

Public Document Pack

TENDRING DISTRICT COUNCIL

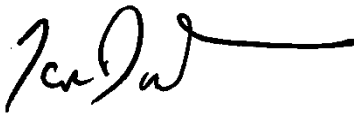
Committee Services
Room 33
Town Hall
Station Road
Clacton-on-Sea
Essex
CO15 1SE

18 November 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 30 November 2021 when the business specified in the accompanying Agenda is proposed to be transacted. The meeting will be held in the Princes Theatre, Town Hall, Station Road, Clacton-on-Sea.

Yours faithfully

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

Ian Davidson
Chief Executive

To: All members of the
Tendring District Council

TENDRING DISTRICT COUNCIL

AGENDA

For the meeting to be held on Tuesday, 30 November 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 - 10)

Members are asked to approve, as a correct record, the minutes of the ordinary meeting of the Council held on Tuesday 14 September 2021.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interests, 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 Petitions to Council

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

9 Questions Pursuant to Council Procedure Rule 10.1

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

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

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

The Council will receive a report 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).

11 Minutes of Committees (Pages 11 - 72)

The Council will receive the minutes of the following Committees:

- (a) Resources and Services Overview & Scrutiny of Monday 20 September 2021;
- (b) Community Leadership Overview & Scrutiny of Monday 27 September 2021;
- (c) Audit of Thursday 30 September 2021;
- (d) Planning Policy & Local Plan of Tuesday 19 October 2021;
- (e) Human Resources & Council Tax of Wednesday 20 October 2021;
- (f) Standards of Wednesday 27 October 2021;
- (g) Community Leadership Overview & Scrutiny of Monday 8 November 2021; and
- (h) Planning Policy & Local Plan of Thursday 11 November 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) If 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).

12 Motion to Council Pursuant to Council Procedure Rule 12 - Application of Article 4 Directions in the District of Tendring (Pages 73 - 74)

Pursuant to the provisions of Council Procedure Rule 12, the Council will consider a Motion, notice of which has been given by Councillor Alan Coley.

13 Reference from the Cabinet - A.1 - Grounds Maintenance Service (Councillor Ivan Henderson's Motion to Council pursuant to Council Procedure Rule 12) (Pages 75 - 78)

To enable Council to consider whether to support a motion submitted at the meeting of the Council held on 13 July 2021 by Councillor Ivan Henderson in relation to the grounds maintenance service. The wording of that motion is as follows:-

“That this Council accepts that its ground maintenance service is failing the tourist economy of the Tendring District as the lack of regular grass cutting and weed clearance is resulting in a negative visual impact for those seeking to enjoy Tendring’s Sunshine Coast.

It is further proposed that the necessary resources are immediately made available to ensure that Tendring’s coastal resorts present a positive visual impact throughout the 2021 summer season and that a review of the grounds maintenance policy then takes place to ensure that this issue does not reoccur in future years.”

14 Reference from the Cabinet - A.2 - The Local Council Tax Support Scheme 2022/2023 - Council Tax Exemptions/Discounts for 2022/2023 and the Annual Minimum Revenue Provision Policy Statement 2022/2023 (Pages 79 - 144)

The Council is asked to consider the recommendations submitted to it by the Cabinet in respect of the Local Council Tax Support Scheme 2022/2023, Council Tax Exemptions for 2022/2023 and the Annual Minimum Revenue Provision Policy Statement 2022/2023.

15 Joint Reference from the Cabinet and the Planning Policy & Local Plan Committee - A.3 - Tendring Colchester Borders Garden Community (TCBGC) Joint Committee (Pages 145 - 194)

To enable Council to consider the Cabinet’s and the Planning Policy & Local Plan Committee’s recommendations that a Joint Tendring Colchester Borders Garden Community Committee is appointed for the discharge of executive and non-executive functions related to the TCBGC and that the Terms of Reference of the Joint Committee are included within Part 3 of the Council’s Constitution.

16 Reference from the Community Leadership Overview and Scrutiny Committee - A.4 - Covid-19 Memorial and Annual Day of Remembrance (Councillor Mark Stephenson’s Motion to Council pursuant to Council Procedure Rule 12) (Pages 195 - 198)

To enable Council to consider the Community Leadership Overview and Scrutiny Committee’s recommendation in relation to a motion submitted at the meeting of the Council held on 13 July 2021 by Councillor Mark Stephenson in relation to a proposed Covid-19 Memorial and Annual Day of Remembrance.

17 Report of the Chief Executive - A.5 - Changes in Membership of Committees (Pages 199 - 200)

To inform Council of any changes in the membership of Committees that have occurred since the last ordinary meeting of the Council.

18 Questions Pursuant to Council Procedure Rule 11.2 (Pages 201 - 202)

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.

19 Decision Notice on the outcome of the Hearing taken by the Standards Committee on 27 October 2021 in relation to an allegation that a Member of Tendring District Council had failed to comply with the Members' Code of Conduct (Pages 203 - 206)

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

20 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).

21 Exclusion of Press and Public

Council is asked to consider passing the following resolution:-

"That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 22 on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 2, 3 and 4 of Part 1 of Schedule 12A, as amended, of the Act."

22 Exempt Minutes of the Meetings of the Human Resources & Council Tax Committee held on Wednesday 7 July and Wednesday 20 October 2021 (Pages 207 - 210)

The Council will receive the exempt minutes of the meeting of the Human Resources & Council Tax Committee held on Wednesday 7 July and Wednesday 20 October 2021.

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

(2) If any recommendations to Council has been made by that Committee, these will be included within separate reports for Council to decide upon (i.e. by noting the minute any such recommendations are not approved at this stage of the proceedings).

Date of the Next Scheduled Meeting of the Council

Tuesday, 25 January 2022 at 7.30 pm - Princes Theatre - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

INFORMATION FOR VISITORS

PRINCES THEATRE FIRE EVACUATION PROCEDURE

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

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

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

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

PUBLIC ATTENDANCE AT TENDRING DISTRICT COUNCIL MEETINGS

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

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

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

Rights of members of the public to film and record meetings

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

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

The Council will provide reasonable facilities to facilitate reporting.

Public Behaviour

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

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

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

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

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**MINUTES OF THE MEETING OF THE COUNCIL,
HELD ON TUESDAY, 14TH SEPTEMBER, 2021 AT 7.30 PM
IN THE PRINCES THEATRE - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Bray (Chairman), Harris (Vice-Chairman), Alexander, Allen, Amos, Baker, Barry, Bush, Calver, Casey, Chapman, Chittock, Clifton, Codling, Coley, Davidson, Davis, Fairley, Fowler, Griffiths, C Guglielmi, V Guglielmi, I Henderson, J Henderson, P Honeywood, S Honeywood, King, Knowles, Land, McWilliams, Miles, Morrison, Nash, Newton, Placey, Scott, Skeels, Steady, G Stephenson, M Stephenson, Stock OBE, Talbot, Turner, White, Wiggins and Winfield
In Attendance:	Ian Davidson (Chief Executive), Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Keith Simmons (Head of Democratic Services and Elections), Ian Ford (Committee Services Manager), William Lodge (Communications Manager), Keith Durran (Committee Services Officer) and Matt Cattermole (Communications Assistant)

59. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Cawthron and Porter.

60. MINUTES OF THE LAST MEETING OF THE COUNCIL

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

RESOLVED that the minutes of the ordinary meeting of the Council held on 13 July 2021 be approved as a correct record and be signed by the Chairman.

61. DECLARATIONS OF INTEREST

There were none on this occasion.

62. ANNOUNCEMENTS BY THE CHAIRMAN OF THE COUNCIL

The Chairman of the Council (Councillor Bray) made the following announcements:-

Nominations for Pride of Tendring Awards

The Chairman was pleased to announce that the nomination period for the Pride of Tendring Awards 2022 was now open. The nomination period would be open until 5pm on Monday 25th October 2022.

The Pride of Tendring Awards 2022 evening would take place on Friday 11th February 2022 and he hoped to see all Members there.

'Santathon'

The Chairman informed Members that a registration form for entry to the Chairman's Santathon had been placed on their tables this evening. The Santathon would take place on Saturday 4th December 2021 to raise money for the Chairman's Charity (Community Voluntary Services Tendring - CVST).

Chairman's Charity Raffle

The Chairman also informed Members that raffle tickets had also been placed on their tables this evening. The raffle was in aid of the Chairman's Charity (CVST).

63. ANNOUNCEMENTS BY THE CHIEF EXECUTIVE

The Chief Executive made the following announcements:-

Alresford Neighbourhood Plan Referendum – Thursday 9 September 2021

"Members will be aware that Alresford Parish Council has developed its own Neighbourhood Plan for the Parish and that the latest step in the process of adopting the Alresford Neighbourhood Plan took place on Thursday of last week with a referendum in the Parish. I was Counting Officer for the Alresford Neighbourhood Plan referendum on 9 September and the turnout was within a fraction of 25% of all electors. 502 ballots were counted and the outcome was 483 (or 96.4%) in favour of adopting the Plan and 18 (or 3.6%) against. The "YES" vote will now be the basis of a decision to formally adopt the Plan at Cabinet on 8 October."

Councillors Scott and Turner responded to the contents of this Announcement.

Cabinet Meeting – Friday 17 September 2021

The Chief Executive reminded Members that this Friday's meeting of the Cabinet was being held in the Council Chamber, at the Council's Offices at Weeley rather than in the usual venue of the Town Hall in Clacton-on-Sea.

64. STATEMENTS BY THE LEADER OF THE COUNCIL

The Leader of the Council (Councillor Stock OBE) informed Council that a new Members' Enquiries system would be operation from 1 October 2021 and that details of this would be circulated to Members in the near future.

65. STATEMENTS BY MEMBERS OF THE CABINET

Action on Climate Change Update

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

"Dear Fellow Members,

Herewith the updated situation with regard to our Climate Change objectives driving towards the Net Carbon Zero policy adopted by Council last year.

You will remember that earlier I reported on our efforts to have Solar Panels fitted to roofs of Council houses along with battery storage units, fed from the individual panels. Discussion have been taking place with an organisation who claims they can supply, on a lease arrangement, solar panels and batteries for our Council houses. Our officers are not yet convinced that what is promised, can in fact be delivered, but we will have to decide one way or another whether this is go or no – go!

The next step is to commission The Association for Public Service Excellence (APSE) to look at solar more generally for us, including the feasibility of a Solar Farm in the District and other options for our roofs. Tim R. Clarke suggested to me that if we can deliver on the roofs of Tendring's Council houses, then that is still the preferred option, as it also helps to addresses fuel poverty. If this comes to fruition it would also mean that consideration of a TDC solar farm can be deferred to later.

There is financial help available through the 'Social Housing Decarbonisation Fund'-. The fact is that we have an opportunity to bid into a £160 million fund to improve the energy performance of our council houses. Andy White's team are working on this and in addition to insulation and heating improvements, it could include solar panels and batteries. Funding these through a grant will obviously be better than 'leasing them' so this may prove to be the direction to go in. I am sure we all wish success to the team working on this.

Lee Heley on secondment from ECC and a Corporate Director, has special responsibility for Climate Change in Tendring and is supporting a new Climate Change Project Group which will include both knowledgeable Members, such as, I hope, Alan Coley, who was Chairman of the original working party, and other Assistant Directors. This group's job will be to drive the projects and strategy. It is also intended to form an officer group for those with an interest in Climate Change, even though the subject is not part of their job role. We are hoping that such a group of enthusiastic individuals, can help to drive change and thinking within teams and services and come up with good ideas.

Data collection – we are almost complete on our data collection for our carbon emissions for the 2020/21 financial year and Tim has commissioned APSE Energy to undertake the analysis for us. The 2019/20 data had been submitted to APSE for analysis, but they (and now us) have identified some missing data that we are trying to get hold of. This perhaps highlights the difficulties we have in gathering accurate data from our various utilities suppliers and then putting enough resource into checking it. This will be a topic of discussion at forthcoming meetings.

All the above colleagues is preparing for actions yet to materialise, but just to finish this report on a high. One of our objectives is to reduce and then abandon 'Single use Plastics'. The Princess Theatre has stopped the use of plastic cups last Sunday the 12th. Instead, the theatre will provide audience members with a reusable cup and special bins for them to put their cups in at the exit. The use of these reusable cups will be introduced this coming Friday the 17th.

This action in the Princes' Theatre also gives ammunition to our food safety teams when talking to business about their use of single use plastics, and can stress it's not just a case of 'Do as I say' but a factual 'do as I'm doing'."

Councillor Talbot then responded to questions put to him on his statement by Councillors I J Henderson, Calver and Scott.

66. PETITIONS TO COUNCIL

No Petitions had been submitted in accordance with the Scheme approved by the Council on this occasion.

67. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.1

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

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

There was no such report of the Leader of the Council for Members to consider on this occasion.

69. MINUTES OF COMMITTEES

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

RESOLVED that the minutes of the following Committees, as circulated, be received and noted:-

- (a) Resources and Services Overview & Scrutiny of Monday 5 July 2021;
- (b) Human Resources & Council Tax of Wednesday 7 July 2021; and
- (c) Audit of Thursday 29 July 2021.

70. MOTION TO COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE 12 - PLANNING APPLICATIONS AND THE PUBLIC'S RIGHT TO OBJECT

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

"This Council believes that planning works best, when developers and local communities work together to shape local areas and deliver necessary new homes, and therefore calls on the Government, to protect the rights of all communities to object to individual planning applications."

Councillor Griffiths formally moved the motion and Councillor Alexander formally seconded the motion.

Councillor Griffiths then gave his reasons why they felt that it would be appropriate for the motion to be dealt with at the meeting, namely that there was a need to urgently respond to the Government's consultation on its proposed planning reforms and draft legislation.

The Leader of the Council, (Councillor Stock OBE), raised no objection to the Motion being considered at this meeting.

The Chairman (Councillor Bray) then made his ruling on whether the motion should be dealt with at the meeting or stand referred. He decided that the motion would be dealt with at the meeting.

Councillor Griffiths then explained the purpose of the Motion in accordance with the provisions of Council Procedure Rule 12.4.2.

Councillors Baker, I J Henderson, Miles and Stock OBE contributed to the debate on the motion.

On being put to the vote the motion was declared unanimously **CARRIED**.

71. MOTION TO COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE 12 - ECC'S PUBLIC CONSULTATION ON SAFER, GREENER, HEALTHIER TRAVEL FROM JAYWICK SANDS TO CLACTON-ON-SEA

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

"On 10th August 2021 Tendring District Councillors were all informed of plans for residents to have their say on safer, greener, healthier travel from Jaywick Sands to Clacton in a consultation that started the very next day.

Whilst many residents will quite rightly support cleaner air, safer roads and the tackling climate change they have a right to know the details of the scheme and how it will affect them, especially as their views are being sort. It's the open and transparent thing to do.

Sadly, this consultation asks generic, general questions and glosses over details such as the possible concreting over of part of Clacton's greensward, the removal of parking spaces used by residents and visitors, the narrowing of primary roads and the riding of cycles on the pavement of a busy crossroads crowded by families with excited young children.

Therefore, this Council instructs the Chief Executive to write to Essex County Council and inform them that this Council opposes the scheme in its present form as it sees no reason to put a cycle path across part of the West Greensward when an adequate cycle path already exists and feels the Pier to Station part of the proposals excludes rather than includes the town and would cause unnecessary disruption and congestion. Tendring District Council therefore requests instead that a route that benefits residents, visitors, and the future of Clacton town centre is developed and consulted on properly with residents."

Councillor Alexander formally moved the motion, and Councillor P B Honeywood formally seconded the motion.

Councillor Alexander then gave his reasons why he felt that it would be appropriate for the motion to be dealt with at the meeting, namely that the consultation period had closed two days earlier and that therefore there was an urgent need to submit this Council's representations to Essex County Council.

The Leader of the Council, (Councillor Stock OBE), did not object to this motion being dealt with at this meeting.

The Chairman (Councillor Bray) then made his ruling on whether the motion should be dealt with at the meeting or stand referred. He decided that the motion would be dealt with at this meeting.

Councillor Alexander then explained the purpose of the Motion in accordance with the provisions of Council Procedure Rule 12.4.2.

Councillors I J Henderson, Miles, Turner, Griffiths, Nash, P B Honeywood, Winfield, M E Stephenson, Calver and Stock OBE contributed to the debate on the motion.

On being put to the vote the motion was declared **CARRIED**.

72. RECOMMENDATIONS FROM THE CABINET

There were no recommendations submitted from the Cabinet for the Council to consider on this occasion.

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

There were no reports submitted by an Overview and Scrutiny Committee for the Council to consider on this occasion.

74. REPORT OF THE CHIEF EXECUTIVE - A.2 - COUNCILLORS' NON-ATTENDANCE AT MEETINGS

In accordance with Article 2.06 of the Council's Constitution, the Chief Executive informed Council that Councillors Calver, Cawthron and G L Stephenson had each exceeded four months without attending a meeting of the Council or attending a meeting of a committee or sub-committee of the Council either as an appointed member of a committee/sub-committee or as a substitute member of a committee/sub-committee.

Pursuant to the provisions of Council Procedure Rule 16.12 (Personal Explanation) Councillor Calver reminded Members that he had not attended meetings due to the restrictive impact on him personally of the Covid-19 regulations then in place.

Council noted the foregoing.

75. REPORT OF THE CHIEF EXECUTIVE - A.3 - CHANGES IN MEMBERSHIP OF COMMITTEES

The Chief Executive formally reported that, in accordance with the wishes of the Leader of the Independent Group and the authority delegated to him, the following appointment had been duly made since the last ordinary meeting of the Council, namely:-

Community Leadership Overview & Scrutiny Committee

Councillor Chapman had been appointed to serve in place of Councillor Davis.

Council noted the foregoing.

76. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 11.2

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

Three questions had been submitted by Members on this occasion as set out below:-

Question One

Councillor Maria Fowler had asked Councillor Alex Porter, the Portfolio Holder for Leisure and Tourism:

“Will the Portfolio Holder for Leisure and Tourism please advise Members as to why the future of the Council's leisure centres has not been scrutinised by the relevant committee prior to any consultation or Cabinet decision?”

In the absence of Councillor Porter, the Leader of the Council (Councillor Neil Stock OBE) replied on his behalf as follows:-

“As Members are aware, agreements for the joint use facilities at Harwich and Brightlingsea have expired and an extension has been agreed with the Governing Trust of the schools, until the end of December.

A decision has only just been taken to go out to consultation and it is open to the respective committees to request this matter as an agenda item, if they see fit.”

Question Two

Councillor Mick Barry had asked Councillor Alex Porter, the Portfolio Holder for Leisure and Tourism:

“As we begin to emerge from the pandemic and look towards the road to recovery, the importance and profile of physical activity in improving the well-being of residents has never been greater.

Being physically active and participating in sports activities is one of the most effective ways to enrich the lives of the people of Tendring and the communities we live in.

Against this background it is a matter of great concern that the involvement of this Council in the operation of Manningtree Sports Centre has ended and reviews of similar arrangements at Brightlingsea and Harwich sports centres are scheduled to take place in the next few months.

Will the Portfolio Holder for Leisure and Tourism confirm that joint user agreements currently in place at Brightlingsea and Harwich sports centres will be revised and updated and that leisure provision for residents in those communities will be safeguarded and enhanced?”

In the absence of Councillor Porter, the Leader of the Council (Councillor Neil Stock OBE) replied on his behalf as follows:-

“The current agreements with Brightlingsea and Harwich have reached their expiry, and as such an extension has been secured until the end of December, allowing for a full governance process to take place. A full six-week consultation will be undertaken with local centre users and non-users to provide Cabinet with the information required to make an appropriate key decision for these facilities, which are not owned by this Council.”

Councillor Barry then asked a question of clarification to which Councillor Stock OBE responded.

Question Three

Councillor Graham Steady had asked Councillor Alex Porter, the Portfolio Holder for Leisure and Tourism:

“The Council’s Head of Sport and Leisure attended a Resources and Services Overview and Scrutiny Committee meeting on 14th October 2019 and minutes from that meeting state (para 30.):-

‘He advised the Committee that later in this Calendar Year there was intended to be consideration by Cabinet of a 10 year Strategy for Sports facilities in the District as provided by the Council.’

He identified underpinning themes of the new Strategy as:-

- (1) Securing the financial sustainability of the Council’s leisure and sports facilities.*
- (2) Seeking to harness the work being undertaken with Sport England to break the cycle of inactivity and consequential health problems and design services that will align with the outcomes of the project.*
- (3) Adjusting the service offer and pricing policy to respond to the changing market in leisure facility provision nationally and attract more users.*

Can the Portfolio Holder for Leisure and Tourism update Council on the position of the 10 year strategy and confirm that the underpinning themes will be paramount when considering the future of all leisure service provision in the District?”

In the absence of Councillor Porter, the Leader of the Council (Councillor Neil Stock OBE) replied on his behalf as follows:-

“The Leisure Service has responded tactically to the changing conditions faced as a result of the three lockdowns over the last 18 months. It has not been the right time to develop a Sports Facilities Strategy, as the operating environment remains in flux, so we postponed the Strategy from consideration by Cabinet earlier this year. We expect to bring the Strategy forward in 2022, assuming that no further lockdowns affect leisure service usage. The underpinning themes will inform the development of the Strategy.

The Council is committed to working with partners in seeking to increase levels of physical activity and improve health outcomes in the District. The Local Delivery Pilot Scheme for example, is focussed on increasing activity in our most disadvantaged

areas, through our work with Active Essex and our partners in neighbouring Districts and Boroughs.”

Councillor Steady then asked a question of clarification to which Councillor Stock OBE responded.

77. SEATING PLAN FOR FULL COUNCIL MEETINGS - PRINCES THEATRE

Members’ approval was sought of the proposed seating plan for any future non-socially distanced meetings of the Full Council to be held in the Princes Theatre, Town Hall, Station Road, Clacton-on-Sea.

It was **RESOLVED** that the proposed seating plan for any future non-socially distanced meetings of the Full Council to be held in the Princes Theatre, Town Hall, Station Road, Clacton-on-Sea, be approved.

78. URGENT MATTERS FOR DEBATE

There were no urgent matters for Council to debate on this occasion.

The Meeting was declared closed at 9.02 pm

Chairman

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**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW
AND SCRUTINY COMMITTEE,
HELD ON MONDAY, 20TH SEPTEMBER, 2021 AT 7.30 PM
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors M Stephenson (Chairman), Scott (Vice-Chairman), Allen, Barry, Codling and Griffiths and I Henderson
Also Present:	Councillor C Guiglielmi (Deputy Leader, Portfolio Holder for Corporate Finance and Governance) and Porter (Portfolio Holder for Leisure and Tourism)
In Attendance:	Lee Heley (Interim Corporate Director (Projects Delivery)), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Andy White (Assistant Director (Building and Public Realm)), Keith Simmons (Head of Democratic Services and Elections), Kieran Charles (Head of Sport & Leisure), Keith Durran (Committee Services Officer) and Matt Cattermole (Communications Assistant)
Also in Attendance:	David Clarke (Hestur Limited)

18. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were also submitted on behalf of Councillor Land (with no substitution), Harris (with no substitution) and Morrison (with Councillor I Henderson substituting)

19. MINUTES OF THE LAST MEETING

- (1) It was **RESOLVED** that the Minutes of the meeting of the Committee held on Monday 5 July 2021 be approved as a correct record; and
- (2) it was noted that, following the 5 July 2021 meeting of the Committee (Minute 15 refers) there had been an informal task and finish style meeting of Members of the Committee to look further at the issue of untenanted Council Homes (2Voids”) on 2 September 2021 and a further meeting would be taking place on 29 September with a view to recommendations on this subject being submitted to the next meeting of the Committee for consideration

20. DECLARATIONS OF INTEREST

Councillor I Henderson declared a personal interest in item 5, “Enquiry into Particular Elements of the Councils Sport and Leisure Service” (Minute 22 below refers) as he had a close family member working in one of the Districts Leisure Centres.

21. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

22. **REPORT OF THE PORTFOLIO HOLDER FOR LEISURE AND TOURISM - A.1 -
ENQUIRY INTO PARTICULAR ELEMENTS OF THE COUNCILS SPORT AND
LEISURE SERVICE**

The Committee had before it a report that outline that the pandemic had significantly impacted Leisure Services nationally over the last eighteen months, as three waves of lockdown had shut Facilities and membership numbers had declined. Tendring District Council Leisure Service had not been immune from the national trends. A responsive approach throughout the pandemic had been required as the operating environment changed on a monthly basis. The downtime in the pandemic had enabled progress on major refurbishment works to the Council's main Facility at Clacton Leisure Centre. The Council, in its post Covid recovery strategy – Back to Business - had committed to further improvements to the external offer at Clacton, with a complete redevelopment of the Skate Park (which had now been reprogrammed to 2022).

As requested by the Committee, the update set out the Facilities usage over the previous five years and projections for usage in the current and next following four years, demonstrated the impact of the pandemic and future trends. The report also showed some of the financial consequences of the pandemic in the budget over the last five years, included revenue income, expenditure, capital/one-off investments and grants to the Council.

The Portfolio Holder indicated that the projections of future use were only projections and, as with all projections, should be treated with caution.

In the discussion, the approach to delivering excellent customer service and care in the leisure facilities was considered. Opportunities to improve these were raised and the Head of Sport and Leisure agreed to look at these matters with those in that service area.

In response to a question, the Head of Sport and Leisure agreed to provide the Members of the Committee with the detail of income/expenditure over the current and last four years by leisure facility together with the usage data from those individual centres.

The Head of Sport and Leisure also advised that the improvement works at Clacton Leisure Centre had identified the benefits of improved building management systems to reduce energy use. He also outlined the rebranding that had taken place at the sites and the new leisure facilities website. The opportunity for the Council's Tourism Service to promote the Council's Leisure facilities was referenced to the Portfolio Holder and officers to look at.

After an in depth discussion it was **RECOMMENDED to CABINET** to restate the Committee's request that an updated draft District-wide Leisure Strategy be brought forward as speedily as possible for consultation and that the Strategy should seek to enable a fresh direction to the delivery of leisure facilities and address the issues facing the District; including encouraging people to progress from being fairly active to active and from inactive to fairly active and the provision for those with disabilities.:

The Chairman thanked the Portfolio Holder and the relevant Officers for their contributions to the Committee's enquiry.

**23. REPORT OF THE PORTFOLIO HOLDER FOR LEISURE AND TOURISM - A.2 -
ENQUIRY INTO PARTICULAR ELEMENTS OF THE COUNCILS SEAFRONTS
SERVICES**

The Committee heard how in 2014 the Council instigated a £36 million coastal defence project stretching from Clacton Pier to Holland on Sea in partnership with the Environment Agency. Not only had that protected the coastline, it had led to the creation of 23 new sand beaches which provided a major opportunity for tourism development.

The Committee also heard that in 2016 the pre-construction phase started to stabilise the cliff between Hazelmere and Queensway, the pre-construction phase consisted of ground investigations, numerous surveys, obtaining planning permission, producing detailed designs, producing tender documents, obtaining tenders, and appointing a contractor in line with the procurement policy. The construction of the project commenced on 28/08/18 and was completed on 28/06/19 at a cost of £4.3 million. The project stabilised a 500m length of coastal slopes by temporarily removing 83 beach huts, excavating to construct a new piled slope retaining wall and new steel piled retaining wall at the base of the slope to provide a stable shelf for the beach huts to be returned. The scheme also included new drainage and Equality Act compliant ramped from the top promenade to the lower promenade.

The scheme was identified in the Clacton & Holland Geomorphological Assessment and Conceptual report 2015 produced by Mott MacDonald. The report had identified the areas most at risk of failure between Clacton Pier and Holland Haven. The report also suggested a detailed slope stability study of the cliffs to be carried out at a cost of £225,000. Based on that estimate the suggested cost to carry out detailed slope stability studies on all the cliffs the Council was responsible for would be approximately £700,000.

With the assistance of the Assistant Director for Building & Public Realm and Mr David Clarke of Hestur Limited (the Council's contractor for the current cliff stabilisation works), the Committee considered the risk factors for the cliffs in the area and the measures to reduce the risks and otherwise undertake works to stabilise the cliffs for the future. The aim would be to achieve cliffs with a sustainable factor of safety of 1.0. Mr Hestor advised that neighbouring cliffs to those currently being stabilised could fail with a marginal deterioration of the factor of safety. The works being undertaken were using techniques to reduce vibration and therefore not themselves cause the factor of safety to worsen in those neighbouring cliffs. He also advised that the current stabilisation works could be completed by December 2021 (although it had provided for them to be completed by March 2022 to allow for adverse weather impacts). The Assistant Director for Building & Public Realm referenced an initial visual overview of the slopes from the Pier to Holland Haven confirmed some were at more risk of failure and the bowed railings and cracked promenade in places were some of the indicators to this. He further advised that the original pitch-fibre drainage system was still in place in the cliffs although its effectiveness had likely deteriorated.

The Members heard how there were currently 3,040 beach huts directly under the operation and management of Tendring District Council. The Seafronts team managed the beach hut service, which strived to ensure continued popularity of Beach Huts in Tendring, continually improve seafront appearance and generate revenue to reinvest. A

further £64,000 worth of proposed improvements/additions to the Beach Huts would be coming forward in the near future.

In response to questions from the Members of the Committee, the Assistant Director for Building & Public Realm agreed to provide them with the detail of the improvement works over the last 5 years for Seafronts Assets and Infrastructure and the Clacton & Holland Geomorphological Assessment and Conceptual report of 2015 produced by Mott McDonald. The wish for these to be part of the public record was requested by Members of the Committee.

The point was also made that the extent of railings along the seafront promenade provided the Council with numerous opportunities to advertise issues, events and services.

After a detailed discussion the Committee **RECOMMENDED** to **CABINET** that:

- a. where observation reveals cliff slippages, all communication with Beach Hut Licensees in respect of Cliff Stabilisation and safety, is consistently shared with the relevant District Ward Councillors.
- b. the undertaking of a survey of cliff vulnerability across the 26 kilometres of coast line for which is this Council's responsibility and beach levels in the 23 bays created in 2013/14 in the Clacton-on-Sea and Holland-on-Sea areas be undertaken as an imperative piece of work in the next few months and thereby address the concerns raised by the Committee on 22 June 2020 (Minute 62 refers) and on 21 September 2020 (Minute 85 refers).

The Chairman thanked the Portfolio Holder and the relevant Officers for their contributions to the Committee's enquiry.

24. REPORT OF THE ASSISTANT DIRECTOR OF FINANCE & IT. - A.3 - FINANCIAL OUTTURN 2021/22 AND IN-YEAR FINANCIAL PERFORMANCE UPDATE FOR 2021/22

The Committee was provided an overview of the Council's financial outturn for the year 2020/21 and the allocation of the associated General Fund Variance for the year along with the latest in-year financial performance position for 2021/22.

The Members heard that on 30 July 2021 the Portfolio for Corporate Finance and Governance considered the Financial Outturn 2020/21 and:

- (a) notes the financial outturn position for 2020/21 as set out in this report and appendices;*
- (b) approves the financing of General Fund capital expenditure for 2020/21 as detailed in Appendix D;*
- (c) approves the movement in uncommitted and earmarked General Fund reserves for 2020/21 set out in Appendix E;*

-
- (d) *approves the qualifying carry forwards totalling £23.322m (£14.352m Revenue and £8.970m Capital) as set out in Appendix K;*
 - (e) *agrees that all other carry forwards totalling £0.536m requested by services be transferred to the relevant earmarked reserve pending consideration by Cabinet at its September 2021 meeting;*
 - (f) *in respect of the Housing Revenue Account (HRA), approves the movement on HRA balances for 2020/21 including any commitments set out within Appendices H and/or I along with recharges to the HRA from the General fund of £2.813m for the year and the financing of the HRA capital expenditure set out in Appendix I;*
 - (g) *that, subject to the above, notes the various COVID 19 grant funding amounts set out in Appendix K (ii to iii) and approves the use of the funding as set out in the same appendix and in the main body of this report;*
 - (h) *that, subject to the above, recommends to Cabinet that the overall General Fund Outturn Variance for the year of £1.539m be used to support the essential works at the Weeley Crematorium;*
 - (i) *recommends to Cabinet that £2.060m be allocated to support the recent bid to the Government's 'Levelling Up Fund', funded by the use of amounts identified within the 2021/22 budget as set out in this report; and*
 - (j) *authorises the Council's Section 151 Officer, in consultation with the Corporate Finance and Governance Portfolio Holder, to adjust the outturn position for 2020/21 along with any corresponding adjustment to earmarked reserves as a direct result of any recommendations made by the Council's External Auditor during the course of their audit activities relating to the Council's 2020/21 accounts".*

The Members also had an update provided directly at the meeting of the Committee that, at its 17 September 2021 meeting, Cabinet had (in respect of the Outturn Position for 2020/21):

- (a) *Agreed that the total of £0.536m requested by services can be retained by them via the associated carry forward requests as set out in Appendix A; and*
- (b) *after considering the recommendations of the Portfolio Holder for Corporate Finance and Governance, agreed:*
 - (i) *that subject to the approval of an associated Project Initiation Document / Business case, it is approved in principle that the necessary remedial works be carried out at the Weeley crematorium funded by using the overall General Fund Outturn Variance for the year of £1.539m.*
 - (ii) *that subject to b(i) above, the approval of the Project Initiation Document / Business Case associated with the proposed remedial works at the Weeley Crematorium be delegated to the Portfolio Holders for Environment and Public Spaces and Corporate Finance and Governance; and*

(iii) that £2.060m be allocated to support the recent bid to the Government's 'Levelling Up Fund', funded by the use of amounts identified within the 2021/22 budget as set out later on in this report";

The Cabinet Report referred to above also included a timely update on the general financial performance of the Council in 2021/22. The timing of that report therefore allowed the Committee to review that most up to date position as well as the outturn for the year.

It was reported to Members that, although the Committee had considered a list of one-off funded projects at previous meetings, given the outturn for 2020/21 had only recently been finalised, the most up to date position was in effect the amounts requested to be carried forward into 2021/22 that were included within the report.

Updates were provided against that list, which were in-line with corporate priorities, as part of the quarterly financial performance reports that would be presented to members over the remainder of the year. However, work remained on-going to deliver against the associated projects supported by the additional capacity that would be funded from the £0.200m set aside for that purpose earlier in the year.

Following a review by Directors / Assistant Directors, the additional capacity identified as being required primarily centred around:

- Procurement
- Maximising External Funding Opportunities / Bid Writing
- General Project Management

In terms of procurement, as set out in the report to Cabinet, it was proposed to work in partnership with Essex County Council, which would allow the Council to not only access additional capacity but also specialist procurement advice / knowledge.

The Committee's attention was drawn to the Local Government Association's Peer Challenge Report of the Council in 2018 and the Annual External Audit Letters to the Council from 2018, 2019 and 2020 in which the levels of underspends each year had been identified as issues for the Council to address. The impact on deliverability of planned projects and the related issues of utilising/releasing committed reserves had been identified in the External Audit Letter 2020.

The Portfolio Holder for Corporate Finance and Governance confirmed his willingness to meet with the Chairman of this Committee to address the two issues referred to above from the External Auditor's Letter 2020 in relation to the list of one-off funded projects.

In response to questions from Members of the Committee, the Assistant Director for Finance and IT agreed to provide them with the decision and application to the UK Government for a scheme to be funded from the Government's Levelling Up Fund. The application had been submitted in conjunction with Essex County Council.

After an in depth discussion it was **RESOLVED** to note the report and that progress against the projects to be funded by one off sums/reserves/provisions be the subject of an enquiry at the March 2022 meeting of the Committee and. 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.

The Chairman thanked the Portfolio Holder and the relevant Officers for their contributions to the Committee's enquiry.

25. 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 look into any such decision before it was taken. The relevant forth coming decisions were before the Committee.

The Committee **NOTED** there were no forthcoming decisions.

26. RECOMMENDATIONS MONITORING REPORT

The Committee before it the current Recommendations Monitoring Report which set out those items which had previously made recommendations to the Cabinet/ Portfolio Holder and the approved response to the recommendations and any subsequent action for the Committee to consider.

In addition, the Head of Democratic Services & Elections advised the Committee that on 17 September 2021, the Cabinet had approved the following in respect of the Committee's recommendations on the Council's Tourism Strategy from 24 May 2021 (Minute 6 refers):

"I would like to thank the Committee for its views and where possible, suggestions will be built into the work programme for the delivery of the strategy. Further to this, I would suggest the Committee set up task and finish groups to look in detail at how some of the suggestions could be delivered in practice. In particular, the carbon offsetting of the Clacton Airshow and how further improvements can be made to improve cleanliness. I look forward to seeing the results of the in-depth scrutiny by the Committee in these areas and welcome further thorough scrutiny that results in an improved strategy."

It was **RESOLVED** that the Committee notes the report.

27. REVIEW OF THE WORK PROGRAMME

The work programme of the Committee was submitted to it in order to enable the Committee to review that programme.

The Chairman reported that since the adoption of the work programme, he had discussed the timing of the proposed enquiry into the Council's communications strategy. Following the discussions, the Chairman proposed that this enquiry be rescheduled from the 13 December meeting of the Committee to 13 March 2022. As a consequence, space would be created for the Committee to undertake an enquiry into the joint use agreements for leisure facilities which was currently the subject of consultation.

The Chairman further indicated that he would wish to see an opportunity for the Members of the Committee to consider informally the information requirements for the enquiry into Council enforcement in the next few weeks so as this information could be submitted to the Committee at its formal meeting on 1 November 2021.

The Committee noted the contents of the report and **RESOLVED** to approve the changes set out and otherwise relayed to it.

The meeting was declared closed at 10.31 pm

Chairman

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Community Leadership Overview and
Scrutiny Committee

27 September 2021

**MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP OVERVIEW AND
SCRUTINY COMMITTEE,
HELD ON MONDAY, 27TH SEPTEMBER, 2021 AT 7.30 PM
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors Chittock (Chairman), Amos (Vice-Chairman), Chapman, Clifton, Codling, Davidson, Miles, Skeels and Steady
Also Present:	Councillor McWilliams (Portfolio Holder for Partnerships), Alexander, Griffiths and M Stephenson
In Attendance:	Gary Guiver (Interim Director of Planning), Anastasia Simpson (Assistant Director Partnerships), Keith Simmons (Head of Democratic Services and Elections), Leanne Thornton (Safer Communities Manager) Rebecca Morton (Executive Projects Manager) and Matt Cattermole (Communications Assistant)
Also in Attendance:	Martin Richardson (Acting Chief Inspector, Essex Police), Aaron Homotopolous (Inspector, Essex Police), Tracey Vickers (Head of Sustainable Transport, Essex County Council) Terry Fowles (Watch Liaison Officer, Essex Police) and Fercia Weyer (Essex General Manager of Spin)

6. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

On this occasion there were no apologies for absence submitted on behalf of Councillors.

The Head of Democratic Services and Elections advised the Committee that the Police, Fire and Crime Commissioner was not able to attend the meeting and therefore the enquiry into the emerging Police and Crime Plan for Essex would be adjourned to the next scheduled meeting of the Committee.

7. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the Minutes of the meeting of the Committee held on Monday 28 June 2021 be approved as a correct record.

8. DECLARATIONS OF INTEREST

There were no declarations of interest by Councillors in relation to any item on the agenda for this meeting.

9. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

**10. A QUESTION AND ANSWER DISCUSSION WITH ACTING CHIEF INSPECTOR
MARTIN RICHARDS (TENDRING DISTRICT COMMANDER) ESSEX POLICE**

Martin Richardson (Acting Chief Inspector, Essex Police), Aaron Homotopolous (Inspector, Essex Police) outlined elements of the operational policing challenges that were being addressed in the District and the partnership working the Police were undertaking with organisations such as Tendring District Council.

In response to question, they advised on the competing priorities that policing had and why serious offences such as reports of domestic violence would be prioritised over less serious crimes in relation to immediate responses.

Where local Council made byelaws included the option to issue fixed penalty charges for offences there would need to be paperwork supplied by the Council to be issued. Otherwise, if such byelaws provided for penalties following summary conviction in the courts the Police would need to supply witness statements and any other evidence to the Council in order to prosecute the offenders.

The Police representatives were also requested to ensure that local Police Community Safety Officers be authorised to exercise the full range of powers possible. In reply, the Police representatives indicated that there were examples when using certain powers would be inappropriate in a practical sense given that the PCSOs could not use the power of arrest as a Police Officer.

There was also a discussion around the role of parents of children involved in anti-social behaviour, the response of those parents and the responsibility they had to the rest of society to uphold acceptable behaviour.

The representatives of Essex Police indicated that certain responses to questions from Councillors may involve disclosure of information on live investigations and to facilitate disclosure the Committee would be requested to exclude the press and public. This is set out below at Minutes 18 and 19 below.

11. REPORT OF THE ASSISTANT DIRECTOR OF PARTNERSHIPS - A.1 - CRIME AND DISORDER / SAFER COMMUNITIES

The Committee heard from Terry Fowles, Essex Watch Liaison Officer about the various "Watches" running in the Tendring District and numbers of members in each watch.

The Members heard that it would help if the Watch Liaison Officer could be provided with a list of contacts for Council run allotments as well as any contacts for sites of value and/or heritage sites in the District to seek to involve them in the relevant Allotments/Heritage Watch Scheme.

In response to a question, the Assistant Director of Partnerships advised that it was intended for a future All Member Briefing for Councillors would include a presentation on the partnership work in seeking to address anti social behaviour locally.

After detailed discussion the contents of the report was **NOTED**.

12. REPORT OF THE ACTING DIRECTOR OF PLANNING. - A.2 - THE LAWFUL AND UNLAWFUL USE OF E-SCOOTERS AND THE EXTENT OF THE POLICING/ACTION AGAINST THOSE UNLAWFULLY USING THEM.

The Committee heard from Tracey Vickers, Head of Sustainable Transport – Essex County Council and Fercia Weyer - Spin's Essex General Manager that in the spring / summer of 2020, the Department for Transport (DfT) announced a proposal to trial the use of electric scooters in named pilot areas. Local authorities were encouraged to apply to become a pilot area, and Essex County Council (ECC) drafted proposals for Basildon, Braintree, Brentwood, Clacton, Chelmsford and Colchester. ECC then identified a preferred supplier – Spin – and submitted those proposals to the DfT.

ECC, in partnership with Spin, launched the trial in Clacton on 1 March 2021. Under the trial, e-scooters hired from Spin may be ridden on roads and cycle paths. There are currently 150 Spin e-scooters in Clacton, and the town was approaching 30,000 rides since the trial began. The trial will run until the end of October 2021, but consideration was being given to extending the trial until March 2022.

The Committee were shown one of Spin E-scooters and this was demonstrated to the Committee to identify how a registered user would be linked to an individual E-scooter, its forward and rear lights and the panel that displayed the speed of the E-scooter to the user. The expectation for users to park the E-scooter safely and photograph it once parked was outlined to the Committee.

The Committee heard about different uses of the E-scooters including those who used them to link with Railway Stations to travel and from work.

The Committee also heard from Acting Chief Inspector Martin Richardson relation to lawful and unlawful use of E-Scooters, he outlined the two major differences in the type of offences occurring.

1. The incorrect use of the legally permitted E-Scooters.
2. The unlawful use of an E-Scooter that is not legally permitted to be used in public.

The Acting Chief Inspector informed the Committee that the incorrect use of the legally permitted E-Scooters was very minimal and was not a hindrance to the Police workload and that the issue lay with the unlawful use of not legally permitted, privately owned E-Scooters in public.

Members heard how Tendring Police had an operation underway to tackle the unlawful use of e-scooters, to include a media campaign, unfortunately the E-scooters were being seen as a toy by many and therefore perfectly acceptable, but only on private land, such as their own back gardens and absolutely not the public highway or pavements.

At the invitation of the Committee's Chairman, the Ward Councillors for St James Ward (Councillors Alexander and Griffiths) addressed the Committee on their experience of the E-scooters trial as it impacted on the Clacton-on-Sea Ward they represented and the feedback they had received from local residents.

After a detailed discussion it was **RECOMMENDED** that Cabinet:

- a. authorises representations to the Government's Department of Transport to the effect that riders of E-Scooter be required to wear safety helmets, that E-Scooters be required to generate a low level noise to make them audible for safety reasons and that they are fitted with indicator lights.

13. REPORT OF THE ASSISTANT DIRECTOR OF PARTNERSHIPS. - A.3 - COMMUNITY PARTNERSHIPS AND THE COVID 19 PANDEMIC.

The Committee had before it a report about Partnership working, be it formal or informal, was consistent with the Council's commitment to put Community Leadership at the heart of everything we do through delivery of high quality, affordable services and working positively with others.

The Council's Executive Projects Manager, Rebecca Morton, indicated that she would provide copies of her presentation to the Committee for circulation to the Members.

After a short discussion the Committee wished that the incredible work outlined in the report be **NOTED**, specifically the work with the Black, Asian and Minority Ethnic community.

The Committee **RESOLVED** to record its appreciation for the good work delivered through the grant scheme to community groups and the focus this funding had provided at the important stages of the pandemic, related lockdowns and as society again opened up as restrictions were lifted.

14. COUNCILLOR M STEPHENSONS MOTION TO COUNCIL - A.4 - MEMORIAL AND ANNUAL DAY OF REMEMBRANCE

The Motion concerning commemoration of those impacted by Covid-19 and those who worked to keep the public safe and well during the pandemic (referred to the Committee from Council on 13 July 2021 (Minute 51 refers)) was referred to the Committee. The motion had been submitted to Council by Councillor M Stephenson. In accordance with Council Procedure Rule 12.6 (Referred Motions – Right of Mover to Attend Meeting), Councillor M Stephenson had been notified to attend the meeting to answer any questions and/or points of clarification, if requested.

After a short discussion the Committee **RESOLVED** that the Committee be furnished with a report in relation to Councillor M Stephenson's motion to Council for the next Community Leadership Overview and Scrutiny Committee on the basis that this would still enable the Committee to submit its view on the Motion to the meeting of Council on 30 November 2021.

15. RECOMMENDATIONS MONITORING REPORT

The Committee before it the current Recommendations Monitoring Report which set out those items which had previously made recommendations to the Cabinet/ Portfolio Holder and the approved response to the recommendations and any subsequent action for the Committee to consider.

It was **RESOLVED** that the report be **NOTED** and that the items recorded in the report had now been concluded.

16. 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 look into any such decision before it was taken. The relevant forth coming decisions were before the Committee.

The Committee noted there were no forthcoming decisions at that time.

17. REVIEW OF THE WORK PROGRAMME

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

18. EXCLUSION OF PRESS AND PUBLIC

At the request of the representatives of the Essex Police, the Committee **RESOLVED** to exclude the Press and Public from the meeting under section 100 (A4) of the Local Government Act 1972, the press and public during the consideration of the following item on the grounds that it was likely to involve the disclosure of exempt information as defined in paragraph 7 of part 1 of schedule 12A, which deals with investigation of crime.

19. A QUESTION AND ANSWER DISCUSSION WITH ACTING CHIEF INSPECTOR MARTIN RICHARDS, (TENDRING DISTRICT COMMANDER) ESSEX POLICE

Further to Minutes 10 and 11 above, the Committee considered its enquiry into crime and disorder and anti-social behaviour with information from Acting Chief Inspector Martin Richards and Inspector Aaron Homopolous.

