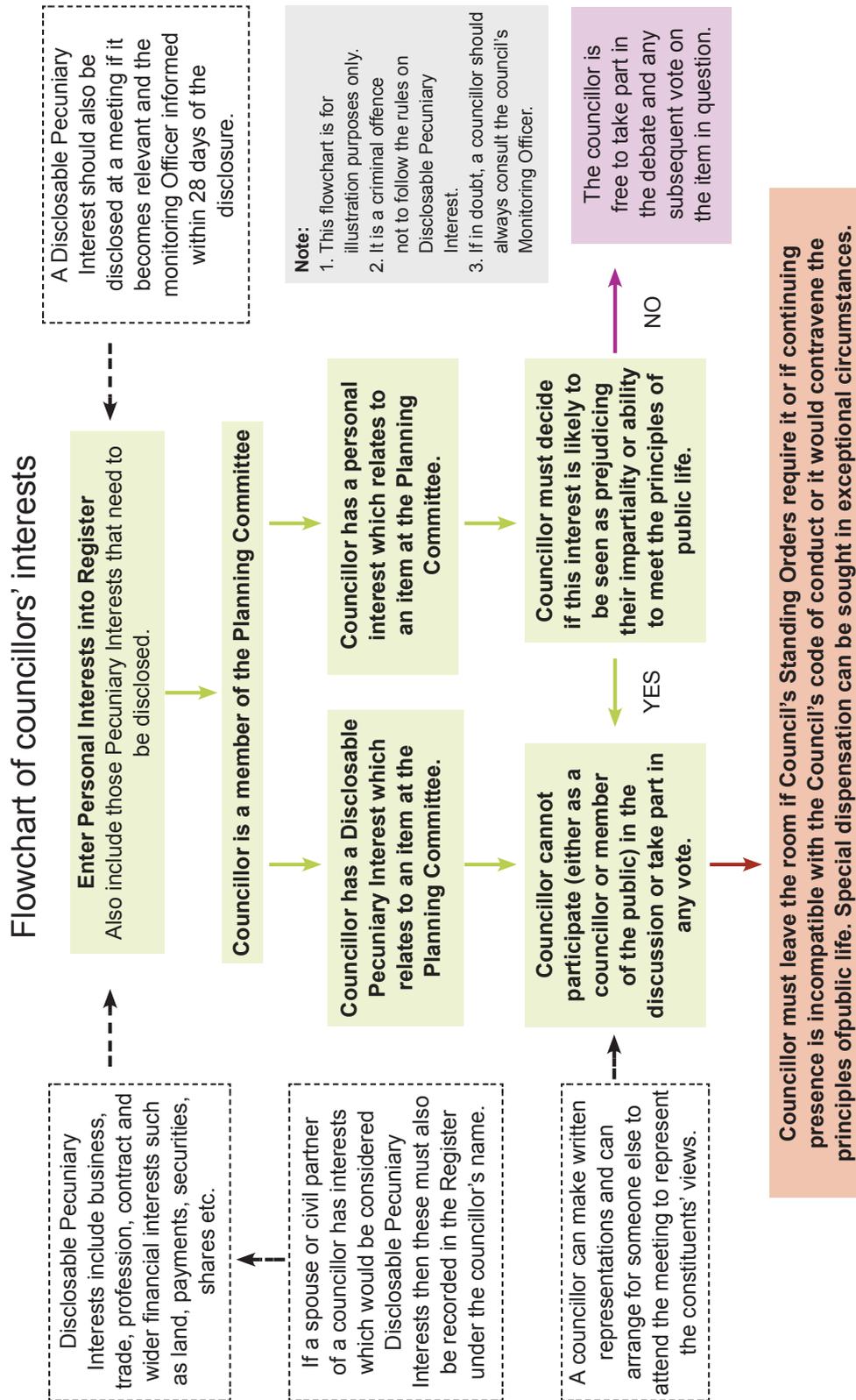
## **RTPI Guidance on Probity for Professional Planners**