The meeting was declared closed at 10.17 pm

Chairman

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**MINUTES OF THE MEETING OF THE AUDIT COMMITTEE,
HELD ON THURSDAY, 30TH SEPTEMBER, 2021 AT 10.30 AM
IN THE COUNCIL CHAMBER, AT THE COUNCIL OFFICES, THORPE ROAD,
WEELEY, CO16 9AJ**

Present:	Councillors Coley (Chairman), Alexander (Vice-Chairman), Fairley, King (except items 14 - 18 (part)), Placey and Steady
In Attendance:	Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Craig Clawson (Internal Audit Manager), Ian Ford (Committee Services Manager), Karen Townshend (Executive Projects Manager (Governance)), Clare Lewis (Fraud and Risk Manager) and Matt Cattermole (Communications Assistant)

14. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

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

15. MINUTES OF THE LAST MEETING

The Minutes of the last meeting of the Committee held on Thursday 29 July 2021 were approved as a correct record and signed by the Chairman.

16. DECLARATIONS OF INTEREST

There were no declarations of interest made on this occasion.

17. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were no Questions on Notice on this occasion.

18. REPORT OF THE INTERNAL AUDIT MANAGER - A.1 - PROGRESS REPORT ON INTERNAL AUDIT: JULY - AUGUST 2021 AND APPROVAL OF INTERNAL AUDIT CHARTER

The Committee had before it a report submitted by the Council's Internal Audit Manager (A.1) which provided it with a periodic update on the Internal Audit function for the period July to August 2021 and enabled it to review the Internal Audit Charter for approval as required by the professional standards.

The Committee was also informed how Internal Audit continued to provide advice on the office transformation programme, the digital transformation programme and project management on a consultative basis.

Outcomes of Internal Audit Work

Members were aware that the Public Sector Internal Audit Standards (PSIAS) required the Internal Audit Manager to report to the Audit Committee on significant risk exposures and control issues. Since the last report four audits had been completed and the final report issued.

Assurance	Colour*	Number this Period	Total for 2019/20 Plan	
Substantial		2	2	
Adequate		1	1	
Improvement Required		1	1	
Significant Improvement Required		0	0	
No Opinion		0	0	

*For the purpose of the colour coding approach, both the substantial and adequate opinions were shown in green as both were within acceptable tolerances.

There had been no significant issues identified within the audits completed during the reporting period.

Management Response to Internal Audit Findings

The Committee was reminded 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.

The number of high severity issues outstanding was as follows:-

Status	Number	Comments
Overdue more than 3 months	0	
Overdue less than 3 months	0	
Not yet due	2	

Update on previous significant issues reported

Fleet Management Policy

The Committee was informed that the Fleet Management Policy had been put forward to the Human Resources & Council Tax Committee in July 2021 for its approval. However, the Committee had requested some additional changes to be made to the policy and to be brought back to the next meeting of the Committee in October 2021.

Members were also advised that the Acting Transport Manager had now sat his final exam and that the results were expected at the end of October 2021.

Planning Enforcement Policy

The Committee was made aware that the Policy had now been reviewed by the Legal Services Team and was now back with the Planning Enforcement Team for its further review and consultation before it could then be considered for formal adoption.

In respect of the above, the Assistant Director (Finance & IT) undertook to provide members of the Committee with an update in relation to:-

- (i) the contingencies in place and options available should the Acting Transport Manager fail the exam; and
- (ii) the expected time scale for the Planning Enforcement Team's completion of its further review of the Planning Enforcement Policy.

Internal Audit Charter

The Committee recalled that it was a requirement of the PSIAS for the Audit Committee to review and approve the Internal Audit Charter on an annual basis. The Charter had been last updated and approved in September 2019, as due to the Covid-19 pandemic and the focus of Officers being needed elsewhere the Charter had not been reviewed and approved in 2020. However, there had been no changes to standards or processes at that time and therefore no amendments would have been required anyway.

Members were advised that this was still the case and that the Audit Committee and Internal Audit Team continued to comply with the obligations and responsibilities set out within the charter. The current charter was included as Appendix B to item A.1 of the Report of the Internal Audit Manager.

Following a discussion and a review of the contents of the Internal Audit Charter it was:-

RESOLVED that –

- (a) the contents of the report be noted; and
- (b) the Internal Audit Charter be approved, subject to the inclusion within Section 9 of an appropriately worded reference to the fact that, under the Constitution, the members of the Audit Committee are required to undergo specific training in regards to the determination of the Council's Statement of Accounts and the comprehension of Auditor reports.

19. REPORT OF ASSISTANT DIRECTOR (FINANCE & IT) - A.2 - CORPORATE RISK UPDATE

The Committee had before it a report submitted by the Assistant Director (Finance & IT) (report A.2) which presented it with the updated Corporate Risk Register.

It was reported that, although no changes had been identified as being required at this time, the corporate risk framework had been included at Appendix A to the report for Members' reference. A review of the framework was due to take place later in 2021/22.

The Committee was advised that, although COVID related matters continued to affect the whole organisation, they were not reflected in the risk register itself, in order that sight was not lost of the risk register's purpose.

Members were made aware that a review of lessons learnt relating to COVID 19 had now been included in the Internal Audit Plan for 2021/22 and would be brought before the Audit Committee at a later meeting.

The Committee was reminded that Council services had now reopened and that the Council continued to ensure staff remained safe whilst carrying out their day-to-day duties.

The below table set out all amendments to the Risk Register since it had been last considered by the Committee in May 2021:-

Risk Register Item	Amendments / Comments
New Risks Identified	None
Risks Removed	None
Risk Scores Amended	None
Risk under review	None
Risks Amended	<p>Item 1b - Catastrophic IT network failure – change to main text relating to remote working.</p> <p>Item 1d - Ineffective Cyber Security Physical and Application (software) Based Protection Management - update on main text relating to current status of cyber security</p> <p>Item 2d - Ineffective delivery of Transforming Tending project – update on the completion of works.</p>

Although not currently included within the risk register, Officers had highlighted the following two potential emerging issues:-

- **Shortage of Global Supplies** – due to various reasons (including the on-going impact of COVID 19) the risk of key supplies not being available when required had increased - one example being the shortage of computer processing chips. This was currently being managed via earlier procurement planning and remaining alert to market conditions. *(Links to existing Corporate Risk associated with Failure to Deliver Key Services and Ineffective Business Continuity Planning)*
- **Failure to Deliver Key Contracts** – as part of delivering key services to residents, where appropriate, the Council would engage with external providers

on a commercial basis e.g. Essex County Council's Careline Contract. As recognised during the associated decision making processes, there were significant financial and reputational risks associated with this approach. **(Links to existing Corporate Risk associated with Ineffective Workforce Management and Planning)**

The Committee was informed that the above two items would be kept under review and would be revisited / reported back to Members as part of the next corporate risk register update that was scheduled to be submitted to the Committee in March 2022.

Members were reminded that the Fraud and Risk Team continued to oversee the Council's Risk Management supported by the Council's Internal Audit Team. The table below set out the work that was currently being undertaken:-

Agreed Action	Current Position
<i>Management Team to promote the importance of operational risk management within the organisation and ensure that Senior Managers implement a process for identifying and mitigating risks in coordination with the Corporate Fraud and Risk Manager.</i>	The Fraud and Risk Manager continued to work with Management Team to effectively promote the importance of operational risk management within the Council, and continued to attend Management Team meetings on a quarterly basis and provided monthly updates for any urgent matters identified.
<i>One to one meetings will continue to take place between Senior Managers and the Corporate Fraud and Risk Manager to identify and record key operational risks within their service areas. Support to be provided by Internal Audit if required.</i>	This had unfortunately been delayed due to the Corporate Fraud and Risk Manager being redeployed to other tasks during the past 12 months. Those one to one meetings would commence again in October 2021 and would be completed by March 2022.

Follow up item

<i>Arrange Risk Management training for all departments across the Council.</i>	The Council had identified a need for managers to have some Risk Management training to ensure the Council could move forward with verifying risk register actions and review departmental risks across all departments. Training would be carried out by the Fraud and Risk Manager in October 2021, with a view to rolling this out further if the training was thought to be appropriate.
<i>Review carried out relating to the effectiveness of the current control</i>	This review was still ongoing and a report would be brought before the Audit

<i>measures in place to identify inherent risk.</i>	Committee at a later meeting.
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Having considered and discussed the contents of the report and its appendices:-

RESOLVED that the updates provided to the current Corporate Risk Register be noted.

20. REPORT OF THE ASSISTANT DIRECTOR (FINANCE & IT) - A.3 - AUDIT COMMITTEE: TABLE OF OUTSTANDING ISSUES

The Committee had before it a report submitted by the Assistant Director (Finance & IT) (A.3) 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.

Members were aware that a Table of Outstanding Issues was maintained and reported to each meeting of the Committee. That approach enabled the Committee to effectively monitor progress on issues and items that formed part of its governance responsibilities.

Updates were set out against general items, external audit recommendations and the Annual Governance statement within Appendices A, B, and C respectively to the Officer report.

The Committee was informed that to date there were no significant issues arising from the above, with work remaining in progress or updates provided elsewhere on the agenda where appropriate.

There were currently 3 main elements to this report as follows:-

- 1) Appendix A – Provided updates against general items raised by the Committee;
- 2) Appendix B - Provided updates against recommendations made by the Council's External Auditor; and
- 3) Appendix C – Provided updates against the 2020/21 Annual Governance Statement Action Plan.

In terms of elements 1) and 2) above, the Committee was informed that there were no significant issues to raise, with actions remaining in progress. In terms of element 3), there continued to be a significant impact from COVID 19 in terms of progressing the actions as quickly as originally anticipated. However, activity remained in progress against all actions and work would continue during 2021/22, as required.

Members were advised that an External Audit Recommendation was set out in Appendix B in relation to the level of carry forwards from prior years. In previous updates to the Committee, it had been highlighted that a review of a range of funded projects had been undertaken in consultation with the relevant departments and that the sourcing of providing support across a number of areas was being investigated. Although this work remained on-going, the latest position was reported set out below:

Following the initial review by Corporate Directors / Assistant Directors highlighted above, the additional capacity that had been identified as being required primarily centred around:-

- Procurement;
- Maximising External Funding Opportunities / Bid Writing; and
- General Project Management.

In terms of procurement, as set out in a report considered by Cabinet on 17 September 2021, it was proposed to work in partnership with Essex County Council, which would allow the Council to not only access additional capacity but also specialist procurement advice / knowledge.

In terms of the other two items above, a report to the Portfolio Holder for Finance and Corporate Governance was currently being prepared to progress the required capacity building activities.

Other issues

It was reported that the Statement of Accounts 2020/21 had been published and was currently subject to review by the Council's External Auditor. Although it was required to be audited and republished by the end of September 2021, it remained subject to the conclusion of the work of the External Auditor. With this in mind, it was currently expected that a special meeting of the Committee would be required in either October or November to consider the Statement of Accounts and the associated report of the External Auditor once they had concluded their necessary audit work.

Redmond Review

The Committee recalled that, at its meeting held in February 2021, it had considered the Government's initial responses to the Redmond review into the effectiveness of external audit. Those responses had again been considered at the Committee's meeting in April 2021. As mentioned in April, many of the Government's responses indicated that they would either be liaising with the relevant stakeholders or would be considering some recommendations further.

Members were made aware that the latest position was that the Department for Levelling Up, Housing and Communities (formerly MHCLG) were undertaking a technical consultation on a broad range of implementation proposals, along with responding to an earlier consultation on the appropriate methodology for distributing £15m to support effected local bodies, as well as changes to the appointing persons and fee setting regulations that aimed to provide the PSAA with additional flexibilities.

The broad range of implementation proposals included:

- a new system leader for the local audit framework;
- proposals to strengthen audit committee arrangements within councils;
- measures to address ongoing capacity issues on the pipeline of local auditors; and
- action to further consider local audit functions for smaller bodies.

Unfortunately the Government's consultation deadline of 22 September 2021 had not enabled this Council's proposed responses to be presented to the Committee before they had been submitted. However, the Council's responses had been prepared by Officers in consultation with the Chairman of the Committee and had broadly reflected the view that value for money should be at the heart of any changes proposed but balanced against strong and transparent governance where required.

It was also important to highlight that future guidance emerging from the review should not be based on the benchmark of poor performing Councils where there might be a different solution in response to any perceived weaknesses. This Council had a robust and strong approach to governance arrangements, supported by Senior / Statutory Officers along with working closely with its External Auditors, which would continue as part of any changes required as part of the Redmond review.

In respect of the distribution methodology for the £15m made available by the Government to primarily support the anticipated rise in audit fees, it was reported that this would be based each body's scale fee as a proportion of the total fee scale that each body currently payed as part of the current External Audit contracts. The Government had also highlighted that whilst it understood that individual circumstances could vary, it was important that the methodology pursued followed a simple process which allowed for efficient payment to local bodies. The actual financial impact compared with the funding receivable under those new arrangements would be considered as part of this Council's future detailed budget setting and financial forecast processes.

In respect of the PSAA fee setting regulations, it was reported that the Government had committed to consult on proposals to provide the appointing person with greater flexibility to ensure the costs to audit firms of additional work were met and to reduce the need for time consuming case by case consideration of fee variation requests. The majority of respondents to the associated consultation conducted earlier in the year had agreed with the Government's proposals which were summarised as follows:-

- extend the regulatory deadline by which scale fees needed to be set to enable the appointing person to take into account more up-to-date information;
- enable the appointing person to consult and agree standardised fee variations to be applied to all or certain groups of principal bodies;
- provide clarification on enabling some fee variations for additional elements of work to be approved during the audit; and
- expressly to enable the appointing person to appoint auditors for the period that it considered to be the most appropriate, up to the maximum length of the appointing period subject to consultation with the relevant bodies.

It was felt that the above proposals built on the success of the PSAA regime and provided practical flexibilities and interventions to strengthen the stability of the local audit market and address some of the factors that could result in issues with timeliness. Members were informed that as the Redmond Review actions continued to progress, further updates would be presented to them as deemed necessary.

After discussion it was:-

RESOLVED that the Committee notes the progress against the actions set out in Appendices A to C to item A.3 of the Report of the Assistant Director (Finance & IT).

The meeting was declared closed at 11.30 am

Chairman

**MINUTES OF THE MEETING OF THE PLANNING POLICY AND LOCAL PLAN
COMMITTEE,
HELD ON TUESDAY, 19TH OCTOBER, 2021 AT 6.02 PM
IN THE COUNCIL CHAMBER AT THE COUNCIL OFFICES, THORPE ROAD,
WEELEY, CO16 9AJ**

Present:	Councillors Turner (Chairman), Fairley (Vice-Chairman), Allen (except items 9 - 14), Bush, Davidson, Newton, Scott, Steady and Winfield
Also Present:	Councillor White
In Attendance:	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Gary Guiver (Acting Director (Planning)), Ian Ford (Committee Services Manager), Will Fuller (Planning Officer), Paul Woods (Planning Officer) and Keith Durran (Committee Services Officer)

9. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Chapman (with Councillor Steady substituting), G V Guglielmi (with no substitute), I J Henderson (with Councillor Davidson substituting) and Nash (with no substitute).

In addition, the Committee was informed that Councillor Nash had recently replaced Councillor S A Honeywood as a serving member of the Committee.

10. CHAIRMAN'S OPENING, INTRODUCTORY & CLOSING REMARKS

The Chairman of the Committee (Councillor Turner) made the following opening remarks:-

"Good Evening Fellow Councillors and Officers. I have once again invited the Planning Committee to join us and in line with previous meets I will invite Councillor White to bring to our attention any comments that he and his colleagues might like to make prior to us going to the vote."

At the appropriate juncture in the meeting, the Chairman made the following introductory remarks in relation to report item A.1:-

"We do have good news here to impart. We have improved our 5 Year Land Supply from 6.5 years to 6.66 years. We err on the side of caution with these figures, but it seems everyone likes building in Tendring!"

We are still lagging behind our target by 116 houses. That means that in 2021/22 we have to build 666, an interesting number, houses and thereafter only need to hit our target of 550 dpa."

At the appropriate juncture in the meeting, the Chairman made the following introductory remarks in relation to report item A.2:-

"You will be pleased to have read that we do have 20 Conservation Areas (CAs) in our District. Tonight we have the first 5, which have been 'flagged up' by Historic England as being 'at risk'. We will review 5 CAs every three months.

In 15 months' time we will have a report that shows a way forward to repair, maintain and enhance our 20 CAs in line with the recommendations in those reports, the comments made by Cabinet and the results of the various public consultations.

One of the first steps to achieving a thorough and workable document / policy is to prepare a Local Heritage List. This is where Councillors whose wards have a Conservation Area will be able through their local knowledge to be of great value to this Committee."

At the appropriate juncture in the meeting, the Chairman made the following introductory remarks in relation to item 8 on the Agenda:-

"We are well on our way to receiving the final letter from the Inspector telling us finally how to make the second part of our Local Plan sound. Again, the Planning Inspectorate have delayed. I was hoping to have it before us for this meeting.

We are also making good progress on the TCBGC and have had several meets both online and face-to-face with our confreres both Officers and Members from Colchester Borough Council and Essex County Council. We had a good introductory meet with Mersea Homes, Clarion and their development arm Latimer Homes but I will not steal Mr Guiver's thunder any further."

At the end of the meeting the Chairman of the Committee made the following closing remarks:-

"As always my thanks go to Mr Guiver and his team and you, the committee, for your considerations, work, insights and interest. Stay safe. I close the meeting at 7.26 p.m."

11. MINUTES OF THE LAST MEETING

It was moved **RESOLVED** that the Minutes of the last meeting of the Committee held on 29 June 2021 be approved as a correct record and be signed by the Chairman.

12. DECLARATIONS OF INTEREST

There were no Declarations of Interest made on this occasion.

13. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

On this occasion no Councillor had submitted notice of a question pursuant to Council Procedure Rule 38.

14. PUBLIC SPEAKING

Pursuant to the provisions of the Council's public speaking scheme for the Planning Policy & Local Plan Committee, no member of the public had registered to ask at this meeting a question or to make a statement regarding the items contained in the report of the Acting Director (Planning).

15. REPORT OF THE ACTING DIRECTOR (PLANNING) - A.1 - UPDATED HOUSING SUPPLY POSITION AND HOUSING TRAJECTORY

The Committee had before it a detailed report of the Acting Director (Planning) (A.1) which reported to it:-

- (a) the number of new homes built in Tendring during the 2020/21 financial year and the up-dated year-by-year 'trajectory' for future housebuilding; and
- (b) the current housing land supply position (the 'five-year' supply).

Housing Requirement

Members were aware that, following successful examination, Section 1 of the Local Plan had been adopted by the full Council on 26 January 2021. Section 1 set out the 'objectively assessed housing need' (OAN) for the District of Tendring of 550 homes a year, and the housing requirement for the period of the Local Plan (i.e. 2013-2033) was therefore 11,000 homes.

It was reported that, with approximately 4,300 homes already built between 2013 and 2021, the remaining requirement between now and 2033 stood at approximately 6,700.

Housing Completions and Future Trajectory

The Committee was informed that in the period 1 April 2020 to 31 March 2021, a net total of 646 new homes had been completed in the Tendring District. This meant that the housebuilding target of 550 homes a year had now been achieved for a fifth year in succession. Subsequently, COVID-19 and the associated lockdowns (particularly at the start of the pandemic) had had an impact on housing delivery as many building sites had been forced to shut down operations. However, the impact had not been as severe as expected, and housing delivery last year had been stronger than the Council's estimates in the 2020 'Strategic Housing Land Availability Assessment' (SHLAA). In fact, many developers were expecting to see strong delivery this year and build out rates on some of the larger sites in the District appeared to be strong.

Members were made aware that Officers had updated the Council's SHLAA, which contained a trajectory of predictions for the coming years for future housing building, based on information from developers as well as Officers' own monitoring of building sites.

Five Year Housing Supply and Decision Making

The Committee was reminded that the Government required Councils to demonstrate an ongoing 'five year supply' of deliverable housing sites in order to ensure that they were well placed to meet their future housing needs. Following the adoption of Section 1 of the Local Plan in January 2021, the Council's local housing need had been confirmed as 550 homes per year.

It was reported that, taking into account the future trajectory set out in the SHLAA, the Council could demonstrate a 6.66 year supply of deliverable housing sites. Around 4,000 homes were expected to be built within the next five years (i.e. 2021/22 to 2025/26), against a five year requirement of about 3,000 homes.

Having duly considered and discussed the contents of the report:-

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

RESOLVED unanimously that the Planning Policy and Local Plan Committee endorses the contents of the report and the new Strategic Housing Land Availability Assessment (SHLAA) in order to demonstrate an up-to-date housing land supply position for the purposes of determining planning applications and contesting planning appeals.

16. REPORT OF THE ACTING DIRECTOR (PLANNING) - A.2 - CONSERVATION AREA CHARACTER APPRAISAL AND MANAGEMENT PLANS AND CRITERIA FOR LOCAL LISTING OF 'NON DESIGNATED HERITAGE ASSETS'

The Committee had before it a comprehensive report (and appendices) of the Acting Director (Planning) (A.2) which reported to it the first five in a series of 'Conservation Area Appraisal and Management Plans' that had been prepared for the Council by Essex Place Services, as well as the proposed criteria for the inclusion of buildings and structures on a 'Local Heritage List'. The report also sought the Committee's recommendation to Cabinet that they be published for public consultation purposes and that proposals for a Local List of non-designated heritage assets be invited.

Members were aware that the District of Tendring contained a wealth of 'heritage assets' which included over 900 listed buildings, 20 Conversation Areas, four Registered Parks and Gardens and a variety of scheduled monuments for which the Council had a duty to preserve, or enhance, through its decision making as the Local Planning Authority.

Members recalled that, following its recommendation by this Committee, the Cabinet had agreed to formally adopt the Council's 'Heritage Strategy' in March 2020. That Strategy contained a number of recommended actions for the Council and its partners which included reviewing and updating Conservation Area Appraisals and preparing a 'Local List' of non-designated heritage assets within the District.

It was reported that Officers had worked with Essex Place Services to review and update the Conservation Area Appraisals and Management Plans for all 20 of the District's Conservation Areas and it was now proposed that these were published for consultation before being finalised and formally adopted by the Council.

The Committee was informed that the first five of the new Conservation Area Appraisal and Management Plans proposed for publication related to the:-

- Clacton Seafront Conservation Area;
- Dovercourt Conservation Area;
- St Osyth Conservation Area;
- Thorpe-le-Soken Conservation Area; and
- Thorpe Station and Maltings Conservation Area.

Members were informed that those Conservation Areas had been put forward for consideration and publication first because they had been identified on Historic England's Register of Conservation Areas at Risk. It was proposed that the appraisals undertaken for the remainder of the District's Conservation Areas would be presented to

the Committee and, subject to Cabinet approval, published for consultation in batches over the course of the next 12 months.

The Committee was reminded that, throughout the District, there were also many historically important buildings which were not 'Listed' i.e. protected through their formal identification on Historic England's National List'. However, Local Planning Authorities had the power to prepare their own 'Local Heritage List' of 'non-designated' heritage assets which would give them a level of protection through the planning system when they were the subject of, or affected by, development proposals.

It was reported that the first stage of preparing a Local List was to agree a set of Criteria against which all proposed Locally Listed buildings and structures would be assessed against. It was proposed that those criteria were also published for consultation before the Council began compiling the Local List, for which suggestions from the community would be invited in due course.

With the permission of the Chairman (Councillor Turner), Councillor White, speaking in his capacity as the Chairman of the Planning Committee, addressed the Committee in relation to this item and, particularly, in relation to the St Osyth Conservation Area Character Appraisal and Management Plan.

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

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

RESOLVED unanimously that the Planning Policy and Local Plan Committee –

- a) approves, in principle, the new Conservation Area Appraisal and Management Plans for: Clacton Seafront (Appendix 1); Dovercourt (Appendix 2); St. Osyth (Appendix 3); Thorpe-le-Soken (Appendix 4); and Thorpe Station & Maltings (Appendix 5); as well as the proposed Criteria for assessing buildings and structures for inclusion on a 'Local Heritage List' of non-designated heritage assets (Appendix 6);
- b) recommends to Cabinet that the above documents (forming Appendices 1-6) be published for consultation with the public and other interested parties;
- c) recommends further to Cabinet that a six month exercise be undertaken to invite suggestions from the community and other interested parties for structures to include on the Local Heritage List of non-designated heritage assets; and
- d) notes that Conservation Area Appraisal and Management Plans for the District's other Conservation Areas will be brought before the Committee in due course over the next 12 months.

17. UPDATES FROM THE ACTING DIRECTOR (PLANNING)

The Acting Director (Planning) (Gary Guiver) gave an oral update to Members on the Local Plan and the ongoing work being carried out in relation to the Colchester / Tendring Border Garden Community project as follows:-

Section 2 – Local Plan

The Acting Director (Planning) reported in some disappointment that his latest communication with the Programme Officer for the Local Plan Inquiry Inspector had indicated that the Inspector's final letter to this Council was not quite yet ready for issuing. This meant that it would not be possible to submit the final report on Section 2 of the Local Plan to the next meeting of this Committee due to be held on 11 November 2021. This also meant that Section 2 of the Local Plan would now not be able to be submitted for formal adoption to the meeting of the Full Council due to be held on 30 November 2021.

Colchester / Tendring Border Garden Community project

The Acting Director (Planning) informed the Committee that the next reports for this project would be submitted to the forthcoming meeting of the Committee on 11 November 2021. He also reported that work was underway on the Draft Development Plan Document which it was expected would be ready for consultation purposes early in 2022.

At the request of Councillor Scott, the Acting Director (Planning) gave an update on the proposed new A120/A133 Link Road and informed Members that the planning application was due to be considered by Essex County Council's Development and Regulatory Committee on 1 November 2021.

The Committee noted the foregoing.

The meeting was declared closed at 7.26 pm

Chairman

Public Document Pack

Human Resources and Council Tax
Committee

20 October 2021

**MINUTES OF THE MEETING OF THE HUMAN RESOURCES AND COUNCIL TAX
COMMITTEE,
HELD ON WEDNESDAY, 20TH OCTOBER, 2021 AT 7.30 PM
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors Chapman (Chairman), Griffiths (Vice-Chairman), Amos, Calver, Morrison and M Stephenson
In Attendance:	Anastasia Simpson (Assistant Director (Partnerships)), Tim Clarke (Assistant Director (Housing and Environment)), Ian Taylor (Head of Public Realm), Carol Magnus (Organisational Development Manager), Katie Wilkins (Human Resources and Business Manager), Gemma Mills (HR Advisor), Keith Durran (Committee Services Officer) and Matt Cattermole (Communications Assistant)

64. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillors Baker, Chittock and S Honeywood, with no substitutions.

65. MINUTES OF THE LAST MEETING

It was moved by Councillor M Stephenson, seconded by Councillor Griffiths and **RESOLVED** that the minutes of the last meeting of the Committee, held on Wednesday 7 July 2021 be approved as a correct record.

66. DECLARATIONS OF INTEREST

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

67. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

No Questions on Notice had been submitted on this occasion.

68. REPORT OF THE ASSISTANT DIRECTOR (PARTNERSHIPS) - A.1 - REMOTE WORKING POLICY REVIEW

It was reported to the Committee that the purpose of the review of the Council's Remote Working Policy was principally to reflect changes to working practice within the Council following the adoption of a hybrid way of working as part of the organisation's Transformation Programme.

The ongoing Transformation Programme had a focus not only on making physical changes to the buildings and offices of the Council. It also had a focus on modernising and enhancing the ways in which staff worked. This updated Remote Working Policy reflected the changes that had been made (in part accelerated as a result of Covid-19) and formalised the practical change in practice that had taken place since the policy was first adopted.

Members heard that the revised Remote Working Policy (and accompanying guidance, namely the Modern Working: Your Guide) followed current best practice, CIPD guidance and current legislation and provided both employees and managers with a robust position on working remotely under a hybrid working framework.

The Policy set out:-

- *“What is remote working;*
- *The benefits and costs of remote working;*
- *Considerations for remote working;*
- *Guidance on remote working;*
- *Implications on contracts of employment;*
- *Health and safety, ICT, other equipment and insurance considerations;*
- *Confidentiality and security data responsibilities”.*

It was felt that the implementation of the revised Remote Working Policy would allow the Council to more effectively and consistently support hybrid and remote working practices, with a view to minimising the effect on service delivery and the impact of associated costs to the staffing establishment.

After a short discussion it was moved by Councillor Amos, seconded by Councillor Griffiths and:-

RESOLVED that -

- a) the Committee notes the ongoing progress of the Transformation programme in enabling greater flexible working;
- b) the Committee further notes and endorses the contents of the revised Remote Working Policy;
- c) the Assistant Director (Partnerships) be authorised to update the Policy with any future legislative or best practice changes; and
- d) the Remote Working Policy comes back before the Committee in a year's time for a further review.

**69. REPORT OF THE CORPORATE DIRECTOR (OPERATIONS & DELIVERY) - A.2 -
ADOPTION OF A FLEET MANAGEMENT AND DRIVING FOR WORK POLICY**

The Committee had before it the draft policy that had been amended to incorporate the comments and suggestions made at the last Human Resources and Council Tax Committee meeting held on 7 July 2021 (minute 59 referred).

The Committee recalled that this Policy detailed how managers should manage occupational driving risks and set out employee's and other's responsibilities whilst driving for Tendring District Council.

It also supported the recommendations of the Council's Internal Audit report into fleet management. The key recommendations of which were:

- *To ensure fleet operations and drivers are compliant with both legal and corporate requirements.*
- *To highlight areas of interest such as potential disciplinary action in certain circumstances.*
- *To coordinate vehicle roadworthiness by means of MOT checks, servicing and regular safety checks for vehicles and equipment.*
- *To provide information to all drivers on Council business of actions and responsibilities and risk management in relation to vehicles and equipment.*
- *To ensure the Council's Transport / Fleet Manager has responsibility for all the Council fleet.*
- *To introduce a central database for vehicle monitoring and documentation checks for drivers.*
- *To promote consistent use of tracking systems in all Council fleet vehicles.*
- *To review allocation of and use of fuel cards.*

After a brief discussion it was moved by Councillor M Stephenson, seconded by Councillor Griffiths and:-

RESOLVED that:

- a) the Committee notes the contents of this report and formally adopts the Fleet Management & Driving for Work Policy; and
- b) the Assistant Director (Partnerships) be authorised to update the Policy with any future legislative or best practice changes, in consultation with the Council's Fleet Manager (and others as outlined within the policy).

70. REPORT OF THE ASSISTANT DIRECTOR (PARTNERSHIPS) - A.3 - GRIEVANCE POLICY AND PROCEDURES REVIEW

It was reported to the Committee that the purpose of the review of the Council's Conflict Resolution Policy and Procedures was principally to reflect changes of procedure in accordance with ACAS requirements and employment legislation (including recent case law).

Members were informed that the ACAS statutory Code of Practice on disciplinary and grievance procedures provided basic practical guidance to employers, employees and their representatives and set out principles for handling grievance situations in the workplace. The main principles were:-

- *"Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions;*
- *Employers and employees should act consistently;*
- *Employers should carry out any necessary investigations, to establish the facts of the case;*

- *Employers should give employees the opportunity to put their case before any decisions are made;*
- *Employers should allow employees to be accompanied at any formal grievance meeting;*
- *Employers should allow an employee to appeal against any formal decision made”.*

Members were made aware how the revised Grievance Policy and Procedure (and accompanying guidance) followed the ACAS Code of Practice and provided both employees and managers with a robust framework for dealing with an employee's problem or concern at work.

The Policy and Procedure set out:-

- The Purpose and Scope of the policy and procedure;
- Responsibilities of both managers and employees;
- How to raise a grievance - the informal stage;
- The formal stage of the Procedure;
- Appeal stage of the Procedure;
- Role of mediation.

It was reported to the Committee that the implementation of the revised Grievance Policy and Procedures (and supporting guidance) would allow the Council to more effectively and consistently resolve employee's problems and concerns at work, with a view to minimising the effect on service delivery and the impact of associated costs to the staffing establishment.

The Committee was advised that Unison had been consulted on the revised Grievance Policy and Procedures (and supporting guidance) and had offered its agreement and support for the implementation of those proposals.

After a detailed discussion it was moved by Councillor Amos, seconded by Councillor M Stephenson and:-

RESOLVED that the contents of the revised Grievance Policy and Procedure (and supporting guidance) be approved and implemented.

71. REPORT OF THE ASSISTANT DIRECTOR (PARTNERSHIPS) - A.4 - WORKFORCE STATISTICS UPDATE

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

The Committee was informed that at the time of writing the report, Tendring District Council had 495 full time equivalent (FTE) employees. The FTE figure equated to 762

employees in total (including casual workers and learners) and consisted of 376 full time, and 386 part time staff.

As previously reported, amongst the fully contracted staff there were currently 20 employees who were undertaking external apprenticeships, seven of whom were studying for a degree (Level 6) in a number of subjects, including but not limited to: Chartered Surveyor, Chartered Management, Chartered Legal Executive and Digital & Technology Solutions, with one employee studying for a post graduate qualification (Level 7) in Accountancy. Other professional apprenticeships included Human Resources, Audit, Town Planning (*Technical Support*) and Operational Management.

Five of the Career Track Apprentices currently working within the organisation had also progressed from a level 2 qualification and were currently working towards a level 3 apprenticeship.

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

72. REPORT OF THE ASSISTANT DIRECTOR (PARTNERSHIPS) - A.5 - EMPLOYEE WELL-BEING POLICY REVIEW

The Committee heard how the purpose of the review of the Council's Employee Well-being Policy was to bring together the two previous well-being policies: Mental Health Policy and Health & Well-being Policy to form a more collaborative and holistic Employee Well-being Policy, in line with identified best practice.

Members were aware that Health and Safety legislation required employers to manage risks to the health and safety of employees. In addition to reducing safety risks, that meant operating the business in a way that minimised harm to employees' physical and mental health, for example, by ensuring that the demands of jobs were not unacceptable and having policies and procedures in place to support individuals experiencing mental ill health at work.

It was reported to Members that the revised policy covered the Council's commitment to employee health, the responsibilities of managers and others for maintaining psychological health, health promotion initiatives, communicating and training on health issues, the range of support available for the maintenance of health, and organisational commitment to handling individual issues.

It was felt important that the Council recognised that well-being and performance were linked. Improving employees' ability to cope with the demands of work and to balance work and home life would ultimately lead to improved individual and organisational performance.

The Committee was informed that Unison had been consulted on the revised Employee Well-being Policy and had offered its agreement and support for the implementation of those proposals.

The Committee **NOTED** the contents of the report and endorsed the implementation of the new Employee Well-being Policy.

73. 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 consideration of Agenda Item 11 on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 2, 3 and 4 of Part 1 of Schedule 12A, as amended, of the Act.

**74. REPORT OF THE CORPORATE DIRECTOR (OPERATIONS & DELIVERY) - B.1 -
MARKET FORCES REPORT FOR ENVIRONMENTAL SERVICES**

It was **RESOLVED**:-

That a Market Forces Supplement, equivalent to two spinal column points, be applied for all "Environmental Health Registration Board" registered, degree qualified Environmental Health Officers, working in Environmental Health Officer or Environmental Health Team Leader roles, for a period of two years from the point of agreement, at which point a review will be undertaken in line with the Council's Discretionary Market Forces Policy.

The meeting was declared closed at 8.38 pm

Chairman

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON WEDNESDAY, 27TH OCTOBER, 2021 AT 2.15 PM
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors Land (Chairman), Steady (Vice-Chairman), Fowler, Turner, Wiggins
Also Present	Sue Gallone (Independent Person), David Irvine (Independent Person) and Jane Watts (Independent Person)
In Attendance:	Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer) , Debbie Bunce (Legal & Governance Administration Officer) and Matt Cattermole (Communications Assistant)
Also in Attendance:	John Austin – John Austin Associates – External Investigator

9. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillors Amos and J Henderson (with no substitutions on this occasion) and Clarissa Gosling, one of the Council's appointed Independent Persons.

10. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Committee held on 21 April 2021 were approved as a correct record and signed by the Chairman.

Councillor Turner commented that, in respect of the report regarding Mandatory Training for Members, he would like to know what had happened with regards to E-learning and he stated that he had also not yet been contacted in respect of his offer to be the Committee's representative on a cross-party Member Working Group in relation to E-Learning.

11. DECLARATIONS OF INTEREST

There were none on this occasion.

12. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

13. REPORT OF THE DEPUTY MONITORING OFFICER - A.1 - OUTCOME OF INVESTIGATION - FAILURE TO COMPLY WITH THE MEMBERS' CODE OF CONDUCT

A report was submitted (A.1) by the Council's Deputy Monitoring Officer (Linda Trembath) in respect of a complaint received in January 2021 from the Council's Monitoring Officer, Lisa Hastings regarding the conduct of District Councillor Peter Cawthron under the Members' Code of Conduct and Complaints Procedure (Appendix 1), which had been adopted by full Council on 26 November 2013.

The complaint related to Councillor P Cawthron's behaviour at Full Council in November 2020, a formal, recorded and publicly available meeting, when Councillor Cawthron had used a word that was both unacceptable and an obscenity, and in so doing had conducted himself in such a way as to bring his office or the Authority into disrepute, contrary to paragraph 3.4 (a) and (c) of the Member Code of Conduct.

It was also alleged that Councillor P Cawthron had not had regard for one of the Seven Principles of Public Life, namely:

- **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.

This complaint had been made by the Council's Monitoring Officer. Following that complaint, and in accordance with the Monitoring Officer Protocol, specifically paragraph 1(k), and to ensure that no conflict of interest might arise, the Deputy Monitoring Officer was authorised to receive and investigate the matter, taking action as appropriate.

On 9 March 2021, the Deputy Monitoring Officer, having read the papers provided to her and having noted the response from Councillor Cawthron, had decided that it was reasonable and appropriate that the complaint merited further investigation. The parties had been informed of that decision and an external investigator had been appointed. Section 5 of the Complaints Procedure (Appendix 1) set out how an investigation was to be conducted and under Section 5.6, that the investigation report must contain a conclusion as to whether the evidence supported a finding of a failure to comply with the Code of Conduct. Annex E of the Complaints Procedure set out the Investigation Procedure.

The Committee was informed that Mr John Austin had been appointed as the external investigator and, following an investigation he had concluded that there was sufficient evidence to show that Councillor Cawthron had breached Paragraph 3.4(a) of the Council's Code of Conduct, by conducting himself in a manner that could reasonably be regarded as bringing his office or the Authority into disrepute.

Further, the investigator had also found that Councillor Cawthron had failed to co-operate with the Monitoring Officer in her attempts to resolve the matter informally, and had since failed to co-operate with the Investigator at any stage during the investigation. As part of Members compliance with the Code of Conduct they were required to co-operate with the investigation process.

As a result of Councillor Cawthron's failure to contact or respond to the Investigator, the Investigator has found that Councillor Cawthron had failed to comply with the Nolan Principle of Accountability by avoiding and ignoring communications with the Council's Statutory Officer, i.e. the Monitoring Officer, and had also failed to engage with the Investigator instructed by, and acting on behalf of the Deputy Monitoring Officer.

Members were reminded that Paragraph 3.4(c) of the Council's Code of Conduct required a Councillor to comply with any request of the Monitoring Officer in connection with an investigation conducted in accordance with their respective powers, and Councillor Cawthron's failure to engage had led to the Investigator finding the Councillor to be in breach of Paragraph 3.4(c) of the Code of Conduct.

All parties had had the opportunity to comment on the investigation report (Appendix 2) and the findings contained therein. The investigation report had been finalised on 30 September 2021.

In this case no consultation had been undertaken with any Independent Person as part of the investigation process but their subsequent comments had been included within the Deputy Monitoring Officer's report to the Committee.

The Committee was advised that if an investigation concluded that there was evidence of a failure to comply with the Code of Conduct, the Council's Complaints Procedure at Section 7.1 provided the Monitoring Officer with the authority to obtain an informal resolution, in consultation with the Independent Person, without the need for a hearing by the Standards Committee. However, if the Monitoring Officer considered that informal resolution was not appropriate, or the Councillor concerned was not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer would report the Investigation Report to the Standards Committee which would conduct a hearing before deciding whether the Member had failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

In this case the Deputy Monitoring Officer, had considered the Investigator's report following which she had also consulted with one of the Council's Independent Persons, who had been in agreement that this matter should be referred to the Standards Committee for that Committee to decide on the appropriate and proportionate response to the breach.

Mr John Austin, the external investigator was present at the meeting and Members asked him questions regarding his report to which he responded.

The Committee then retired to deliberate and reach its decision. The Independent Person also accompanied the Committee during its retirement to comment upon any sanctions being considered by the Committee together with the Legal and Governance Administration Officer.

Following such deliberations the meeting resumed:-

It was then moved by Councillor Land, seconded by Councillor Turner and unanimously:-

RESOLVED that the Committee:

- (a) notes the outcome of the investigation undertaken by Mr Austin, on behalf of the Deputy Monitoring Officer, in respect of Councillor Cawthron;
- (b) notes the comments of the Independent Person;
- (c) instructs the Deputy Monitoring Officer to report the outcome of the findings of the Committee to Council and to publish this decision on the Council's website; taking note of the fact that the Committee also wished it to be noted that they were extremely disappointed that Councillor Cawthron had failed to engage with

the Monitoring Officer, the Deputy Monitoring Officer or the Investigator during the course of the investigation.

14. WORK PROGRAMME FOR 2021/22

Members had before them a suggested Work Programme which had been submitted by the Monitoring Officer.

It was **RESOLVED** that the Annual Work Programme for 2021/2022 be approved.

The meeting was declared closed at 2.55 pm

Chairman

Public Document Pack

Community Leadership Overview and
Scrutiny Committee

8 November 2021

**MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP OVERVIEW AND
SCRUTINY COMMITTEE,
HELD ON MONDAY, 8TH NOVEMBER, 2021 AT 7.30 PM
IN THE COUNCIL CHAMBER - COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ.**

Present:	Councillors Chittock (Chairman), Chapman, Codling, Davidson, Griffiths, Miles, Skeels and Steady
Also Present:	Councillor Mc Williams (Portfolio Holder, Health & Community Safety)
In Attendance:	Anastasia Simpson (Assistant Director (Partnerships)), Keith Simmons (Head of Democratic Services and Elections), Keith Durran (Committee Services Officer) and Matt Cattermole (Communications Assistant)
Also in Attendance:	The following participants attend remotely. Ian Davidson (Chief Executive), Lisa Hastings (Deputy Chief Executive), John Fox (Public Health, Wellbeing & Environmental Protection Manager), Tine Russel (Head of Children's Services), Jamie Mills (NHS Transformation Programme Manager), Eugene Staunton (West Suffolk Clinical Commissioning Group), Emma Strivens (Essex Partnership University NHS Foundation Trust)

20. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Amos (with Councillor Griffiths substituting) and Councillor Clifton (no substitution).

21. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the Minutes of the meeting of the Committee held on Monday 27 September 2021 be approved as a correct record.

22. DECLARATIONS OF INTEREST

There were no declarations of interest by Councillors in relation to any item on the agenda for this meeting.

23. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

24. REPORT OF HEAD OF DEMOCRATIC SERVICES AND ELECTIONS - A.1 -MOTION TO COUNCIL FOR A COVID-19 MEMORIAL AND DAY OF REMEMBRANCE

The Committee had before it a report that provided information on the motion submitted to Council on 13 July 2021 (minute 51 refers) by Councillor M Stephenson which sought to create a Covid-19 Memorial and Annual Day of Remembrance and to enable the Committee to decide whether to recommend, or not, that the Council should support the motion in its original format. The motion read;

“That Tendring District Council acknowledges the heartache, pain and suffering that Covid-19 has inflicted upon our residents and their families and that this Council supports the provision of a memorial to allow us all to recognise and commemorate the loss of so many loved ones.

The memorial to be situated in a form acceptable to those who have lost loved ones, be that a garden, plaque or public artwork, taking into consideration their wishes, at a suitable location, where families could gather together throughout the year at a day and time significant to them.

That this Council also considers an Annual Day of Remembrance to be established, where all members of the community could gather together for a service of Remembrance.

In addition, the commemoration would also remember all those key workers and volunteers, who continue to provide, throughout this pandemic, help and support and comfort to the bereaved in their time of need.”

After a short discussion it was **RECOMMENDED** to Council that:

That the motion as submitted be approved with the additional wording that the proposed memorial be located in the Clacton-on-Sea Memorial Gardens, adjacent to Marine Parade East, with the intention that the memorial should be an uplifting positive initiative for the whole District.

25. MENTAL HEALTH NEEDS OF RESIDENTS OF THE DISTRICT AND THE SERVICES TO MEET THOSE NEEDS

The Committee had a presentation before it (Appendix 1) in relation to the mental health needs of residents of the District and the services in place to meet those needs. Specifically looked beyond the Mental Health Hub and Primary School Mental Health initiative.

The Committee thanked the guests for their attendance and **NOTED** the contents of the presentation.

26. SCRUTINY OF PROPOSED DECISIONS

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

27. RECOMMENDATIONS MONITORING REPORT

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

28. REVIEW OF THE WORK PROGRAMME

After a brief discussion the Committee **RESOLVED** to move the item on Suicide Prevention from the meeting on the 13 December 2021 and put it back on the work programme in the “to be allocated” section. They then **NOTED** the rest of the report.