[www.rtpi.org.uk/probity](http://www.rtpi.org.uk/probity)

## **Openness and transparency on personal interests: guidance for councillors, Department for Communities and Local Government, March 2013**

[www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors](http://www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors)

# Appendix 1 Flowchart of councillors' interests









**Local Government Association**

18 Smith Square  
London SW1P 3HZ

Telephone 020 7664 3000  
Fax 020 7664 3030  
Email [info@local.gov.uk](mailto:info@local.gov.uk)  
[www.local.gov.uk](http://www.local.gov.uk)

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For a copy in Braille, larger print or audio,  
please contact us on 020 7664 3000.  
We consider requests on an individual basis.

# *Tendring* **District Council**



**PLANNING COMMITTEE MEETINGS  
PUBLIC SPEAKING SCHEME  
May 2017**

This Public Speaking Scheme is made pursuant to Council Procedure Rule 38 and gives the opportunity for a member of the public and other parties identified below to speak to Tendring District Council's Planning Committee when they are deciding a planning application.

**TO WHICH MEETINGS DOES THIS SCHEME APPLY?**

Usually any public meeting of the Council's Planning Committee, which are normally held every 4 weeks in the Council Chamber at the Council Offices, Thorpe Road, Weeley CO16 9AJ beginning at 6.00 pm. In some instances, the Planning Committee may be held at the Town Hall, Station Road, Clacton-on-Sea CO15 1SE and the public are encouraged to check the venue on the Council's Website before attending.

**WHO CAN SPEAK & TIME PERMITTED?** All speakers must be aged 18 or over:

1. One member of the public who wishes to comment on or to speak in favour of the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes is allowed;
2. One member of the public who wishes to comment on or speak against the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes is allowed;
3. Where the proposed development is in the area of a Parish or Town Council, one Parish or Town Council representative. A maximum of 3 minutes is allowed;
4. All District Councillors for the ward where the development is situated ("ward member") or (if the ward member is unable to attend the meeting) a District Councillor appointed in writing by the ward member. Member(s) of adjacent wards or wards impacted by the proposed development may also speak with the agreement of the Chairman. Permission for District Councillors to speak is subject to the Council's Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes is allowed;

## **A.5 APPENDIX B**

In accordance, with Council Procedure Rule 34.1, this Public Speaking Scheme takes precedence and no other Member shall be entitled to address or speak to the Planning Committee under Rule 34.1;

6. The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes is allowed; and
7. A member of the Council's Cabinet may also be permitted to speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee. A maximum of 3 minutes is allowed.

Any one speaking as a Parish/Town Council representative maybe requested to produce written evidence of their authority to do so, by the District Council's Committee Services Officer (CSO). This evidence may be an official Minute, copy of standing orders (or equivalent) or a signed letter from the Clerk to the Parish/Town Council and must be shown to the DSO before the beginning of the Planning Committee meeting concerned.

No speaker, (with the exception of Ward Members, who are limited to 5 minutes) may speak for more than 3 minutes on any agenda items associated with applications (such as a planning application and an associated listed building consent application). Speakers may not be questioned at the meeting, nor can any public speaker question other speakers, Councillors or Officers. Speakers are not permitted to introduce any photograph, drawing or written material, including slide or other presentations, as part of their public speaking.

All Committee meetings of Tendring District Council are chaired by the Chairman or Vice-Chairman (in their absence) whose responsibility is to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. The Chairman of the Planning Committee therefore, has authority to use their discretion when applying the Public Speaking Scheme to comply with this duty.

### **WHICH MATTERS ARE COVERED BY THIS SCHEME?**

Applications for planning permission, reserved matters approval, listed building consent, conservation area consent, advertisement consent, hazardous substances consent, proposed or potential enforcement action and the proposed or potential confirmation of any tree preservation order, where these are the subject of public reports to the Planning Committee meeting.