The meeting was declared closed at 9.33 pm

Chairman

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Adult Mental Health Transformation

Eugene Staunton, Deputy Director of Mental Health and Learning Disability Transformation (NEE CCG)

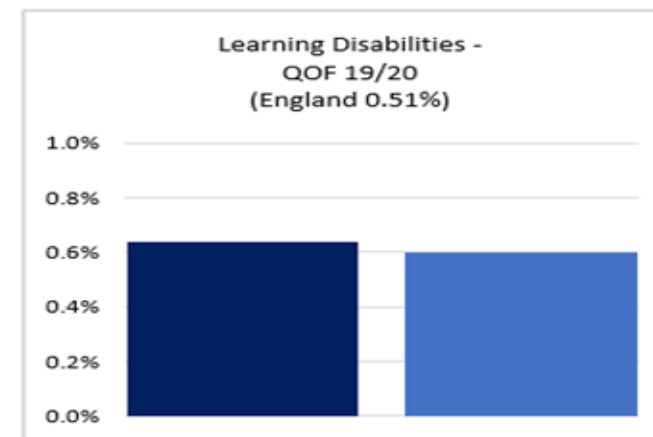
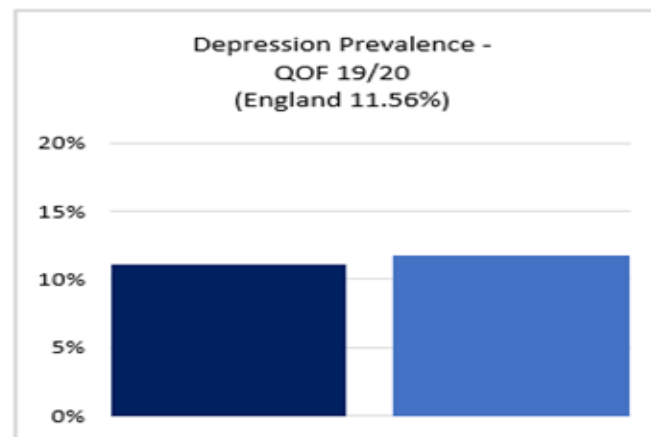
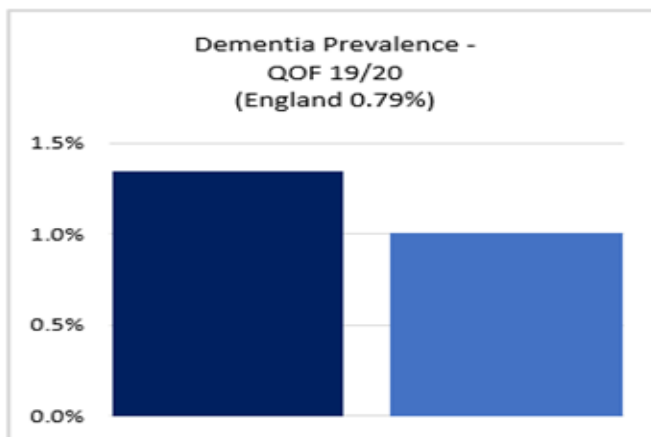
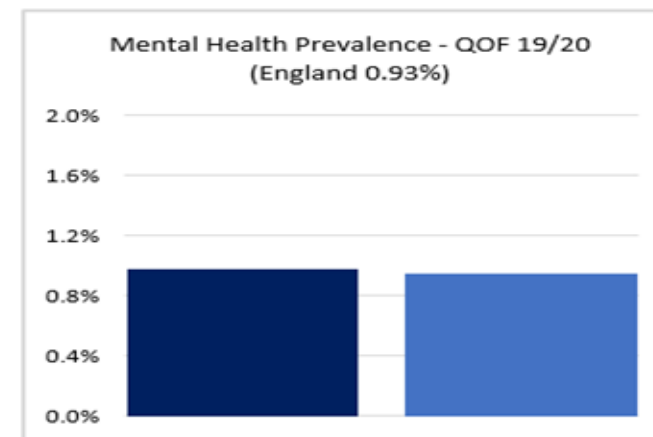
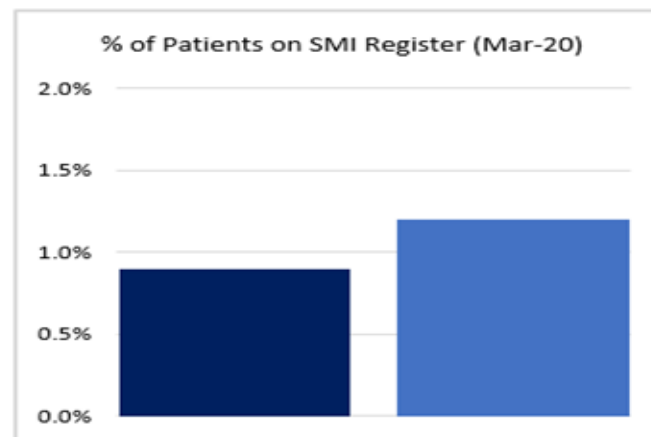
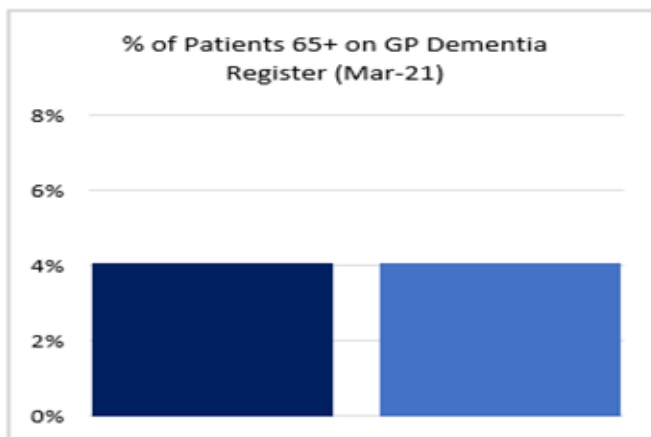
Emma Strivens, Deputy Director of Mental Health (EPUT)

Mental Health Needs Overview

A mental health prevalence and activity mapping exercise was undertaken pre Covid at a GP Practice level to understand the areas of focus by neighbourhoods. The below is a snap shot of the Tendring GP Practices combined to give a Tendring vs North East Essex view. As we come out of the pandemic, this data is in the process of an update and will inform locality requirements and future transformation.

Prevalence rates

■ Tendring ■ North East Essex CCG



Mental Health Transformation Programme

Community Services

- Integrated Primary and Community Care Model
- Community Treatment Teams (Tendring / Colchester)
- Improving Access to Psychological Therapies (IAPT)
- Severe Mental Illness (SMI) Physical Health Checks
- Early Intervention to Psychosis (EIP)
- Individual Placement & Support (IPS)
- Health & Housing

VCS

- Age Well East Older Adult Support
- Together We Grow SMI Support
- The Haven Personality Disorder & Complex needs support
- Refugee Action Colchester
- Tendring Mental Health Hub
- Feel Well Domain VCS resource pot
- SOS Bus

Crisis

- 111(2) Crisis Line
- Crisis Response Home Treatment Team (CRHT)
- Mental Health Liaison and Urgent Treatment Support
- Crisis Alternatives

Specialist / Other

- Specialist Perinatal Mental Health Services
- Eating Disorders
- Inpatient Beds / Out of Area Placements
- Suicide Prevention

Community Mental Health Provision

Within north east Essex there are a number of mental health community service provisions which cover both Colchester and Tendring Districts.

Below shows a snap shot of the recent activity flowing through the Single Points of Access (SPA) by district:

	Jul-21		Aug-21		Sep-21		Oct-21	
	Referrals	Caseload	Referrals	Caseload	Referrals	Caseload	Referrals	Caseload
Mental Health SPA Colchester	409	46	289	69	280	81	232	128
Mental Health SPA Tendring	179	23	154	31	139	39	184	47

Alongside the secondary care community SPA, there is also the Improving Access to Psychological Therapies Service (IAPT)

	Jul-21	Aug-21	Sep-21	Oct-21
	Referrals	Referrals	Referrals	Referrals
Mental Health IAPT Colchester	145	173	207	133
Mental Health IAPT Tendring	186	178	234	153

Both IAPT and wider community transformation initiatives have been underway to support increasing demand and to improve quality of service provision to meet local population needs across both Tendring and Colchester flexed to address locality demands as appropriate:

- **Integrated Mental Health Primary & Community Care Model of Care** – This commences the integration of the mental health workforce within primary care environments with a proposed additional 30 new whole time equivalent mental health personnel deployed across Primary Care Networks (PCN) between 2021/22 and 2023/24. That's 3 per PCN in addition to further resource within the community and treatment teams such as a mental health pharmacist and peer support workers.
- **Improving Access to Psychological Therapies (IAPT)**– Essex Partnership University Trust assumed the service from the 1st April 2021 which included increasing the access from 25% of the prevalence of those with common mental health problems to in excess of 30% entering the service and starting treatment, inclusive of the requirement to derive Long Term Condition and Older Adult pathways all of which are in development.
- **Early Intervention to Psychosis** - Multi-disciplinary teams set up to seek, identify and reduce treatment delays at the onset of psychosis and promote recovery by reducing the probability of relapse following a first episode of psychosis. Based in Reunion House the service has recently received additional investment to expand, improve service quality and deliver an At Risk Mental State service linked to wider community service delivery such as IAPT
- **Severe Mental Illness Physical Health Checks** – Evidence shows that people with SMI die up to twenty years younger than the average population and across Colchester and Tendring there is a locality programme of work underway led by GP Primary Choice and supported by EPUT to enhance the provision of health checks with the objective of 60% of all those on registers receiving one by March 2022.
- **Individual Placement & Support** – Essex wide employment support service integrated within community mental health teams for people who experience severe mental health conditions. An evidence-based programme that aims to help people find and retain employment which has recently been expanded to widen access but also better integrate with community pathways and work closer with other agencies such as the Department of Work and Pensions.

Voluntary Community Sector

As part of the NHS Long Term Plan there is a strong theme throughout on the role of the Voluntary Community Sector (VCS) in partnership with the health and care sector. This has been recognised as a key component within the mental health transformation programme with a number of programmes of work underway which also build on the Covid response and recovery initiatives given identified increased complexities and support needs in the system.

Age Well East – Older adult mental health support

Service provision with the objective of:

- linking with statutory services and wider VCS's to support the reduction of social isolation and; reinvigorate community activities ; reducing crisis situations arising; reducing inequalities to service access

Community Voluntary Services Tendring

- Pick up and post discharge support for all admissions to mental health wards (bar dementia) offering discharge package of basic food items , transport and follow up for first 48 hours linking to crisis café and 111

The Haven Personality Disorder & Complex needs support

- Complex case discharge transition support from inpatient admission
- Pre- and post-discharge support for patients identified as having traits of Emotionally Unstable Personality Disorder (EUPD) and additional complex care needs

Refugee Action Colchester

Service provision with the objective of:

- providing two case workers to support over 400 extremely vulnerable individuals, carers and families with:
 - support Of The Resettlement Scheme
 - survivors of Torture and/or Violence
 - legal and or physical protection needs
 - Family reunification

Tendring Mental Health Hub

Service provision with the objective of:

- Non stigmatised walk in support for those struggling with mental health conditions to address the causes of anxiety, depressions etc
- Volunteer programme to aid the rehabilitation and recovery of those with mental health conditions

Feel Well Domain VCS

A resource allocation has been provided to the Feel Well Domain to work in co-production with Tendring & Colchester VCS organisations to derive initiatives aligned to supporting the Feel Well indicators and outcomes.

Mental Health Crisis Care Provision

Police / Ambulance / Self Referral / Street Triage / VCS



CORE 24 Mental Health Liaison

Provide mental health assessment and treatment for people who are inpatients in general hospitals or for those who may go to an A&E department and are in need of a mental health assessment

Across the 2020 the service was enhanced to achieve CORE 24 standards:

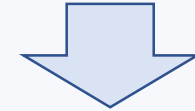
- Emergency Dept - Access to MH Liaison Service within 1 hour of referral
- Inpatient - Access to MH Liaison Service within 24 hours of referral
- Support the Urgent Treatment Centres in both sites.



Crisis 111 (2), Tele Triage, Mental Health Outreach Care

In a mental health emergency you can contact your local crisis service via 111 and pressing option 2 whereby access to a mental health professional will allow telephone triage, telephone coaching and where required the mental health outreach care responding as part of the Crisis Response Home Treatment Team.

This service delivery was accelerated due to Covid to ensure crisis service support and commenced 1st April 2020



Crisis Alternatives

In both Clacton and Colchester there are Crisis Cafes which operate 7 days a week (excluding B/H) operating between 4pm and 10pm offering a space where people experiencing emotional distress or a mental health crisis, can receive care & support outside of normal working hours

Between April 2021 and September 2021 Clacton has had 216 referrals and Colchester has had 289 with The Haven providing post follow up resilience groups in the locality each week from 03 August to 05 October with over 150 attendances (these may be the same person over a number of weeks)

Specialist / Other provision

Specialist Perinatal Mental Health Services

Perinatal Mental Health service were derived in 2018 with service provision to provide assessment and treatment for women who are experiencing or are at an increased chance of experiencing a severe mental health condition during pregnancy.

In the last 18 months, the locality has agreed to expanding the service from 3.5% of the prevalence rates of moderate/severe mental health conditions in the perinatal period to 10% inclusive of expanding the duration of care and expanding service support.

At present, the locality is in the scoping phase of deriving Maternity Mental Health Services which support those include those who experience post-traumatic stress disorder following birth trauma, perinatal loss or severe fear of childbirth (tokophobia)

Inpatient and Out of Area Placements

Within the inpatient environment of EPUT of which Landermere in Clacton is one site, there is work underway to improve the therapeutic delivery of services both environmentally and psychologically with further investment into the psychology pathways, discharge support and community recovery services linking in with the VCS as needed.

Furthermore there is an ambition to ensure no out of area placements take place in the local system come March 2022 with people requiring an inpatient placement kept within the locality and supported back into the community at the right time.

Eating Disorders

In line with the NHS Long Term Plan and Community Mental Health Transformation programme of work, dedicated funding has been identified in order to expand the existing specialist Adult Eating Disorder Service within EPUT, as well as broadening out the offer to include VCSE support and early interventions. Due to the impact of COVID-19, there has been a significant increase in referrals to the service and as such, service users are waiting longer to be assessed and receive treatment.

A pan-Essex approach is currently being considered, and following a deep dive session in early November it is intended that North East Essex and West Essex will align and jointly produce a business case to determine the additional resource required in order to deliver the national priorities, i.e. Medical Monitoring, FREED and Marsipan.

Suicide Prevention

- Tendring CVS lead on the work of Suicide Prevention in North East Essex.
- Essex Association of local councils were grant makers, initially supporting 18 projects with £115,560 worth of funding over the past three years, this role was then delivered by CSV Tendring
- CSV Tendring delivered the role of grant maker after year 1 and have been administering the fund for the past two years. CVS Tendring grant monitor and support projects to develop further such as Carer's First - a new men's support group; Summit - developing a toolbox to support people who have attempted suicide or have been bereaved by suicide
- There are 12 projects live and further projects are bidding for new funding for the next 12 months including Together we Grow working with LGBTQX community; Motivated Minds to deliver training in Colchester and Clacton

Areas to address and innovation

What we are trying to address?

- Access to Specialist Community Mental Health in a timely manner.
- Long psychology waiting lists, for SMI Psychological Therapies and psychologically informed interventions.
- High demand for Complex Trauma and Emotionally Unstable personality Disorder
- Increase in demand for First Episode in Psychosis.
- Dependence on crisis services.
- Increased access to support for mental ill health in primary care.
- Reduction in case load sizes per WTE to 30.
- Better access and information on crisis provision for both public and other agencies
- Covid recovery – both staffing impacts and additional complex presentations.

What are our innovations?

- Disaggregation of “Journeys” teams to place based teams.
- Consultant Psychiatrist allocated to each Neighbourhood.
- Routine 28 day referrals allocated within place based teams.
- Single point of access in progress, including Dementia, IAPT and Specialist Mental Health September 2021.
- ARRS funding agreed for all PCN`s, work shops with all PCN`s to consider “what does good look like”
- 2022/23 money brought forward for additional primary care posts.
- Complex trauma pathway to join HIUG – September 2021. Structured Clinical Management training planned for all teams.
- Additional sessions agreed to support psychologically informed waiting list – trajectory planning.
- Colchester and Tendring Crisis Café.
- Temporary Flow and Capacity Lead in Specialist Community Team.
- Review of CCG and EPUT digital platforms and closer working with the Police, Ambulance and other agencies.

Children and young people's mental health

Tina Russell, Head of Children's Services EWMHS

Jamie Mills, Transformation Programme Manager CCG

The current Service

- 7 Community Hub Teams
 - 3 Intensive Support Teams (crisis teams)
 - 1 x Eating Disorder Service including community ED team
-
- 1 x Learning Disability with MH Service
 - 1 x Single point of access (SPA) service
 - 1 x out of hours service (out of hours SPA)

Contacts

17280

9542

5151

Face to Face

Telephone

Video

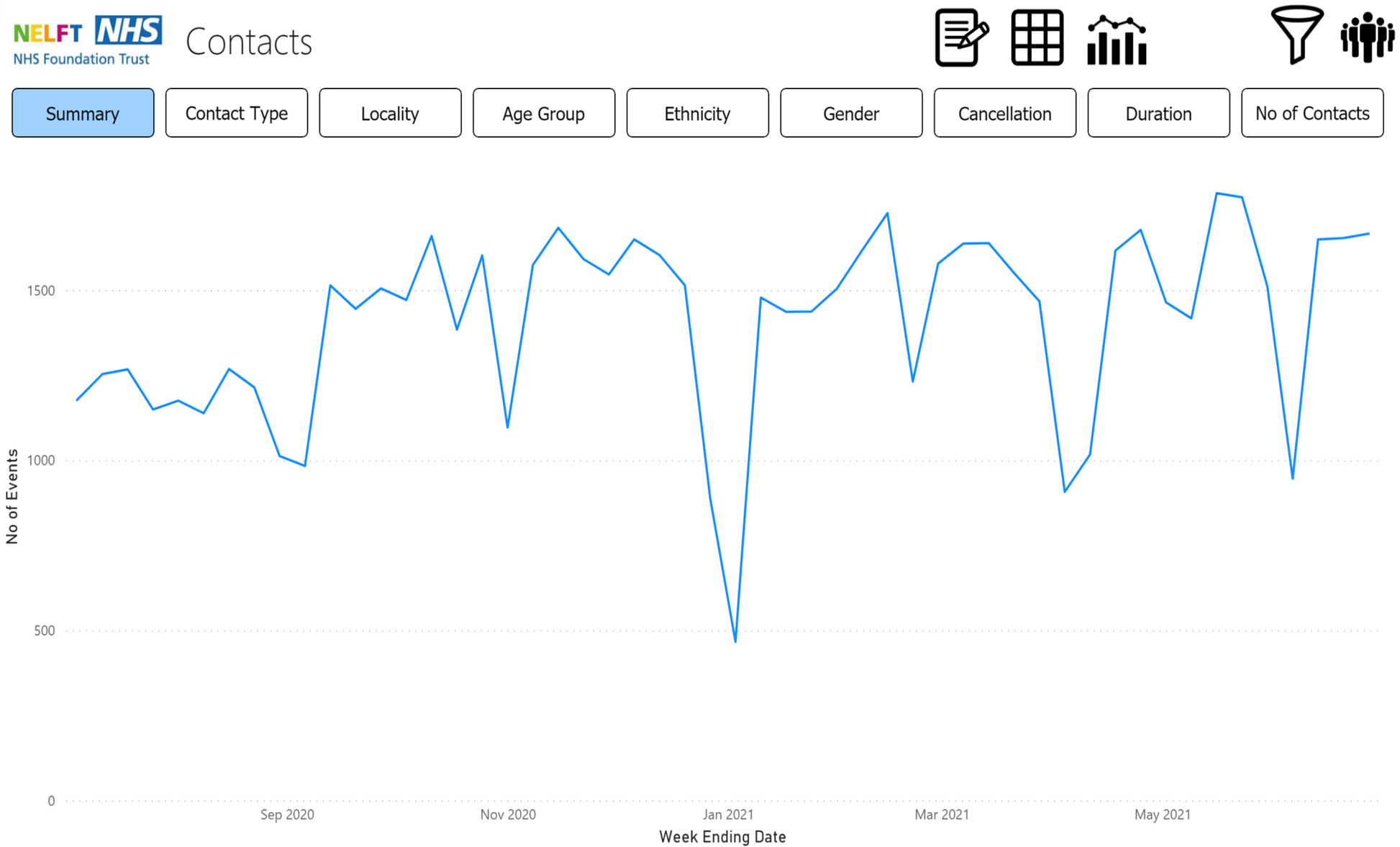
6.12%

Variance vs Same Period Last Year

Page 63

Jan 2021

Jul 2021

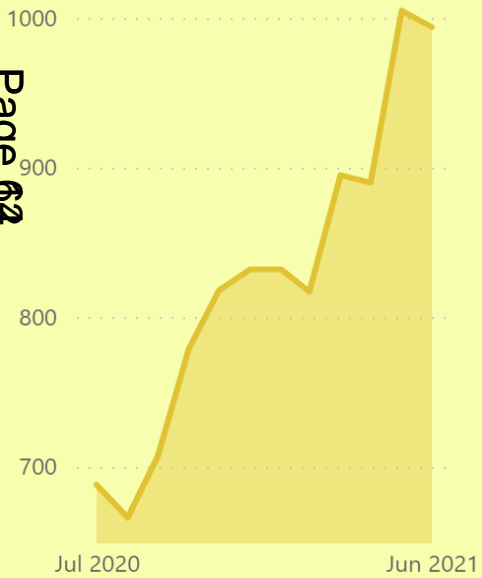


Caseload

994

Caseload - Active Patients

Page 62



39.45%

Variance vs Same Period Last Year



Caseload Patient Summary



Summary

Locality

Department

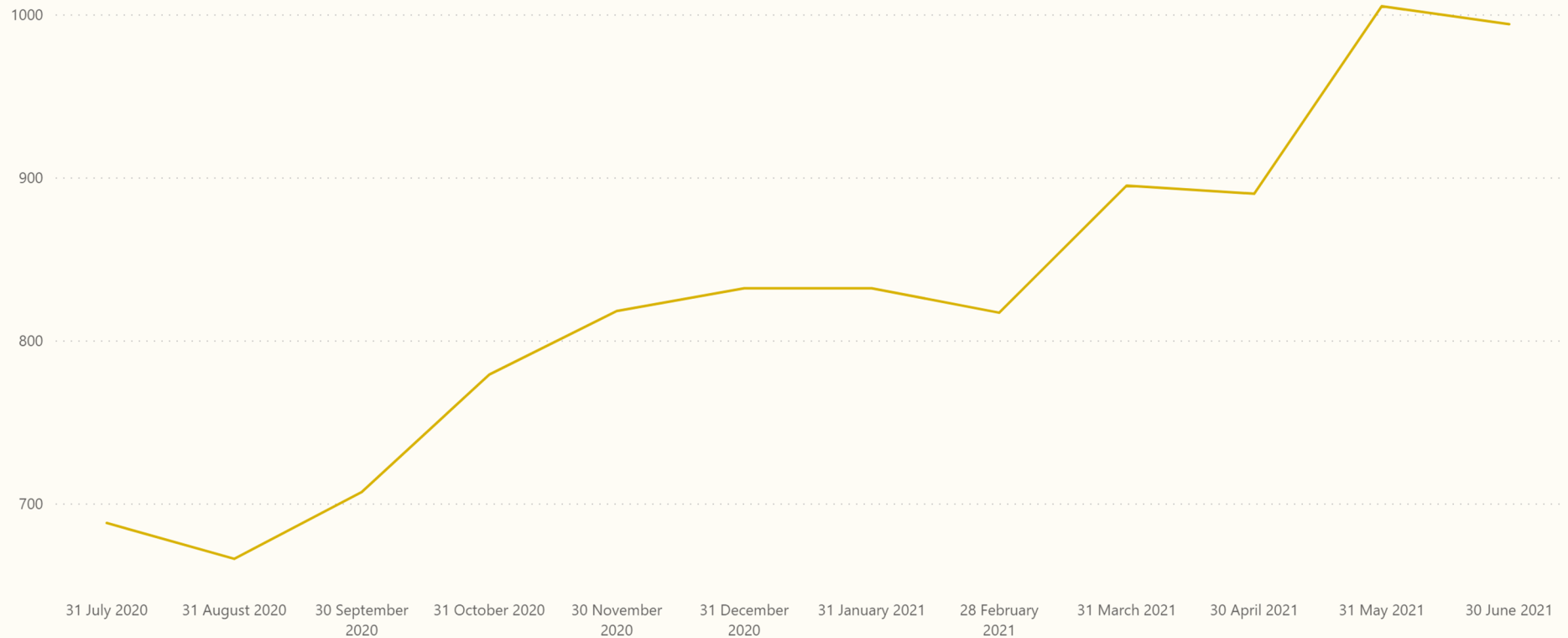
CCG of Patient

Age Group

Ethnicity

Gender

Caseload - Active Patients



Local Transformation Plan

As part of the NHS Long Term Plan there is a strong theme throughout on the role of the Voluntary Community Sector (VCS) in partnership with the health and care sector. Further details can be found on the Open Up, Reach Out publication

Schools Provision

- Self-Harm Management Toolkit (SHMT)
- Wellbeing Workshops in Primary Schools
- Represent Secondary school MH campaign
- Mental Health Support Teams

Parental and family support

- ASD Family support (health based coaching)
- CYP MH Family Support (health based coaching)
- Barnardos crisis support
- Triple P online provision

Young People Support

- Progressions Core Assets
- KOOTH
- Transforming Care 'Spot Purchase'
- CYP MH Ambassadors - Healthwatch

Positives

- One provider across Essex
- Self referrals (anyone else can also refer)
- Integrated Tier2/Tier3 specialist Mental Health services
- A strengthened role with education ensuring that the local education system remain well connected and a key partner
- One Single Point of Access (SPA)
- Provision for young offenders and for CYP misusing substances
- Signposting to alternative universal and community services provision for support where an CAMHS intervention is not required
- Emotional Wellbeing and Mental Health Service for CYP with Learning Disabilities and Difficulties (EWMHS/LD) expansion
- Silvercloud roll with 2 additional posts (2 year pilot)
- 'Spot Purchase' budget for CETR
- Further funding for VCS to support Crisis Teams/SPA
- Further funding to roll out health based coaching in a family approach
- Consultation, support, advice, and training to the wider system
- Crisis Intensive Support Service (ISS) expansion
- CYP Specialist Community Eating Disorder Service (CYPEDS) expansion to include community based and home treatment team

Areas to address and innovation

CHALLENGES	SOLUTIONS
COVID 19	Phone triage systems and preventing young people needing to be assessed in A&E
SCHOOL RETURN (PEAKS IN ACUITY)	Increased liaison and feeding into schools
DUAL DIAGNOSIS PRESENTATIONS AT A&E (PHYSICAL & MENTAL HEALTH) MEANING MANDATORY ATTENDANCE	We've put out education / flow charts to schools / GPs / Closer working with internal SPA, been more accessible to prevent need to attend A&E
AMHP LEAST RESTRICTIVE PRACTICE	Including ISS attendance at A&E for mental health act assessments in new resources
ACUITY & BED ACCESS OF LOCAL T4 PROVIDERS & NATIONAL ACCESS (ED/LD/Low Secure/ GAU/PICU)	We have limited control over bed availability but have flexibility in staffing and close working protocols with acute wards to support where T4 admission is delayed
YOUNG PEOPLE REQUIRING SHORT TERM ACCESS IN CRISIS	72hr bed project in partnership with EPUT
WEEKEND AND OUT OF HOURS NETWORK SHUT DOWN	ISS OFFER 24HR 7 DAY A WEEK SERVICE (NOT REFLECTED IN PARTNER AGENCIES)
RECRUITMENT	Stability in agency staff, review of staffing structures, in house training, flexible approach to recruitment resulting in therapists and not just Nursing/Social Work

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**MINUTES OF THE MEETING OF THE PLANNING POLICY AND LOCAL PLAN
COMMITTEE,
HELD ON THURSDAY, 11TH NOVEMBER, 2021 AT 6.03 PM
IN THE COUNCIL CHAMBER, AT THE COUNCIL OFFICES, THORPE ROAD,
WEELEY, CO16 9AJ**

Present:	Councillors Turner (Chairman), Fairley (Vice-Chairman), Bush, Chapman, C Guglielmi, I Henderson, Scott and Winfield
Also Present:	Councillor White
In Attendance:	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Gary Guiver (Acting Director (Planning)), Keith Simmons (Head of Democratic Services and Elections) and Matt Cattermole (Communications Assistant)

18. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Allen and Newton (with no substitutions).