### **HOW CAN I FIND OUT WHEN A MATTER WILL BE CONSIDERED?**

In addition to the publication of agendas with written reports, the dates and times of the Planning Committee meetings are shown on the Council's website. It should be noted that some applications may be withdrawn by the applicant at short notice and others may

## **A.5 APPENDIX B**

be deferred because of new information or for procedural reasons. This means that deferral takes place shortly before or during the Planning Committee meeting and you will not be able to speak at that meeting, but will be able to do so at the meeting when the application is next considered by the Planning Committee.

### **DO I HAVE TO ATTEND THE PLANNING COMMITTEE MEETING TO MAKE THE COMMITTEE AWARE OF MY VIEWS?**

No. If you have made written representations, their substance will be taken into account and the Committee report, which is available to all Planning Committee Councillors, will contain a summary of the representations received.

### **HOW DO I ARRANGE TO SPEAK AT THE MEETING?**

You can:-

Telephone the Committee Services Officer ("CSO") (01255 686007) during normal working hours on any weekday after the reports and agenda have been published; or

Email: [democraticservices@tendringdc.gov.uk](mailto:democraticservices@tendringdc.gov.uk)

### **OR**

On the day of the Planning Committee meeting, you can arrive in the Council Chamber at least 15 minutes before the beginning of the meeting (meetings normally begin at 6.00pm) and speak to the CSO.

If more than one person wants to speak who is eligible under a particular category (e.g. a member of the public within the description set out in numbered paragraph 1 above), the right to speak under that category will be on a "first come, first served" basis.

Indicating to the Chairman at a site visit that you wish to speak on an item is **NOT** formal notification or registration to speak; this must be made via the Committee Services Officer in the manner set out above.

### **WHAT WILL HAPPEN WHEN THE MATTER CONCERNED IS CONSIDERED?**

- Planning Officer presents officer report
- Public speaking takes place in the order set out above under the heading "WHO CAN SPEAK?"
- Officer(s) may respond on factual issues arising from public speaking and may sum up the key policies and material planning considerations relevant to the application
- Committee Members may ask Officers relevant questions and may move, debate and vote

Normally, the Committee then determines the matter, but sometimes the Councillors decide to defer determination, to allow officers to seek further information about a particular planning issue. If a matter is deferred after the public speaking, the Committee

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will not hear public speaking for a second time, unless there has been a substantial change in the application which requires representations to be made. The Executive Summary section of the Planning Committee Report will identify whether public speaking is going to be permitted on an application being reconsidered after deferral. If there is an update since the Report was published, the Council's website will confirm this information.

### **WHAT SHOULD I SAY AT THE MEETING?**

Please be straightforward and concise and try to keep your comments to planning matters which are directly relevant to the application or matter concerned. Planning matters may include things such as planning policy, previous decisions of the Council on the same site or in similar circumstances, design, appearance, layout, effects on amenity, overlooking, loss of light, overshadowing, loss of privacy, noise or smell nuisance, impact on trees, listed buildings or highway safety.

Matters such as the following are not relevant planning matters, namely the effect of the development on property value(s), loss of view, personality or motive of the applicant, covenants, private rights or easements and boundary or access disputes.

Please be courteous and do not make personal remarks. You may wish to come to the meeting with a written statement of exactly what you want to say or read out, having checked beforehand that it will not overrun the 3 minutes allowed.

### **WHO DO I CONTACT FOR MORE INFORMATION?**

The Council's website will help you and you can also contact the relevant planning Case Officer for the matter. The name of the Officer is on the acknowledgement of the application or in the correspondence we have sent you.

Tendring District Council, Planning Services,  
Council Offices, Thorpe Road, Weeley, CLACTON-ON-SEA, Essex CO16 9AJ  
Tel: 01255 686161 Fax: 01255 686417  
Email: [planningservices@tendringdc.gov.uk](mailto:planningservices@tendringdc.gov.uk) Web: [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)

It always helps to save time if you can quote the planning application reference number.