19. MINUTES OF THE LAST MEETING

It was moved **RESOLVED** that the Minutes of the last meeting of the Committee held on 19 October 2021 be approved as a correct record and be signed by the Chairman.

20. DECLARATIONS OF INTEREST

In respect of Agenda Item 6 – Report of the Deputy Chief Executive & Monitoring Officer, Councillor Scott declared for the public record that he was a Ward Member for land that would be the site of the proposed Tendring Colchester Border Garden Community (TCBGC).

Also in respect of Agenda Item 6, Councillors G V Guglielmi and Turner each declared for the public record that they were this Council's representatives on the TCBGC Member Group.

21. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

On this occasion no Councillor had submitted notice of a question pursuant to Council Procedure Rule 38.

22. PUBLIC SPEAKING

Pursuant to the provisions of the Council's public speaking scheme for the Planning Policy & Local Plan Committee, no member of the public had registered to ask at this meeting a question or to make a statement regarding the item contained in the report of the Deputy Chief Executive & Monitoring Officer.

**23. REPORT OF THE DEPUTY CHIEF EXECUTIVE & MONITORING OFFICER - A.1 -
TENDRING COLCHESTER BORDERS GARDEN COMMUNITY: PROPOSED**

PREPARATION OF A DEVELOPMENT PLAN DOCUMENT AND PROPOSED ESTABLISHMENT OF A JOINT COMMITTEE

The Committee gave consideration to a report of the Deputy Chief Executive & Monitoring Officer (A.1) which sought its approval to formally recommend to Full Council that a joint Development Plan Document be prepared together with Colchester Borough Council; and further that a Joint Committee be established with Colchester Borough Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community.

Members were aware that the Tendring Colchester Borders Garden Community (TCBGC) was located across Tendring District Council's (TDC) and Colchester Borough Council's (CBC) Local Planning Authority's area, and that accordingly those Councils could consider establishing a Joint Committee made up of members from both of those Councils.

The Committee recalled that both TDC and CBC had now adopted a common Section 1 of their Local Plan, which had the shared vision of sustainable development and allocation of TCB Garden Community, which would be further defined through a joint Development Plan Document (DPD) providing detailed parameters and policies (as required within Section 1 – Policies SP7 & 8).

Members were reminded that this Committee, at its meeting held on 29 June 2021, had approved the updated Local Development Scheme for 2021-24, which had made reference to the jointly prepared DPD with Colchester for the TCBGC. However, a formal decision was required under Section 28 of the Planning and Compulsory Purchase Act 2004. The Committee needed therefore to formally recommend this to Full Council, and the outcome of this meeting would be reported to Cabinet at its meeting on 12 November 2021 when it would also be considering the Joint Committee for TCBGC.

It was felt that due to the joint nature of Section 1 there was a case to be made for a Joint Committee for Tendring and Colchester, which would also include members from Essex County Council (ECC), continuing with the existing partnership working on this project. This format had been adopted elsewhere and linked into decisions around infrastructure and possibly other County matters.

The Committee was advised that it was possible to delegate various functions to a Joint Committee but that at this stage the proposed Terms of Reference for the Joint Committee would be limited to planning functions related to preparing for plan making through the DPD process; and development control and determination of planning applications for TCBGC against the common Section 1 and adopted DPDs.

It was reported that ECC had also proposed to transfer/delegate their relevant planning functions to the Joint Committee for the Tendring Colchester Borders Garden Community.

Members were informed that the alternative to establishing a Joint Committee, was to leave the current arrangements in place such that Cabinet and/or the relevant Committee of both Councils would be involved in the decision making process for production of the Draft DPD. Once the DPD was adopted, the relevant Council's Planning Committee would deal with any individual planning application in their area.

This latter option could present some complications associated with managing the practicalities, introducing delay to the process and it was therefore considered beneficial to advance the joined up and partnership approach through to decision making.

The Committee was informed that the Tendring Colchester Borders Garden Community Member Group had assessed the various options and considered the joint committee approach for both the TCBGC joint DPD and Development Control functions would best demonstrate the Councils' continued partnership commitment to delivering the Garden Community, provide increased confidence to developers and remove delayed individual decision making through working together for the benefit of the residents in both areas.

Members were assured that the establishment of the Joint Committee would be limited to the TCBGC and all other local planning authority functions would remain unaffected and rest with TDC and CBC.

The proposed Terms of Reference and Scheme of Delegation of the TCBGC Joint Committee were set out in Appendix A to the Officer report and consequential amendments to this Committee's delegated functions and responsibilities were set out in Appendix B thereto.

The Committee was made aware that further executive functions related to the TCBGC could be delegated by the Leader of the Council, as the project developed and a partnership agreement might be deemed necessary between the Councils to formulate arrangements between them.

Councillor Ivan Henderson suggested that the third member of the Joint Committee should be appointed by Full Council from the opposition and this was accepted by the Committee as a general principle to be included.

Councillor Henderson also raised whether the scrutiny provisions would apply and the Monitoring Officer confirmed that the work programme for the relevant Overview and Scrutiny Committee could always include the work of TCBGC, but also gave a reassurance that the Constitution would be reviewed to ensure the work of a Joint Committee would be covered.

With the permission of the Chairman (Councillor Turner), Councillor White, in his capacity as the Chairman of the Planning Committee, raised questions on behalf of that Committee which were answered, as appropriate, by the Deputy Chief Executive & Monitoring Officer and the Acting Director (Planning).

Having considered all of the information and advice contained in the Officer report and its appendices:-

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

RESOLVED that the Planning Policy & Local Plan Committee recommends to Full Council that –

- (a) a joint Development Plan Document is prepared together with Colchester Borough Council in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004;

- (b) a Joint Committee is established with Colchester Borough Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community for the discharge of executive and non-executive functions related to TCBGC, pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972 on the terms of reference attached at Appendix A to item A.1 of the Report of the Deputy Chief Executive & Monitoring Officer; and
- (c) the third elected Member of the Joint Committee to be appointed by the Full Council should be a Member from a political group that is not represented on the Cabinet.

The meeting was declared closed at 7.23 pm

Chairman

Motion to Council pursuant to Council Procedure Rule 12
submitted by Councillor Alan Coley in relation to Article 4
Directions

“In order to preserve Tendring’s uniqueness, heritage, amenity areas and the established areas of industrial and commercial activity:-

This Council requests its Cabinet to explore the option of applying for an Article 4 Direction in respect of appropriate Conservation Areas, Industrial Estates and Commercial and Retail Centres in the District of Tendring.”

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COUNCIL

30 NOVEMBER 2021

REFERENCE FROM CABINET

A.1 GROUNDS MAINTENANCE SERVICE

(Report prepared by Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable Council to consider whether to support a motion submitted at the meeting of the Council held on 13 July 2021 by Councillor Ivan Henderson in relation to the grounds maintenance service.

EXECUTIVE SUMMARY

Further to Minute 76 of the formal meeting of the Cabinet held on 12 November 2021 this report seeks to enable Council to decide whether to support a motion submitted at the meeting of the Council held on 13 July 2021 by Councillor Ivan Henderson in relation to the grounds maintenance service.

At the meeting on 12 November 2021, Cabinet had a suggested amended motion for consideration however, following the Leader's recommendation, to enable this matter to be brought to a conclusion at the meeting of the Full Council due to be held on 30 November 2021, without fettering the discussion of the original motion, Cabinet decided:-

“That Cabinet does not put forward an amended motion to Full Council.”

In summary, on the original motion Cabinet has decided that:

- (a) it recommends that the Council should not support the motion in its original format; and*
- (b) an amended motion is not being put forward.*

RECOMMENDATION

That the Council decides whether to support or not support the motion as originally submitted by Councillor I J Henderson.

PART 2 – SUPPORTING INFORMATION

BACKGROUND

Councillor I J Henderson's motion was duly submitted to the formal meeting of the Cabinet held on 17 September 2021 (Minute 36 refers).

In accordance with Council Procedure Rule 12.6 (Referred Motions – Right of Mover to

Attend Meeting), Councillor I J Henderson attended that meeting to answer any questions and/or points of clarification, if requested. At the invitation of the Chairman, Councillors I J Henderson and Allen reiterated the purpose of the motion.

It was noted by Cabinet at that meeting that the motion had expressed concern about the performance of the Council's open space and horticultural functions. A fuller outline of the extent of those functions plus other pertinent matters was set out in the 'Service Information' section of the Reference from Council (report A.1 to that meeting) which included:-

- *Maintenance of over 800 different sites in the District, including open spaces, parks, recreation grounds (which included significant numbers of sports pitches), seafront gardens, highway verges, cemeteries and crematorium grounds;*
- *Floral bedding of over 250,000 plants each year;*
- *Arboriculture inspections and works to over 5,500 trees and woodland management of ancient woodlands and other woodland areas;*
- *The management of a diverse range of dynamic natural environment including the management of Hamford Water and Walton Backwaters and country parks;*
- *The grass verge, highway tree maintenance and highway weed spraying on behalf of Essex County Council (ECC) including as many as eight additional cuts over the two cuts per year funded by ECC;*
- *That the service had received awards for excellence across many of its service areas including sports pitch maintenance, garden shows, nature conservation, parks, seafront gardens and crematorium grounds;*
- *That the 2021 summer, or growing, season had been a particularly challenging year due to unusually wet and warm weather giving rise to growing conditions way above normal but despite this, the public had been understanding and in many areas such as cemeteries, complaints were down on previous years;*
- *That the open space / grounds maintenance service in Tendring had also continued to initiate new projects to improve public realm areas in Tendring, many of them in the Harwich and Dovercourt area, as well as developing new initiatives such as the expansion of the volunteer gardener team across Tendring; and*
- *That the service had also received many compliments from visitors and local residents on the quality of visitor areas.*

Cabinet was also aware at that meeting that Council Procedure Rule 12.5 (Referral of Motions) states that:-

"Where a motion has been referred in accordance with Rule 12.4 the Cabinet or any relevant Committee shall (subject to the provisions of Rule 12.6) be required to consider such motion and to advise the Council (by no later than the second Ordinary Meeting of the Council held following the date of Council's referral) of their opinion and reason as to whether such motion should be supported in its original format.*

Prior to making its decision Cabinet or the relevant Committee may following consultation with Officers, require further information to be presented to them for consideration on the implications of the proposed motion. Such a report must be considered in a timely manner.

If the Cabinet or relevant Committee decides to advise the Council of its opinion that such motion in its original format should not be not supported, the Cabinet or relevant Committee may, in addition, suggest to the Council that an amended motion be proposed.

Once Cabinet or any relevant Committee has considered the motion it will be referred back to Council with the recommendation. If an amended motion is proposed by Cabinet, or relevant Committee, when presented back to Council, the amended motion will be debated first, in accordance with Rule 16.5 and Rule 16.10 (b)."

[* In this instance the relevant Full Council meeting is this meeting.]

Having considered Councillor Henderson's motion and in order for the Cabinet's opinion and recommendation to be reported back to Council, Cabinet had resolved:-

"That Cabinet –

(c) recommends that the Council should not support the motion in its original format; and

(d) will not suggest to Council at this time that an amended motion be proposed but will consider this further at a future meeting."

CURRENT POSITION

Council is now requested to consider Councillor Henderson's motion having due regard to the Cabinet's recommendation that it be not supported.

FURTHER INFORMATION BY WAY OF BACKGROUND AND CONTEXT

LEGAL

The Council's Grounds Maintenance Service is an executive function in accordance with The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), as set out in Part 3 (Responsibility of Functions - Scheme of Delegated Powers) of the Council's Constitution.

In considering the Motion at the Council Meeting the provisions, as applicable, of Council Procedure Rules 16, 19, 23, 24, 25, 28 and 29 will apply.

FINANCE, OTHER RESOURCES AND RISK

Changes to the Grounds Maintenance Policy and practices of the Grounds Maintenance Service Team may incur additional operational costs to the Council which will need to be budgeted for within the General Fund Budget going forwards.

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

There are none.

Equality and Diversity

There are none.

Health Inequalities

There are none.

Consultation and Public Engagement

Not applicable.

Carbon Neutrality

No adverse impact overall.

Area or Ward Affected

All Wards are potentially affected.

BACKGROUND PAPERS FOR THE DECISION

Published Minutes of the meeting of the Full Council held on 13 July 2021.

Published Minutes of the meetings of the Cabinet held on 17 September and 12 November 2021.

APPENDICES

None

COUNCIL

30 NOVEMBER 2021

REFERENCE FROM CABINET

A.2 THE LOCAL COUNCIL TAX SUPPORT SCHEME, DISCRETIONARY COUNCIL TAX EXEMPTIONS / DISCOUNTS / PREMIUMS FOR 2022/23 AND ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT 2022/23
(Report prepared by Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The Council is asked to consider the recommendations submitted to it by the Cabinet in respect of the Local Council Tax Support Scheme 2022/2023, Council Tax Exemptions, Discounts and Premiums for 2022/2023 and the Annual Minimum Revenue Provision Policy Statement 2022/2023.

EXECUTIVE SUMMARY

At its meeting held on 12 November 2021 (Minute 83 refers), the Cabinet gave consideration to a joint report of the Housing Portfolio Holder and Corporate Finance & Governance Portfolio Holder (A.13) which sought its agreement for recommending to Full Council the following:

- Local Council Tax Support Scheme 2022/23 (LCTS) (including associated exceptional hardship policy);
- Discretionary Council Tax Exemptions, Discounts and Premiums for 2022/23; and
- Annual MRP Policy Statement for 2022/23.

Cabinet was aware that the report outlined the proposed Local Council Tax Support (LCTS) scheme and council tax exemptions, discounts and premiums for 2022/23.

It was reported to Cabinet that given the impact on residents from welfare reforms, including universal credit, along with the on-going impact from COVID19, it was proposed to continue with the principle of providing financial stability wherever possible to Tendring claimants. It was therefore proposed at Cabinet to keep the 2022/23 LCTS scheme the same as for 2021/22, which provided for a maximum discount of 80% for working age claimants.

Members present at the Cabinet meeting were informed that the associated exceptional hardship policy had also been subject to annual review and that it was not proposed to make any changes from the scheme operating this year and so it would remain available to support eligible claimants. Additional financial support had been made available to claimants via this scheme, supported by associated COVID-19 grant funding from the Government.

Cabinet was advised that, in respect of discretionary council tax discounts and exemptions, it was proposed to continue with the same level of discounts set for 2021/22 with no changes therefore proposed for 2022/23.

At the Cabinet meeting Members were reminded that, following on from Full Council agreeing, in principle, to implement council tax premiums on empty properties from 1 April 2022, the maximum premiums allowable were now included in this report for Cabinet's approval.

Cabinet recalled that a policy to enable council tax discounts to be awarded to young people leaving care had been agreed as part of the budget setting process for 2021/22. It had also been agreed to back date the support to 1 April 2020. It was proposed to continue to provide the same level of support in future years, with the unchanged policy for 2022/23 set out within the Portfolio Holders' joint report and associated recommendations.

The Annual Minimum Revenue Provision Policy Statement had also been reviewed for 2022/23 with no changes proposed.

Cabinet was advised that if it was agreed that no changes were necessary to the proposed LCTS scheme, there would be no need for public consultation. However, if any amendments were proposed and approved at Full Council on 30 November 2021, then public consultation would be required before the final scheme could be agreed and adopted. Consequently, if consultation was required, this Council would have to notify the precepting authorities that the final council tax base would be delayed and not available until later on in the budget cycle.

Cabinet was informed that given the recommendation to continue with the existing LCTS scheme, it was not proposed to formally refer it to the Resources and Services Overview and Scrutiny Committee, but it would be considered by Full Council at its scheduled meeting on 30 November 2021.

Having considered the proposals submitted by the Portfolio Holders and in order to enable these matters to be forwarded onto Full Council for final adoption, Cabinet had decided:-

"That Cabinet agrees that -

- a) the LCTS scheme for 2022/23 remains the same as the current year, as set out as Appendix A to item A.13 of the joint report of the Housing Portfolio Holder and Corporate Finance & Governance Portfolio Holder and recommends to full Council:*
 - i) that the LCTS set out as Appendix A be approved with the maximum LCTS award being 80% for working age claimants;*
 - ii) that subject to a)i) above, delegation be given to the Assistant Director (Finance and IT) in consultation with the Housing Portfolio Holder to undertake the necessary steps to implement the LCTS scheme from 1 April 2022;*
- b) the Council Tax Exceptional Hardship Policy be as set out in Appendix B to the aforementioned joint report;*
- c) the discretionary Council Tax exemptions, discounts and premiums for 2022/23 be as set out in the appendices to the aforesaid joint report and recommends to full Council:*
 - i) that the locally determined council tax discounts, as set out in Appendix C be approved;*

- ii) *that the council tax discount policy for young people leaving care, as set out in Appendix D, be approved;*
 - iii) *that the discretionary council tax premiums, as set out in Appendix E, be approved;*
 - iv) *that the Assistant Director (Finance and IT), in consultation with the Housing Portfolio Holder, be authorised to undertake the necessary steps to implement the council tax exemptions, discounts and premiums from 1 April 2022; and*
- d) *it further recommends to full Council that the Annual Minimum Revenue Provision (MRP) Policy Statement for 2022/23, as set out in Appendix F, be approved.”*

A copy of the published Housing Portfolio Holder and the Corporate Finance and Governance Portfolio Holder's joint report (and its appendices) to the Cabinet meeting held on 12 November 2021 are attached as appendices to this report.

RECOMMENDATIONS

That Council approves that –

- (a) **the LCTS scheme for 2022/23 remains the same as the current year, as set out as Appendix A to item A.13 of the joint report of the Housing Portfolio Holder and Corporate Finance & Governance Portfolio Holder as submitted to the meeting of the Cabinet held on 12 November 2021 with the maximum LCTS award being 80% for working age claimants [APPENDIX 2];**
- (b) **the Assistant Director (Finance and IT), in consultation with the Housing Portfolio Holder be authorised to undertake the necessary steps to implement the LCTS scheme from 1 April 2022;**
- (c) **the Council Tax Exceptional Hardship Policy, as set out in Appendix B to the aforementioned joint report as submitted to the meeting of the Cabinet held on 12 November 2021 be approved [APPENDIX 3];**
- (d) **the locally determined council tax discounts, as set out in Appendix C to the aforesaid joint report as submitted to the meeting of the Cabinet held on 12 November 2021 be approved [APPENDIX 4];**
- (e) **the council tax discount policy for young people leaving care, as set out in Appendix D to the above mentioned joint report as submitted to the meeting of the Cabinet held on 12 November 2021 be approved [APPENDIX 5];**
- (f) **the discretionary council tax premiums, as set out in Appendix E to the aforementioned joint report as submitted to the meeting of the Cabinet held on 12 November 2021 be approved [APPENDIX 6];**
- (g) **the Assistant Director (Finance and IT), in consultation with the Housing Portfolio Holder, be authorised to undertake the necessary steps to implement the council tax exemptions, discounts and premiums from 1 April 2022; and**

- (h) the Annual Minimum Revenue Provision (MRP) Policy Statement for 2022/23, as set out in Appendix F to the aforesaid joint report as submitted to the meeting of the Cabinet held on 12 November 2021 be approved [APPENDIX 7].

BACKGROUND PAPERS FOR THE DECISION

Published Minutes of the meeting of the Cabinet held on 12 November 2021.

APPENDICES

APPENDIX 1 = Published Joint Report (and its appendices – see below) of the Housing Portfolio Holder and the Corporate Finance and Governance Portfolio Holder for the meeting of the Cabinet held on 12 November 2021

APPENDIX 2 = Appendix A Proposed Local Council Tax Support Scheme (summary) 2022/23

APPENDIX 3 = Appendix B Council Tax Exceptional Hardship Policy

APPENDIX 4 = Appendix C Council Tax Discounts and Exemptions 2022/23

APPENDIX 5 = Appendix D Care Leavers Council Tax Discount Policy

APPENDIX 6 = Appendix E Council Tax Premiums 2022/23

APPENDIX 7 = Appendix F Annual Minimum Revenue Provision Policy Statement 2022/23

A.2 APPENDIX 1

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

12 NOVEMBER 2021

JOINT REPORT OF THE HOUSING PORTFOLIO HOLDER AND CORPORATE FINANCE AND GOVERNANCE PORTFOLIO HOLDER

A.13 THE LOCAL COUNCIL TAX SUPPORT SCHEME, DISCRETIONARY COUNCIL TAX EXEMPTIONS / DISCOUNTS / PREMIUMS FOR 2022/23 AND ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT 2022/23

(Report prepared by Richard Barrett)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable Cabinet to consider and agree for recommending to Full Council the following:

- Local Council Tax Support Scheme 2022/23 (including associated exceptional hardship policy)
- Discretionary Council Tax Exemptions, Discounts and Premiums for 2022/23
- Annual MRP Policy Statement for 2022/23

EXECUTIVE SUMMARY

- This report outlines the proposed Local Council Tax Support (LCTS) scheme and council tax exemptions, discounts and premiums for 2022/23.
- Given the impact on residents from welfare reforms, including universal credit along with the on-going impact from COVID19, it is proposed to continue with the principle of providing financial stability wherever possible to Tendring claimants. It is therefore proposed to keep the 2022/23 LCTS scheme the same as this year, which provides for a maximum discount of 80% for working age claimants.
- The associated exceptional hardship policy has also been subject to annual review and it is not proposed to make any changes from the scheme operating this year and so remains available to support eligible claimants. Additional financial support has been made available to claimants via this scheme, supported by associated COVID 19 grant funding from the Government.
- In respect of discretionary council tax discounts and exemptions, it is proposed to continue with the same level of discounts this year with no changes therefore proposed for 2022/23.
- Following on from Full Council agreeing in principle to implement council tax premiums on empty properties from 1 April 2022, the maximum premiums allowable are now included in this report for approval.
- A policy to enable council tax discounts to be awarded to young people leaving care was agreed as part of the budget setting process for 2021/22. It was also agreed to back date the support to 1 April 2020. It is proposed to continue to provide the same level of support

A.2 APPENDIX 1

in future years, with the unchanged policy for 2022/23 set out within this report and recommendations below.

- The Annual Minimum Revenue Provision Policy Statement has also been reviewed for 2022/23 with no changes proposed.
- If it is agreed that no changes are necessary to the proposed LCTS scheme, there will be no need for public consultation. However, if any amendments are proposed and approved at Full Council on 30 November 2021, then public consultation will be required before the final scheme can be agreed and adopted. Consequently, if consultation is required, this Council will have to notify the precepting authorities that the final council tax base will be delayed and not available until late in the budget cycle.
- Given the recommendation to continue with the existing LCTS scheme, it is not proposed to formally refer it to the Resources and Services Overview and Scrutiny Committee, but it will be considered by Full Council on 30 November 2021.

RECOMMENDATION

It is recommended:

- a) That Cabinet agrees that the LCTS scheme for 2022/23 remains the same as the current year, as set out as Appendix A and recommends to full Council:**
 - i) that the LCTS set out as Appendix A be approved with the maximum LCTS award being 80% for working age claimants;**
 - ii) that subject to a)i) above, delegation be given to the Assistant Director Finance and IT in consultation with the Housing Portfolio Holder to undertake the necessary steps to implement the LCTS scheme from 1 April 2022;**
- b) that Cabinet agrees the Council Tax Exceptional Hardship Policy as set out in Appendix B;**
- c) that Cabinet agrees the discretionary Council Tax exemptions, discounts and premiums for 2022/23 as set out in the appendices and recommends to full Council:**
 - i) that the locally determined council tax discounts as set out in Appendix C be approved;**
 - ii) that the council tax discount policy for young people leaving care as set out in Appendix D be approved;**
 - iii) that the discretionary council tax premiums set out in Appendix E be approved;**
 - iv) that subject to c) above, delegation be given to the Assistant Director Finance and IT in consultation with the Housing Portfolio Holder to undertake the necessary steps to implement the council tax exemptions, discounts and premiums from 1 April 2022; and**
- d) that Cabinet recommends to Council that the Annual Minimum Revenue Provision (MRP) Policy Statement for 2022/23 as set out in Appendix F be approved.**

A.2 APPENDIX 1

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

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

FINANCE, OTHER RESOURCES AND RISK

LCTS scheme for 2022/23

As at the end of September, the total estimated annual 'cost' of the LCTS scheme in 2021/22 is **£11.884m**, which is in-line with the 'base' position budgeted for. Approximately 10% of this amount (**£1.188m**) falling to TDC with the remainder being met by the major preceptors. It is also worth highlighting that for every 5% decrease / increase in the discount the council would gain / lose approximately **£50,000** per year.

As the LCTS scheme is accounted for as a discount against the full council tax amount that would otherwise be payable on a domestic property, the estimated cost of the scheme forms part of the council tax property base calculations that are undertaken when developing the following year's budget. This will therefore be considered as part of the long term forecast and budget setting work currently underway for 2022/23, but it is important to highlight that it is not proposed to reduce the discount rate as part of balancing the long term forecast as the scheme remains an important mechanism to provide financial support to Tendring residents.

Council Tax Hardship Scheme

The cost of the exceptional hardship scheme is met by contributions from TDC and the major preceptors based on their respective proportion of the overall council tax bill. Therefore TDC is required to meet approximately 10% of the cost of any award up to an annual aggregate total, which for 2021/22 is **£24,030**. For any awards over and above this annual amount, 100% of the cost is met by TDC.

As no changes are proposed to either the LCTS Scheme or Hardship Policy in 2022/23, no additional underlying costs over and above those included within existing budgets or long term forecast are expected. The Council Tax Collection fund continues to operate whereby any changes against the budget during the year will be 'rolled' forward and included in the following year's budget setting process.

As part of the outturn report for 2020/21, it was agreed to increase the existing council tax hardship budget by **£509,000** in 2021/22 using associated support provided by the Government. The aim of this approach was to provide additional flexibility to officers within the Revenues and Benefits Service to support a much larger number of households in the district during 2021/22 who may be facing on-going hardship from the COVID 19 pandemic. This support can be provided via the application of the existing hardship policy with **£50,450** being paid out to eligible households so far.

Council tax exemptions, discounts and premiums for 2022/23

Similarly to the position for the LCTS above, as no changes are proposed to council tax discounts for 2022/23, including the policy for young people leaving care, no adjustments to existing budgets / long term forecast are expected.

As discussed as part of the introduction of the policy to support young people leaving care earlier in the year, the cost of this was expected to be minimal. As at the end of September 2021, the total cost of this scheme has been just over £4,000, which can be accommodated within the wider calculation of the council tax base, each year.

A.2 APPENDIX 1

By introducing a 'premium' on long term empty properties in 2022/23 additional income would be expected. However the intention of charging a 'premium' is to bring empty properties back into use following which the 'premium' would no longer be levied, the ultimate success of such an approach would therefore mean that no additional income would be realised. It is accepted that some homeowners may still not bring their properties back into use even when a 'premium' is charged but it is difficult to quantify this figure.

The premium will be chargeable to relevant properties within the HRA. Work is underway to reduce the level of long term housing voids and any impact to the HRA from introducing the council tax premiums will be considered as part of the wider HRA Business Planning Process.

Minimum Revenue Provision Policy Statement (MRP)

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

Risk

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

The annual review process therefore seeks to balance such issues along with the Council's overall financial position and as highlighted, it is not proposed to make any changes to the LCTS scheme in 2022/23, which supports the financial stability of residents, especially during the continuing roll-out of the Government's welfare reforms and the on-going impact of the COVID 19 pandemic.

LEGAL

The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (as amended) and The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 provide the basis for the design and implementation of Local Council Tax Support Schemes.

In respect of the Council Tax Exceptional Hardship Policy, S13a of the Local Government Finance Act 1992 allows Councils to reduce the amount of Council Tax payable. The same legislation would also enable the Council to provide a council tax discount for young people leaving care.

The Local Government Finance Act 1992. Schedule 1A of the 1992 Act states that if a LCTS is revised or replaced, full consultation is required. As the recommendation is to continue with the current scheme for 2021/22, consultation is not required. However, should Council make any amendments to the scheme, consultation will be necessary before the scheme can be approved and adopted.

The Local Government Finance Act 1992 (as amended) sets out relevant council tax exemptions and discounts (mandatory and discretionary). The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 (as amended) sets out the various class of properties for the purpose of exemptions and discounts. Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 amended the Local Government Finance Act 1992 in respect of

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the Council Tax premium that can be charged on long term empty properties (unoccupied for at least 2 years) as follows:

The maximum premiums chargeable from 1 April 2021 are as follows:

- For properties unoccupied and unfurnished for 2 years but less than 5 years – a maximum of 100%
- For properties unoccupied and unfurnished for 5 years but less than 10 years – a maximum of 200%
- For properties unoccupied and unfurnished for over 10 years – a maximum of 300%

For the purposes of defining a long-term empty dwelling, on any day for a continuous period of at least 2 years if it has been unoccupied, and has been substantially unfurnished.

In determining whether a dwelling is a long-term empty dwelling, no account is to be taken of any one or more periods of not more than 6 weeks during which either of the two conditions above are not met (or neither of them is met).

The Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2008 set out the requirements of a Minimum Revenue Provision (MRP) Policy Statement which must be approved by Council each year. In calculating a prudent MRP provision, local authorities are required to have regard to guidance issued by the Secretary of State. The latest guidance, issued under section 21(1A) of the Local Government Act 2003, is applicable from 1 April 2019 which the proposed MRP policy reflects.

Local authorities may choose to pay more MRP than they consider prudent in any given year. If they do so they should separately disclose the in-year and cumulative amount of MRP overpaid in the Statement presented to full council.

Local authorities can also vary the methodologies that they use to make prudent provision during the year. If they do so they should present a revised MRP statement to the next full Council or equivalent. Where a change in MRP methodology would impact on the value for money assessment of non-financial investments, the updated statement should summarise this impact

OTHER IMPLICATIONS

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

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

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

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

The application of discounts and premiums are relevant to all properties across the district and it is considered that there are no equality and diversity implications specific to this issue.

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PROPOSED LCTS SCHEME 2022/23

There are two parts to the LCTS scheme;

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

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

Authorities must adopt a scheme on an annual basis which must be agreed by 31 January each year for the subsequent year's scheme.

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

The LCTS is therefore an annual 'cost' met within the Council's overall financial position / budget each year. Any increase in the discount would therefore be treated as a cost pressure and conversely, any reduction in the level of discount would increase the Council's overall income position. However the level of discount given is not primarily a financial decision as one of the primary drivers is the level of financial support that the scheme provides to households across the district which in turn needs to be considered in the wider demographic / economic position for the area.

In previous years, one argument put forward was as the LCTS was supported by the Revenue Support Grant, any reduction in this grant should be 'passported' across to the LCTS scheme and therefore reduce the support available in line with those reductions. However, given the on-going impact on residents from welfare reforms, including universal credit, it is proposed to continue with the principle applied in previous years of helping to provide financial stability to Tending claimants by keeping the maximum discount at 80% for working age claimants. In terms of the overall scheme, no changes are proposed with the scheme remaining the same as 2021/22.

The unchanged scheme for 2022/23 is set out as **Appendix A**.

When the LCTS scheme was considered in previous years, it was hoped to be able to consider alternative options for a redesign of the scheme given the potential increased administrative workload of operating the current one. This is mainly due to the means tested approach and that the information required in the past being collected as part of jointly administering Housing Benefit. As Housing Benefit continues to be phased out and the Department of Works and Pensions (DWP) are unable to share with us the information that they collect to administer Universal Credit, the Council will have to continue to ask claimants for the same information independently - in effect duplicating what is required from claimants. However, given the on-going impact of the COVID 19 pandemic it has unfortunately not been possible to make any progress with the work necessary to explore such alternative options. However it is proposed to resume this work as soon as possible to inform the potential redesign of the scheme in future years.

For information, statistics relating to the LCTS scheme in 2021/22 are set out below:

As at the end of August 2021:

There are currently 12,712 household receiving LCTS.

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The total working age households receiving support is 6,517

The total pensioner households receiving support is 6,195

Council Tax Hardship Scheme

The Council has operated a council tax exceptional hardship policy since the inception of the LCTS scheme.

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

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

It is not proposed to amend the scheme in 2022/23.

PROPOSED COUNCIL TAX DISCOUNTS, EXEMPTIONS AND PREMIUMS 2022/23

Discounts and Exemptions

There are a number of mandatory exemptions and discounts available, with only a limited number of classes of dwelling where there is local discretion as to the amount of discount that is awarded. These relate to 4 classes of unoccupied dwelling and for 2022/23 it is proposed to keep the level of discount at the same level as 2021/22 as set out in **Appendix C**.

As was the case last year, by leaving the current level of discounts / exemptions unchanged it supports the stability of the council tax base which is one of the Council's core income streams within the long term forecast. It is worth highlighting that for every 10% increase in any one class of discount, the Council would lose up to approximately **£25,000** in income per year.

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

A council tax policy was introduced this year to support young people leaving care. It is proposed to continue with an unchanged policy going into 2022/23, which is set out in **Appendix D**.

Premium on Long Term Empty Properties

As a key driver to bring empty properties back into use, the Government allows Local Authorities to levy a council tax 'premium' on long term empty properties (Class C which have been empty for more than two years). The maximum 'premium' that can be charged is set out within the legal section above but can be as high as 300% for a property that has been empty for over 10 years. A second home or holiday home would not be included as the 'premium' would only apply to properties that are substantially unfurnished.

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When Full Council considered the level of council tax discounts for 2021/22, it was agreed in principle to charge the maximum allowable council tax premium on long term empty properties from 1 April 2022. It was also agreed to write to those property owners that would be affected to advise them of the Council's intentions.

The letter referred to above was sent out to those property owners likely to be affected by the proposed change. To date there has been no adverse feedback received and in fact it has prompted property owners to get in touch with the Council to enable our records to be updated where they have not previously advised us of changes to the status of their property.

In line with the 'in principle' decision made by Full Council last year, it is proposed to levy the maximum premium from 1 April 2022 based on the time the property has remained empty. **Appendix E** sets out the proposals in full.

For information, a summary of current long term unoccupied properties (excluding Housing Revenue Account Properties) is as follows:

Band	Number
Unoccupied for more than 2 years but less than 5 years	284
Unoccupied for more than 5 years but less than 10 years	54
Unoccupied for more 10 years	20
TOTAL	358

Other Considerations

As highlighted in previous years, the Council does from time to time receive feedback from residents or other third parties in terms of putting forward a case to review existing discounts or introduce new ones. No significant issues have been raised at the time of finalising this report, so there are no further issues being put forward for consideration.

Annual Minimum Revenue Provision Policy Statement (AMRP)

Attached as **Appendix F** is the proposed Annual MRP policy statement for 2022/23 that sets out how assets funded by borrowing are accounted for, which is required to be approved by Full Council each year.

The policy sets out how the Council will make provision for the eventual repayment of any borrowing undertaken to finance capital expenditure. The policy, which is unchanged from 2021/22, proposes that where new borrowing is undertaken in accordance with the prudential code, and is therefore not supported by Central Government via the formula or specific grant, the provision is calculated on a straight line method over the initial life expectancy of the asset.

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

The timing of approval of the MRP is to enable it to be taken into account when setting the budget for 2022/23 over the coming months.

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BACKGROUND PAPERS	
None	

APPENDICES	
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Appendix B	Council Tax Exceptional Hardship Policy
Appendix C	Council Tax Discounts and Exemptions 2022/23
Appendix D	Care Leavers Council Tax Discount Policy
Appendix E	Council Tax Premiums 2022/23
Appendix F	Annual Minimum Revenue Provision Policy Statement 2022/23

Local Council Tax Support Scheme (LCTS) 2022/23

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

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Local Council Tax Support (LCTS)

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

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Introduction

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

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

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

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

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

The LCTS scheme for working age persons

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

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

Class A

To obtain support the individual must:

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

Class B

To obtain support the individual must:

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

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

What LCTS will be payable to working age person?

If a person matches the criteria in Class A, including that their *income* is less than their *applicable amounts*, that person qualifies for a reduction on their council tax liability. The Council has decided that for 2022/23, the maximum council tax liability used in the calculation of LCTS, will be a Council agreed percentage of council tax the person is liable to pay.

If a person matches the criteria in Class B, it will mean the person's *income* is greater than their *applicable amount*. Twenty per cent of the difference between the two will be subtracted from the maximum council tax liability allowed. The Council has decided that for 2022/23, the maximum council tax liability used in the calculation of LCTS, will be a Council agreed percentage of council tax the person is liable to pay.

Protection for certain working age persons

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

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

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

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

Class A

To obtain support the person must:

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

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

Class B

To obtain support the person must:

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

Class C

To obtain support the person must:

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

What LCTS will be payable to Pension Age persons?

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

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

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

How LCTS works

Who can claim?

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

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

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

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How much LCTS can I get?

Maximum LCTS depends on:

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

How is maximum LCTS calculated for the Working Age Scheme

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

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

How is maximum LCTS calculated for the Pension Age Scheme

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

Extended Payments

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

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

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

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

And you have been getting one of the following benefits:

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

and

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

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

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

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

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

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

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

Capital

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

Absences from home

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

Going away

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

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

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

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

How to claim

Claims for LCTS can be made in writing, by telephone and electronically. Contact the Council via the Tendring District Council website at www.tendringdc.gov.uk or via the Helpline 01255 686811 for details.

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provided to the Council. If you are claiming Housing Benefit as well as LCTS, the Council will provide you with a joint claim form.

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

Appointees

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

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

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

Information and evidence

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

How long will it take to decide your claim for LCTS

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

Date of claim

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

If you change your address

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

Backdating a claim (Pension Age Scheme only)

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

Start of LCTS

If you become liable for the Council Tax for the first time, for example if you move to a new address or reach the age of 18 or stop being a registered student, you should claim either in advance (you may claim up to 13 weeks before you expect to become liable), or in the week that

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your liability starts. You then get support from the day you start being liable for Council Tax. If you claim later than this, your support starts on the Monday after the day you claim

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

Start of LCTS where a claimant acquires a partner

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

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

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

End of LCTS

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

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

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

People who live with you - non-dependants

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

Non-dependants for Pension Age Scheme

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

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

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

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- tenants of owner occupiers; and
- Landlords and their partners.

They do not count as part of your household.

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

Non-dependant deductions from LCTS for Pension Age Scheme

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

A deduction will not be made from your LCTS if:

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

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

Working out the amount of LCTS

The maximum amount of LCTS depends on:

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

How is maximum LCTS calculated for the Working Age Scheme

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

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

further reduction as decided by the council.

How is maximum LCTS calculated for the Pension Age Scheme

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

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

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

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

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

Second Adult Discount (SAD) for Pension Age Scheme

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

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

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

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

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

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

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

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Second Adult	Alternative Maximum LCTS
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(a) Where the second adult or all second adults are in receipt of income support, maximum Universal Credit, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker's allowance;	25 per cent of the Council Tax due in respect of that day;
(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support maximum Universal Credit, an income-related employment and support allowance, state pension credit or an income-based jobseeker's allowance—	<p>Gross Income is less than £215.00 per week; 15 per cent of the Council Tax due in respect of that day;</p> <p>Gross Income is not less than £215.00 per week but less than £279.00 per week; 7.5 per cent of the Council Tax due in respect of that day;</p> <p><i>(Above are 2021 rates which will be subject to a 2022 uplift by the Govt.)</i></p>
(c) If the dwelling is occupied by a second adult/adults on state pension-credit, income-related jobseeker's allowance, maximum Universal Credit, income-related employment and support allowance or income support, living with a full-time student(s).	100 % of the Council Tax due in respect of that day.

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

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

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

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

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

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

Calculating your needs

Your needs are known as your living allowance or applicable amount and this is an amount that is set each year. For the Pension Age scheme this is set and approved by Parliament. For the

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Working Age scheme this is set by the Council. Your applicable amount takes into account the size of your family, your age and extra needs you may have. It is made up of personal allowances and

premiums. Premiums are included if you have a family, or disability, or a disabled child.

Living Allowances or Applicable Amounts

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

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

Personal allowance

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

Personal allowances for children

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

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

Premiums for your family

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

Your children

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

Premiums or components for disabilities

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

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

Disabled child premium

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

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

Disability premium

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

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- either of you is registered blind; or

- either of you gets one of the qualifying benefits listed below; or
- has been off sick for 52 weeks or more.

Qualifying benefits

You will get the disability premium if you or your partner gets any of the following benefits:

- Disability Living Allowance ;or
- Personal Independence Payment.
- Working Tax Credit Disability Element; or
- Constant Attendance Allowance; or
- War pensioners' mobility supplement; or
- Severe Disablement Allowance; or
- Incapacity Benefit – long term rate or short-term higher rate paid at the long term rate.

Severe disability premium

This premium cannot be included on its own. You must first qualify for the disability premium.

If you are single or a lone parent - The severe disability premium may be included in your applicable amount if you:

- receive the care component of Disability Living Allowance at the highest or middle rate, Personal Independence Payment, Attendance Allowance or Constant Attendance Allowance; and
- live alone (but if others live with you, see below); and
- no one receives Carer's Allowance for looking after you.

If you have a partner

You may get the severe disability premium if you both:

- receive the care component of Disability Living Allowance (DLA) at the highest or middle rate, Personal Independence Payment, Attendance Allowance (AA) or Constant Attendance Allowance; or
- your partner is blind and you receive the care component of DLA at the highest or middle rate, Personal Independence Payment, Attendance Allowance (AA) or Constant Attendance Allowance; and
- no one lives with you; and
- no one receives Carers Allowance for looking after either one or both of you.

For the purposes of severe disability premium your LCTS is not affected if other people living with you are:

- Children; or
- aged 16-17; or
- a person who is registered blind; or
- receiving the care component of Disability Living Allowance (DLA) at the highest or middle rate, Personal Independence Payment or Attendance Allowance (AA); or
- people caring for you who are employed by a charity that makes a charge for this service



Enhanced Disability Premium

- Enhanced Disability Premium is awarded where you, or a member of your family, who is aged under 60 receives the highest rate of Disabled Living Allowance (DLA), Enhanced component of Personal Independence Payment or where the claimant is in receipt of Employment and Support Allowance Support Component. This premium will remain in payment if the DLA/PIP is suspended during hospitalisation. This premium is awarded at three different rates. They are:
- a rate for each dependent child/young person in your household who receives the highest rate of DLA/Enhanced component of Personal Independence Payment;
- a rate for a single person who receives the highest rate of DLA/Enhanced component of Personal Independence Payment;
- a rate for couples where at least one member of the couple receives the highest rate of DLA/Enhanced component of Personal Independence Payment.

Work Related Activity Component

This is awarded where you or your partner receives main phase Employment and Support Allowance and receives a similar component within that benefit

Support Component

This is awarded where you or your partner receives main phase Employment and Support Allowance and receives a similar component within that benefit

Carer Premium

The Carer Premium is awarded if either you or your partner is looking after a disabled person and:

- receive Carer's Allowance; or
- made a claim for Carer's Allowance and would be entitled but for an overlapping benefit.

If both you and your partner satisfy the qualifying conditions two premiums can be awarded.

The carer premium continues for eight weeks after caring ceases.

Calculating your resources

Your resources are made up of your income and your capital. These are worked out as a weekly amount of income.

Income

Income is all the money that you have coming in from earnings, social security benefits, maintenance payments and other sources. Depending on the type of income, it may be completely or partially ignored in the calculation of your LCTS (the disregards), or taken fully into account.

For the Working Age Scheme your resources and those of your partner are taken together along with any Non-Dependants income when your household income and capital are worked out.

For the Pension Age Scheme your resources and those of your partner are taken together when your income and capital are worked out.

Income from employment

This explains what counts as your income from work you do, as an employee, when you are employed by someone else. If you are a company director or any other officeholder in a company you are classed as an employee of that company.