**Monitoring Officer  
Tendring District Council  
in consultation with Head of Planning and  
Chairman of the Planning Committee  
(Council Procedure Rule 38)**

**May 2017**

## **A.5 APPENDIX C**

### **PLANNING COMMITTEE**

**17<sup>th</sup> FEBRUARY 2021**

#### **REPORT OF MONITORING OFFICER**

#### **A.4 THE PLANNING COMMITTEE'S PUBLIC SPEAKING SCHEME**

##### **PURPOSE OF THE REPORT:**

**For the Planning Committee to consider recommending amendments to Full Council to re-arrange the order of speakers in the Public Speaking Scheme to ensure that the Ward Councillor spoke last on a planning application prior to the Planning Committee's determination.**

#### **1. EXECUTIVE SUMMARY**

At its meeting in December 2020, the Portfolio Holder for Corporate Finance and Governance Constitution Review Working Party (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 (rather than the applicant/agent as at the present time).

Council Procedure Rule (CPR) 40 (which relates to the public speaking schemes operated by the Planning Committee and the Planning Policy & Local Plan Committee) currently states (following an amendment in July 2020):-

*"The schemes shall be in such a form as the Full Council determines having considered a recommendation from the relevant Committee."*

Any amendment to Public Speaking Scheme proposed by the CRWP must be submitted to the Planning Committee for its endorsement. The Scheme, as then approved by the Planning Committee, would then have to be submitted to Full Council for its formal adoption.

Members of the CRWP consulted with their respective political groups to canvass opinions on the principle of whether the order of speakers should be rearranged, so that the Ward Councillor speaks last rather than the Applicant/Developer. The outcome of such consultation, was that the majority of members felt the Scheme should be amended to allow the Ward Councillor to speak last during the public speaking part of the Planning Committee meeting.

##### **RECOMMENDATION:**

**That the Planning Committee:**

- (a) considers amending its Public Speaking Scheme and re-arrange the order of speakers to ensure that the Ward Councillor spoke last on a**

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planning application at a Planning Committee; and

**(b) RECOMMENDS TO COUNCIL that the Planning Committee's Public Speaking Scheme is amended so that the Ward Councillor speaks last in the order of speakers.**

### **2. BACKGROUND**

The Constitution is reviewed annually by the Monitoring Officer and if changes are required, the Constitution Review Portfolio Holder Working Party (CRWP) is established. In March 2020, the outcome of the review conducted in early 2020 was contained within a published Report to Cabinet, although the meeting was cancelled due to COVID-19.

Part of the 2020 review related to the Planning Committee's Public Speaking Scheme and it was recommended 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).

The Leader of the Council's decision, on behalf of the Cabinet, taken on 24 April 2020 was that Cabinet recommended to Council the proposed changes to Rule 40 of Council Procedure Rules as set out in the Report (Appendix N). In addition, 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.

At its meeting on 21<sup>st</sup> July 2020, Full Council resolved 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 now amended.

### **3. REPRESENTATIONS**

#### **Constitution Review Working Party Notes of meeting on 22<sup>nd</sup> January 2021:**

*Further to its discussions at its meeting held on 18 December 2020 (Note 2 referred), the Working Party discussed the feedback from Members' respective political groups on the principle of whether the order of speakers should be rearranged so that the Ward Councillor spoke last on a planning application at a Planning Committee meeting rather than the Applicant/Developer, who was currently listed last under that Committee's public speaking scheme.*

*The Working Party **AGREED** that –*

*(a) the Planning Committee be requested to consider amending its Public Speaking Scheme and re-arrange the order of speakers to ensure that the Ward Councillor spoke last on a planning application at a Planning Committee meeting rather than the Applicant/Developer, who was currently listed last under that Committee's public speaking scheme; and*

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*(b) examples of the practice used at other local authorities be provided to the Planning Committee in order to assist it in its deliberations.*

### **4. POLICY & GUIDANCE**

There are no statutory requirements regarding the content of Planning Committee Public Speaking Schemes, and the Council can adopt its own local protocols so long as it is fair and observes natural justice.

In 2015, the Council adopted the Members' Planning Code/Protocol which was subsequently reviewed in 2018. The Council's Protocol is based on the Model Council Members' Planning Code or Protocol produced by the national body "*Lawyers in Local Government (LLG)*". The Model Code was produced in accordance with the changes to the ethical framework in 2012 and guidance issued by the then DCLG.

In December 2019, the Local Government Association issued its Probity in Planning Guidance – Advice for Councillors and Officers making planning decisions, which is included as Appendix A.

The LGA Guidance refers to Public Speaking at Planning Committees in Section 10 on page 18 and states:

*"Whether to allow public speaking at a Planning Committee or not is up to each local authority. Most local planning authorities do allow it and some authorities film and broadcast committee meetings..."*

*"Where public speaking is allowed, clear protocols should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councillors and third party objectors".*

The Standards Committee at its meeting on 3<sup>rd</sup> February 2021, noted the outcome of a review undertaken following the 2019 publication and agreed no changes were required to the Council's adopted Members' Planning Protocol as a result of the LGA's Guidance. The Council's Planning Protocol is integrated within the Constitution at Part 6 and contains a small section on public speaking at meetings, which is as follows:

#### **8. Public Speaking at Meetings**

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chairman, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

The Council's procedures in respect of public speaking are set out in the current adopted Scheme, which is attached as Appendix B. The purpose of this Report is consider the order of speakers, which is as follows:

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**WHO CAN SPEAK & TIME PERMITTED?** All speakers must be aged 18 or over:

- One member of the public who wishes to comment on or to speak in favour of the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes is allowed;
- One member of the public who wishes to comment on or speak against the application or someone who produces a signed, written authority to speak on their behalf. A maximum of 3 minutes is allowed;
- Where the proposed development is in the area of a Parish or Town Council, one Parish or Town Council representative. A maximum of 3 minutes is allowed;
- All District Councillors for the ward where the development is situated (“ward member”) or (if the ward member is unable to attend the meeting) a District Councillor appointed in writing by the ward member. Member(s) of adjacent wards or wards impacted by the proposed development may also speak with the agreement of the Chairman. Permission for District Councillors to speak is subject to the Council’s Code of Conduct and the declarations of interest provisions will apply. A maximum of 5 minutes is allowed;

In accordance, with Council Procedure Rule 34.1, this Public Speaking Scheme takes precedence and no other Member shall be entitled to address or speak to the Planning Committee under Rule 34.1;

- The applicant, his agent or representative; or (where applicable) one person the subject of the potential enforcement action or directly affected by the potential confirmation of a tree preservation order, his agent or representative. A maximum of 3 minutes is allowed; and
- A member of the Council’s Cabinet may also be permitted to speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee. A maximum of 3 minutes is allowed.

### **5. EXAMPLES OF PRACTICE ELSEWHERE**

Planning Committee Public Speaking Schemes were located for 6 other local authorities in Essex and Suffolk and the outcome of the research undertaken revealed:

- |  |   |
|--|---|
| • no order for speakers/or the order was unclear | 5 |
| • councillors expressly stated as speaking last  | 1 |
| • no mention of ward councillors                 | 1 |
| • numbers of speakers limited                    | 5 |
| • numbers of speakers unlimited                  | 1 |

## A.5 APPENDIX C

The research concluded in most cases local authorities do refer to the same category of speakers as Tendring, but the order is not specified, and in one instance the order specified councillors (who were not part of the committee) to speak last.

### 6. PROPOSAL

***Following a referral from the Constitution Review Working Group the Planning Committee consider amending its Public Speaking Scheme and re-arrange the order of speakers to ensure that the Ward Councillor spoke last on a planning application at a Planning Committee meeting rather than the Applicant/Developer, who was currently listed last under that Committee's public speaking scheme.***

### 7. ADDITIONAL CONSIDERATIONS

#### Public Sector Equality Duty (PSED)

In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:

- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and
- C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, being married or in a civil partnership, race including colour, nationality and ethnic or national origin, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in section 149 and section 149 is only one factor that needs to be considered, and may be balanced against other relevant factors.

#### Human Rights

In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.

## **A.5 APPENDIX C**

You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).

It is not considered that the recommendation to reorder the Public Speaking Scheme interferes with the applicants' or their agents' rights, protections and freedoms so long as the Public Speaking Scheme is applied equally and fairly, in that it offers opportunities for representations to be made by those impacted upon by the decision, either in the positive or negative.

### **8. BACKGROUND PAPERS**

Planning Committee Public Speaking Schemes for Babergh District Council, Basildon Borough Council, Colchester Borough Council, East Suffolk Council, Ipswich Borough Council and Rochford District Council.

### **9. APPENDICES**

**APPENDIX A:** Local Government Association Probity in Planning Guidance – Advice for Councillors and Officers making planning decisions

**APPENDIX B –** Tendring District Council's Public Speaking Scheme.

## COUNCIL

16 MARCH 2021

### REPORT OF ASSISTANT DIRECTOR (PARTNERSHIPS)

#### A.6 PAY POLICY STATEMENT 2021/22

(Report prepared by Katie Wilkins)

#### PART 1 – KEY INFORMATION

<p><b>PURPOSE OF THE REPORT</b></p> <p>To present the Pay Policy Statement for 2021/22.</p>
<p><b>EXECUTIVE SUMMARY</b></p> <p>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.</p> <p>The matters that must be included in the statutory Pay Policy Statement are as follows:</p> <ul style="list-style-type: none"> <li>• A local authority's policy on the level and elements of remuneration for each Chief Officer.</li> <li>• 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).</li> <li>• A local authority's policy on the relationship between the remuneration of its Chief Officers and other Officers.</li> <li>• 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.</li> </ul> <p>This statement will be published on the Council's website following each review and approval by Full Council.</p> <p>The Pay Policy Statement 2021/22 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 ensuring value for money for the residents of Tendring.</p> <p>The Human Resources &amp; Council Tax Committee considered the contents of the Pay Policy Statement 2021/22 at its meeting held on 25 February 2021 and resolved to recommend its approval to Full Council.</p>
<p><b>RECOMMENDATION(S)</b></p> <p><b>IT IS RECOMMENDED TO FULL COUNCIL:</b></p> <p><b>That the Pay Policy Statement 2021/22, as set out in the Appendix, be adopted.</b></p>

## PART 2 – IMPLICATIONS OF THE DECISION

<b>DELIVERING PRIORITIES</b>
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 residents of Tendring.
<b>FINANCE, OTHER RESOURCES AND RISK</b>
The Council has a statutory and contractual obligation to adopt the NJC pay spine.  Following negotiations with National Employers and National Unions, the inflationary pay award for 2020/21 was agreed at 2.75% across the pay spine.  Pay negotiations for 2021/22 have commenced. Local Government are not currently subject to government national arrangements and therefore the Government's pay freeze in the public sector does not necessarily apply.  National Employers are currently gathering information to determine what percentage pay award has been assumed by other authorities across the region.  Tendring has assumed a 1.5% budget requirement.
<b>LEGAL</b>
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).
<b>OTHER IMPLICATIONS</b>
<b>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.</b>  The Council has a statutory duty to produce and publish an updated annual Pay Policy with effect from the 1 <sup>st</sup> April each year.

## PART 3 – SUPPORTING INFORMATION

<b>PAY POLICY STATEMENT 2021/22 - BACKGROUND</b>
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 Pay Policy for 2021/22 provides updated information on the Council's pay spine and remuneration arrangements. Namely, those outlined as part of the Senior Management Review undertaken in 2020 and updated Off-Payroll Working Regulations (IR35).  The Pay Policy 2021/22 also includes Gender Pay Gap Reporting figures, in line with the 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

Three of the above requirements will not be applicable, as the Council does not operate bonus schemes for Officers.

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

The Gender Pay Gap Reporting Figures included in the 2021/22 Pay Policy are as follows:

**Mean difference across Gender**

The difference between the male and female mean hourly rate is £0.34. The male mean hourly rate is 2.55% higher than the female mean hourly rate.

**Median difference across Gender**

The difference between the male and female median hourly rate is £0.45. The female median hourly rate is 4.07% higher than the male median hourly rate.

The difference in median is likely because there is a minor over-representation of females in quartiles three and four, with a slight over-representation of males in quartile two. Any disparity in each quartile band is to the value of 1%.

UNISON have been consulted on these proposals and have confirmed agreement as follows:

*“In my capacity as Unison Chairman I have reviewed the Pay Policy 20/21 and am happy for it to be adopted”.*

**BACKGROUND PAPERS FOR THE DECISION**

None

**APPENDICES**

**APPENDIX - PAY POLICY STATEMENT 2021/22**

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# Tendring District Council Pay and Reward Policy

2021/22



## 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 of an adequate level in order to secure and retain high quality employees dedicated to the service of the public, whilst ensuring value for money to the public purse. The Council's vision includes the provision to adopt a reward strategy that is modern, sustainable, fair and transparent and rewards its workforce 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 officers remuneration within a local authority. A full list of senior remuneration and monthly salaries information across all pay bands is available and published on the Council's website [www.tendringdc.gov.uk](http://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/Assistant Directors, 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 2021/22 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 ensuring value for money for the residents of Tendring.

Tendring District Council requires high calibre leaders within the organisation to deliver high quality public services, especially in difficult fiscal conditions. Taxpayers should be assured of value for money, with public resources not used inefficiently on excessive senior salaries. The primary aim of the Pay Policy is to set a framework to attract, retain and motivate staff to ensure 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).

## **Determination of Grade and Salary for chief officers and lowest paid Employees**

The Council's pay policy is influenced by a number of factors which include market information, market forces and budgetary position. Pay ranges are revisited from time to time to ensure they remain appropriate when benchmarked against external independent appropriate compensation surveys, applicable to each role.

The Council has adopted the National Pay Grades, as set out 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 current pay structure there are 22 Pay Bands and 81 Incremental Pay Points.

Apprentices 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 pay is subject to benchmarking, with pay rates set to attract and retain key employees. The agreement of pay is subject to Equal Pay legislation.

As part of the Senior Management Review undertaken in 2020, it was agreed that Chief Officers would move away from incremental progression to career graded posts, whereby performance is assessed and reviewed annually according to the competency criteria within the job description. This process includes a panel evaluation process and moderation.

The highest paid employee is the Chief Executive who is on a salary scale of £112,000 to £135,076 per annum.

With effect from 1 April 2020, an allowance for the role of Deputy Chief Executive was 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 Officer roles (Monitoring Officer and Section 151 Officer) are index linked to the NJC inflationary awards.

Car mileage, motorcycle and bicycle payments for all employees are paid at the Inland Revenue Rate. This is currently £0.45/mile (for the first 10,000 miles) for car mileage, £0.24/mile for motorcycles, and £0.20/mile for bicycles.

Use of the Inland Revenue Rate enables the Council to have a fair and consistent rate of reimbursement for business mileage across the Council.

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
- Disturbance Payments
- First Aider Payments

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

The principles of this policy are as follows:

- That staff are paid in a consistent way throughout the organisation;
- To compensate staff providing 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 and safety and well-being needs of staff by encouraging the use of TOIL for recovery from supporting service delivery outside of standard working hours.

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, but 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 delivered during standard office hours, occasionally needing 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 43 (the top of Grade 11) can claim 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 may be paid enhanced rates of overtime for evenings, weekends and bank holidays for those staff having already worked 37 hours any one week.

The Council does not currently operate any bonus schemes.

With effect from 1 April 2020, the Council adjusted subsistence rates to mirror HMRC rates of reimbursement and to ensure alignment with mileage payments. 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 2020/21, in respect of these duties was £824.25 in relation to a payment outstanding from the General Election in 2019.

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 each year. 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](http://www.tendringdc.gov.uk). This information also includes a structure of the Council's Senior Officers.

In 2020/21 the remuneration for the lowest paid member of staff within the Council was £17,842 (based on £9.24 per hour) per annum and the most senior officer within the Council was paid £135,076 per annum. This is a multiple of 7.57, 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.

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 £71,861 (this is based on full time equivalent annual salary, excluding election fees). The median pay for other staff other than Chief Officers is £25,790 per annum.

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

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

Since 2018, the Council has been required to publish mandatory gender pay gap reporting in order to meet the requirements of the Equality Act 2010 (Specific Duties

and Public Authorities) Regulations 2017. The Council has a requirement 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.

Three of the above requirements will not be applicable, as the Council does not operate bonus schemes for 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 2021, the Council has been undertaking an analysis of gender pay data, which includes an analysis by gender across four pay quartiles. Results show the following:

#### **Mean difference across Gender**

The difference between the male and female mean hourly rate is £0.34. The male mean hourly rate is 2.55% higher than the female mean hourly rate.

#### **Median difference across Gender**

The difference between the male and female median hourly rate is £0.45. The female median hourly rate is 4.07% higher than the male median hourly rate.

The difference in median is likely because there is a minor over-representation of females in quartiles three and four, with a slight over-representation of males in quartile two. Any disparity in each quartile band is to the value of 1%.

This information is published on the Council's website as well as a designated Government website.

#### **Off-Payroll working in the Public Sector (IR35)**

Due to the requirement for particular specialist skills or due to peaks in workloads, the Council occasionally engages the services of agency workers or consultants for short term assignments. With effect from 1<sup>st</sup> 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 are no longer responsible for determining the application of intermediaries' legislation and paying the relevant tax and NICs. This responsibility was moved to the public sector employer.

The Council has undertaken and reviewed the current status of all 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 looks to ensure that the policy is workable, affordable and reasonable having regard to foreseeable costs.

For 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 in order to respond 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; in order 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.

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:

- Supporting the achievement of the Council's aims;
- Taking account of wider public sector pay policy and good practice;
- Are proportionate, fair and equitable and support equal pay principles;
- Taking account of appropriate pay differentials;
- Attracting, retaining and motivating Officers of the right quality and talent;
- Taking 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:

- 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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## **Questions pursuant to Council Procedure 11.2**

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

### **Question One**

**From Councillor Garry Calver to Councillor Paul Honeywood, Portfolio Holder for Housing:**

*“In the Leader of the Council’s Budget speech made on 16<sup>th</sup> February he said, on the subject of the Right to Buy Scheme: “We need to keep pushing the Government to consider modernising the scheme. As I mentioned last year, we need to remove the associated risk from decisions about building or acquiring new homes.”*

*Will the Portfolio Holder for Housing please inform Members as to what action the administration has taken to persuade the Government to update or even reverse this dreadful policy and whether it has received any positive response?*

*If it has not received any positive response will he please inform Members as to what action is being taken by the administration to progress this further especially as this policy has had such a major negative impact on the provision of housing for far too long and which continues to restrict our ability to provide the necessary levels of housing required across the Tendring District?”*

### **Question Two**

**From Councillor Jo Henderson to Councillor Michael Talbot, Portfolio Holder for Environment & Public Space:**

*“Will the Portfolio Holder for the Environment please outline his long term plan to install solar panels to all council houses in the Tendring District and include the time frame for achieving it?”*

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