Earnings from employment mean any money you are paid when you work for someone else. This includes the following types of payments:

- bonuses or commission (including tips);
- money you get instead of your normal pay (for example, a liquidator may give you money when your employer stops trading and you are owed some pay);
- money you get in place of notice to end your employment, or money you get to make up for losing your job;
- money you get for holidays you did not take (holiday pay) – but not holiday pay owed to you more than four weeks after you stopped work;
- money you get if you are kept on while doing no work (for example, a retainer paid to school cooks during school holidays);
- expenses you are given to cover your travel to and from work;
- expenses you are given to cover the costs of looking after someone in your family
- any expenses you are given that are not essential for you to carry out your work;
- money you get, under the Employment Protection (Consolidation) Act 1978, when you are not given work because of bad weather, or money you get because of unfair dismissal;
- money that an industrial tribunal orders your employer to give you if the period of notice or redundancy that is required by law has not been given;
- money you get from your former employer's redundancy funds if the business goes into liquidation;
- Statutory Sick Pay or Statutory Maternity Pay;
- Statutory Paternity Pay and Statutory Adoption Pay;
- Employer's sick pay or employer's maternity pay
- earnings from permitted work, that is, work while you are getting an incapacity benefit which your doctor thinks would benefit your health.

Earnings from employment do not include:

- payment in kind (where no money is involved)
- expenses you are given that are essential for you to carry out work
- any occupational pension.

Net earnings

Once your gross earnings have been worked out, your council will take away:

- your income tax payments (allowing for personal relief); and
- your National Insurance (NI) contributions; and
- half of any contributions you make to an occupational or personal pension scheme (any amounts paid to a pension scheme by your employer do not count).

This gives your net earnings, which are used to work out your LCTS

Self-employed earnings

If you are self-employed, all the money you earn when you are not employed by someone else is known as your earnings from self-employment. You may have self-employed earnings even if you are also working for someone else, or if you are a franchise holder.

When working out your earnings the Council will want to know how much you earn when you are self-employed, and you will be asked to provide evidence, if possible, of how much you earn.

There are three stages in working out your self-employed earnings. The first is calculating the

gross profit of your business. In the second stage, deductions – which are called allowable expenses – are taken away from the gross profit to give the net profit of the business. In the third stage, tax, NI, and pension payments are taken away from your net profit to give your net earnings. The Council will apply a minimum income floor calculation in such cases where the declared income is less than an amount determined as appropriate for the type of business.

Child-minders

If you are a child-minder only one third of your earnings from child-minding will be taken into account when the council works out your LCTS for the Pension Age Scheme.

For the Working Age Scheme all of your earnings from child-minding will be taken into account.

Earnings and earnings disregards

After working out your net earnings, any amount that is not counted in the calculation of your LCTS is known as a disregard.

The amount of your earnings that is not counted depends on which premium is included in your applicable amount. There is more information on the applicable amount and premiums.

When £5 is not counted - If you are single and you cannot get a greater disregard by any of the means explained below, up to £5 of your weekly earnings will not be counted (the £5 disregard).

When £10 is not counted - If you have a partner and you cannot get the £20 disregard by any of the means explained below, up to £10 of your joint weekly earnings will not be counted (the £10 disregard).

When £20 is not counted - £20 per week of your earnings will not be counted if your applicable amount includes:

- the disability premium; or
- the severe disability premium; or the carer premium (where the carer is working).

If both you and your partner are carers, the total disregard cannot be more than £20. The carer premium and this earnings disregard can continue for a further eight weeks after caring ceases.

If you have a partner, your earnings are added together when your LCTS is worked out.

If you cannot get the £20 disregard under the above categories, you may still be able to get it if you are:

- a part-time fire-fighter; or
- an auxiliary coastguard; or
- a part-time member of a crew launching or manning a lifeboat; or
- a member of the Territorial Army or the Reserve Forces.

Additional disregard

If you work on average 30 hours a week or more you will usually be able to get an extra earnings disregard. In certain circumstances you can also qualify for the higher earnings disregard if you work 16 hours or more e.g. if you are a lone parent or disabled. This is the same amount as the 30-hour tax credit in your Working Tax Credit (WTC)

Childcare charges

In certain circumstances, average childcare charges of up to £175 (for one child) or up to £300 for 2 or more children per week per family can be offset against your earnings. This disregard, which

is in addition to the other earnings disregards, is available to:

- lone parents who are working 16 hours or more per week;
- couples where both are working 16 hours or more per week;
- couples where one member is working 16 hours or more per week and, generally, the disability premium, or, in certain circumstances, the higher pensioner premium, is included in the applicable amount on account of the other member's incapacity or the other member is in hospital or in prison.

It applies where formal childcare is provided by, for example, registered child-minders or day nurseries for children until the first Monday in September following their 15th birthday (or the 16th birthday for children who are entitled to Disability Living Allowance or who are registered blind).

In certain circumstances, help with childcare costs can be given while you are on maternity leave or paternity or adoption leave or you are sick. The authority will be able to give you more details.

In some other cases explained here, different amounts of your earnings are not counted.

If you are in receipt of Pension Credit Guarantee, Income Support, income-based Jobseeker's Allowance or income related Employment and Support Allowance then any earnings you get will not be counted again in working out LCTS.

Notional Earnings

If you have done some work and you seem to have been paid very little for it, then the Council will estimate what that work is worth. If you have a good reason for the pay being so low – for example, if you worked for someone who had very little money – then you should let the Council know. If necessary, the Council may check your statement of earnings by asking your employer.

Other income

Other income is all the other money you have coming in apart from earnings from employment or self-employment. It is sometimes called unearned income. In some cases none of your unearned income is counted. Sometimes part of it is counted, and in other cases it is all counted.

State benefits

The following benefits are counted in full as income for LCTS:

- Contribution-based Jobseeker's Allowance
- Contribution-based Employment and Support Allowance
- Universal Credit
- State Pension
- Incapacity Benefit
- Severe Disablement Allowance
- Carer's Allowance
- Industrial Injuries Disablement Benefit
- Industrial Death Benefit
- Working Tax Credit
- Child Tax Credit (ignored if you or your partner are pension age)
- Savings Credit of Pension Credit
- Bereavement Benefits (ignored if you or your partner are pension age).

**Unearned income that is not counted**

The following types of income are not counted by the Council when it works out your LCTS:

- any income you get if you are getting the Guarantee Credit of Pension Credit, Income Support, income related Employment and Support Allowance (ESAIR) or income-based Jobseeker's Allowance (JSA);
- Disability Living Allowance (DLA)/ Personal Independence Payment (PIP);
- Attendance Allowance (AA) or Constant Attendance Allowance (CAA);
- Attendance allowances paid as part of a War Disablement Pension or Industrial Injuries Disablement Benefit;
- Child Benefit;
- Child Maintenance (spousal maintenance is taken into account in part or in full depending on whether you have a child);
- money you get which takes the place of DLA, AA, CAA, or Income Support;
- war pensioners' mobility supplement;
- any money you get from the Social Fund;
- Guardian's Allowance;
- money you get as a holder of the Victoria Cross, the George Cross, or any comparable award;
- any grants or allowances you get from your local education authority if you have a dependent child who continues in education after school leaving age;
- any training premium and any refunded travelling expenses or living away from home allowances when you are on a Department for Education and Employment Training Scheme training course or at an employment rehabilitation centre;
- any money such as interest or dividends from savings or investments;
- any expenses you get from an employer that you need to carry out your work;
- any expenses you get from a charity so that you can carry out unpaid work;
- any income in kind (where you are given something other than money);
- any income you have which has been held back outside this country, as long as it remains held back, and it is not within your control;
- any money you get for fostering a child;
- any money you get for looking after an elderly or disabled person temporarily (community boarding out schemes);
- any money you get from a local Social Services Department to help keep a child at home instead of putting them into care;
- any Council Tax Benefit you have received;
- special payments made with your War Widow's Pension if you have been designated as a pre-1973 war widow;
- any charitable or voluntary payments which are made regularly;
- payments made under the Employment Department's 'Access to Work' scheme for disabled people; or
- War Disablement Pension or a War Widow's/Widower's Pension, or any similar payment from another country (Local Scheme)

Some types of income may be counted as capital.

Unearned income that is counted in part

The following are the types of unearned income that are only partly counted.

- the first £15 of Widowed Mother's Allowance or Widowed Parent's Allowance;
- the first £20 of any money from sub-tenants; or
- the first £20 then 50% of the excess of money you receive from a boarder is ignored. The

balance is treated as income.

Notional income

The council may think that there is income, which you could get, but you are not claiming it. This is known as notional income because you do not actually receive that income. The Council may take this into account for LCTS purposes

Parental contributions to students

If you are making a parental contribution to a student then part of your income is not counted to take account of this.

Capital

Your capital includes savings and investments held by yourself in any form (for example, bank and building society accounts, investment trusts, and shares) from any source (for example, inheritance, redundancy payments, and irregular payments from a charitable or voluntary source). It will normally also include the net sale value of land and housing that you do not occupy, after deducting 10% for expenses of sale.

If you have a partner, capital belonging to your partner is treated as yours for the purposes of LCTS

Capital outside the United Kingdom

If you have capital – in the form of liquid or fixed assets – outside this country, the Council will need to know how soon it can be transferred and how much it is worth. If the capital cannot be brought into this country, enquiries will be made about how easily it can be sold, and whether a willing buyer can be found. If no willing buyer can be found, it may not be counted.

Capital for Working Age

The first £6,000 of capital is not counted. Capital over £6,000 up to £16,000 will be taken into account at £1 a week for each £250 (or part of £250) of capital over £6,000. Actual interest payments or dividends are not counted as income but as capital.

Capital for Pension Age

The first £10,000 of capital is not counted. Capital over £10,000 up to £16,000 will be taken into account at £1 a week for each £500 (or part of £500) of capital over £10,000. Actual interest payments or dividends are not counted as income but as capital.

For customers who receive the Guarantee Credit of Pension Credit there is no upper limit on the capital you can have.

For the Pension Age scheme if you have capital over £16,000, you may still be entitled to Second Adult Discount, as your income and savings are not taken into account. However, the actual income received from the second adult's capital will be taken into account.

Personal possessions

Personal possessions – for example, a car, furniture and fittings in your house, and family belongings – are usually not included in the calculation of capital. However, this may not be the case where the Council has good reason to believe that something has been bought to reduce your capital in order to gain or increase entitlement to benefit. If the Council decides that you deliberately disposed of capital just so that you can get LCTS, it may assume that you have

notional capital to the value of the capital you disposed of.

If you own your home

The value of your property (including the house, garage and outbuildings) is not counted unless any part of the property could reasonably be sold off separately. Loans raised on the property will be counted as capital.

Property you own but do not occupy

The value of this property is counted as capital but you may be able to get LCTS even if the value of the property means that your savings are more than £16,000. This is because the value of the property may be ignored when your savings are worked out, in certain circumstances.

If the property is occupied by an elderly or disabled relative as their home, its value is not taken into account for as long as it is so occupied.

If you have recently acquired the property and you intend to occupy it as your home, its value may not be counted for 26 weeks, or for a longer period if reasonable, from the date you acquired it.

If you are trying to sell the property, its value may not be counted for the first 26 weeks after you start doing this. It may not be counted for longer than this if you are finding it difficult to sell the property.

If you are carrying out essential repairs or alterations so that you can live in the property, its value may not be counted for a period of 26 weeks from the date you first arranged for repairs to be carried out. It may not be counted for longer than this if you are finding it difficult to finish the work.

If you are taking legal action so that you can live in the property, its value may not be counted for the first 26 weeks after you start doing this. It may not be counted for longer than this if legal action is continuing and you cannot live in the property.

If you have left the property after the breakdown of a relationship, and it is occupied by your former partner, its value may not be counted for the first 26 weeks after you left. If the property is occupied by your former partner and they are a lone parent, the property will not be counted for as long as it continues to be so occupied.

Deposits on your accommodation

Sums that have to be deposited with a housing association as a condition of your tenancy are not counted.

Earmarked capital

If capital from the sale of a house is kept for a house purchase, it is not counted for up to six months, or longer if:

- major repairs or adaptations are needed for you to occupy your home; or
- the completion of the purchase of your new home is unavoidably delayed.

Compensation received for a burglary or for damage to or loss of a house is also not counted for six months, as long as it is to be used for repair or replacement

Valuation of property

Property will be valued at the price it would be expected to fetch on the open market, less any outstanding mortgage or legal charges on the property. Ten per cent of the current market value will also be deducted to take into account the cost of the sale.

If you have property outside Great Britain and there is no restriction on transferring money to this country, your property will be valued at its local sale value. If there is a restriction, its notional value will be the value of a sale to someone in the UK. In both cases, any outstanding mortgage or legal charges will be deducted, together with 10% of the total to cover the cost of the sale.

National Savings Certificates

National Savings Certificates of the current issue are valued at purchase price. Certificates of a previous issue are valued as if they were purchased on the last day of that issue.

Life assurance policies

The surrender value of life assurance policies is not taken into account when assessing LCTS.

Arrears of benefits

Any arrears of Disability Living Allowance, Attendance Allowance, Pension Credit, Income Support, income-based Jobseeker's Allowance, Personal Independence Payment, Universal Credit, Working Tax Credit and Child Tax Credit that you get are not counted for up to 12 months.

Lump sum payment of deferred State Pension

The gross amount of lump sum, or an interim payment made on account of a final lump sum, paid at the end of the period of deferring State Pension will be disregarded as capital for the life of the recipient.

Compensation payments

For LCTS purposes, compensation payments will normally be counted in full as capital. Capital will not be counted if it is held in trust or by the 'Court of Protection' as a result of a personal injury payment – for example, a criminal injury payment or a vaccine damage payment. For persons of Pension Age compensation payments made as a result of personal injury are ignored whether or not placed in a trust.

Business assets

Business assets of a self-employed earner are not counted while engaged in that business. Nor are they counted in certain other circumstances, but any shares owned will be treated as capital.

Notional Capital

The council may think that there is capital which you could get but which you do not have. This is known as notional capital because you do not actually possess that capital.

- Capital you have disposed of - You will be treated as having notional capital if you have disposed of capital in order to get LCTS or to get more LCTS.
- Capital you could have got - If you have the right to money held in a private trust, then that is actually your capital, and will be taken fully into account.

If the Council has decided to treat you as possessing notional capital they will reduce the amount of this capital on a regular basis by a set calculation. This calculation reduces your notional capital by the amount of support you have lost as a result of deprivation.

How LCTS is paid

If you are liable to pay the Council Tax, the Council will normally send you a Council Tax bill from which your LCTS has already been deducted. You will then have to pay only the reduced amount. This means that you will not actually receive any money, but your Council Tax bills will be reduced.



How you will be notified about your LCTS

The Council will reach a decision on your entitlement to LCTS as soon as possible after our claim and all supporting evidence is received.

How can I appeal?

If you disagree with the decision you will need to write to the Council stating the reasons. The Council has two months to reply to you. If the Council agrees with your appeal then the LCTS will be amended and you will receive another Council Tax bill showing the revised amount.

If the Council does not agree with your appeal or you do not receive a response within two months, you may appeal to the Valuation Tribunal. This is an independent tribunal who will hear your case (either in person or in writing). If the Valuation Tribunal agrees with you they will instruct the Council to amend your LCTS accordingly.

Throughout the appeal you will still be required to make payment of your Council Tax liability as determined by the Council.

Changes of circumstances

You must notify your Council immediately if there is a change in anything that might affect your right to or the amount of LCTS.

This will include:

- where you live; or
- who you live with; or
- your income, savings and investments; or if you stop getting Pension Credit, Income Support, income-based Jobseeker's Allowance, Universal Credit or Employment and Support Allowance; or
- if you get a job; or
- if you or your partner go into hospital; or
- if there is any other change in your circumstances which you might reasonably be expected to know might affect your right to LCTS

The changes must be notified in writing although in certain circumstances the Council may accept this by telephone or electronically

Most of these changes will affect your LCTS in the following support week, but changes in the amount of Council Tax payable will affect your LCTS from the day on which the change occurs.

Students

LCTS is not normally available for students. The exceptions are:

- vulnerable students, such as disabled students and lone parents;
- part-time students; and
- couples where one partner is not a student.

Students who are liable to pay the Council Tax may claim Second Adult Discount (SAD) if they are of pension age.

Loan and grant income

The grant money you get is generally paid to cover the period you are studying. If it does not cover this period the Council, or Student Awards Agency for Scotland, will tell you the period it does

cover.

If you are eligible for a loan or have been awarded a grant the Council will assume that these amounts are paid, whether they are actually paid or not.

The money you receive in your loan is your income for the period between the beginning of September and the end of June and is divided by the number of weeks in that period to give a weekly amount.

If you receive a dependant's grant this will be taken into account over the same period as your loan unless you also receive, or only receive, a grant towards your personal maintenance.

Because much of your loan is meant for essential educational items, some of the grant is ignored when working out your income for LCTS. The following elements of your loan or grant are not counted:

- tuition and examination fees;
- any disability allowance in your grant;
- the cost of term-time residential study away from your college;
- the Two Homes Grant – given when you have to maintain another home away from college;
- an allowance for books and equipment; and
- travel expenses.

Students and partners

Your grant may have been reduced to allow for your partner's income because your partner can make a contribution to your expenses. An amount – equal to that contribution – is then ignored when the Council works out your joint income for LCTS. If a student is required to contribute to his own grant income, an equivalent amount is disregarded from the income used to assess that contribution.

Other income

This will be treated in the same way as grant income if it is intended for expenditure that is needed on the course. If the income is not intended for expenditure on the course, it is treated under the normal rules for income.

Loans from the Student Loans Company

The maximum loan available to you will be taken into account regardless of whether you have borrowed up to your limit or not. The loan will be divided by the number of weeks between the beginning of September and the end of June to arrive at a weekly figure for assessment purposes. Up to £10 a week of the loan may be ignored.

Access funds

These are discretionary payments made by educational establishments to students who are facing financial hardship.

The amount of the payment to be taken into account will depend on how it is to be paid and what the payment is for. Some payments from the funds can be disregarded in full.

Information and information sharing

The Council will use information provided by the Department of Work and Pension and Her Majesty's Revenues and Customs for the purposes of LCTS, council tax liability, billing, administration and enforcement



The Council may receive and obtain information and evidence relating to claims for LCTS from—

- a. persons making claims for LCTS;
- b. other persons in connection with such claims;
- c. other local authorities; or
- d. central government departments including the DWP and HMRC

The Council may verify relevant information supplied to, or obtained for, LCTS purposes.

Counter Fraud and Compliance

In order to protect the finances of the Council and also in the interests of all Council Taxpayers, the authority will undertake such actions as allowed by law to;

- a. Prevent and detect fraudulent claims and actions in respect of LCTS;
- b. Carry out investigations fairly, professionally and in accordance with the law; and
- c. Ensure that sanctions are applied in appropriate cases.

**Localised Support for Council Tax
Exceptional Hardship Policy**

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1.0 Background

1.1 An Exceptional Hardship Fund (EHF) has been set up by the Council to assist Council Tax payers who are facing 'exceptional hardship'. Although it is envisaged that the majority of recipients will be in receipt of local council tax support (LCTS), in exceptional circumstances, applications will also be considered from council tax payers who do not qualify for LCTS.

1.2 The main features of the fund are as follows:

- The operation of the Fund will be at the total discretion of the Council;
- The Fund will be operated by the Revenues and Benefits section of the Council;
- There is no statutory right to payments from the fund although the Council will consider all applications received;
- Exceptional Hardship Fund payments are not payments of Council Tax Support (as defined within S13a of the Local Government Finance Act 1992);
- Exceptional Hardship Fund payments will only be available from 1st April 2013 and **will not be available for any other debt other than outstanding Council Tax**;
- Where an Exceptional Hardship Payment is requested for a previous period, Exceptional Hardship must have been proven to have existed throughout the whole of the period requested;
- Exceptional Hardship Payments are designed as a short-term help to the applicant and it is expected that payments will be made for a short term only to give applicants time to explore sustainable / alternative solutions; and
- All applicants will be expected to engage with the Council and undertake the application process.

2.0 Exceptional Hardship Fund and Equalities

2.1 The creation of an Exceptional Hardship Fund facility meets the Council's obligations under the Equality Act 2010.

2.2 This policy has been created to ensure that a level of protection and support is available to those applicants most in need. It should be noted that the Exceptional Hardship Fund is intended to help in cases of **extreme** financial hardship and not to support a lifestyle or lifestyle choice. Whilst the definition 'Exceptional Hardship' is not exactly defined by this policy, it is accepted that sudden or unexpected changes to individual circumstances may cause temporary financial hardship with any support made under this policy being at the total discretion of the Council. However exceptional hardship should be considered as 'hardship beyond that which would normally be suffered'

3.0 Purpose of this policy

3.1 The purpose of this policy is to specify how the Council will operate the scheme, to detail the application process and indicate a number of factors, which will be considered when deciding if an Exceptional Hardship Fund payment can be made.

3.2 Each case will be treated on its own merits and all applicants will be treated fairly and equally in gaining accessibility to the Fund and also in respect of the decisions made on each application.

4.0 The Exceptional Hardship Fund Process

4.1 As part of the process of applying for additional support from the Exceptional Hardship Fund, all applicants must be willing to undertake **all** of the following:

- Make a separate application for assistance;
- Provide full details of their income and expenditure;
- Accept assistance from either the Council or third parties such as the CAB or similar organisations to enable them to manage their finances more effectively including the termination of non-essential expenditure;
- Identify potential changes in payment methods and arrangements to assist the applicant;
- Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted; and
- Maximise their income through the application for other welfare benefits, cancellation of non-essential contracts and outgoings and identifying the most economical tariffs for the supply of utilities and services generally.
- Where applicable, explain actions they are currently exploring to find a sustainable response to their current circumstance if it is expected that exceptional hardship may continue for a longer period of time.

4.2 Through the operation of this policy the Council will look to

- Support those in exceptional hardship;
- Allow a short period of time for someone to adjust to unforeseen short-term circumstances and to enable them to “bridge the gap” during this time, whilst the applicant seeks alternative solutions;
- Enable long term support to households in managing their finances;
- Help applicants through personal crises and difficult events that affect their finances;
- Help those applicants who are trying to help themselves financially; and
- Encourage and support people to obtain and sustain employment.

4.3 It cannot be awarded for the following circumstances:

- Where full Council Tax liability is being met by Council Tax Support;
- For any other reason, other than to temporarily reduce Council Tax liability;

- Where the Council considers that there are unnecessary expenses/debts etc. and that the applicant has not taken reasonable steps to reduce these;
- To pay for any overpayment of Council Tax Support caused through the failure of the applicant to notify changes in circumstances in a timely manner or where the applicant has failed to act correctly or honestly;

5.0 Awarding an Exceptional Hardship Fund Payment

5.1 The Council will decide whether or not to make an Exceptional Hardship Fund award, and how much any award might be up to a maximum of the amount of Council Tax outstanding, with each decision being reviewed by a senior manager to demonstrate fairness and consistency.

5.2 When making this decision the Council will consider:

- Whether the applicant has engaged with the Exceptional Hardship Payment process;
- All capital, income received & expenditure of the applicant, their partner and any member of their household irrespective of whether the income is included or not as household income under the Council Tax Support scheme
- How **reasonable** expenditure exceeds income;
- The difficulty experienced by the applicant that prohibits them from being able to meet their Council Tax liability, and the length of time this difficulty will last.
- The personal circumstances, age and medical circumstances (including ill health and disabilities) of the applicant, their partner any dependants and any other occupants of the applicant's home;
- Other debts outstanding for the applicant and their partner;
- The exceptional nature of the applicant and/or their family's circumstances that impact on finances;
- The length of time they have lived in the property; and
- If a Discretionary Housing Payment has already been awarded to meet a shortfall in rent;

5.3 The above list is not exhaustive and other relevant factors and special circumstances will be considered.

5.4 An award from the Exceptional Hardship Fund does not guarantee that a further award will be made at a later date, even if the applicant's circumstances have not changed.

6.0 Publicity

6.1 The Council will make a copy of this policy available for inspection and will be published on the Council's website.

7.0 Claiming an Exceptional Hardship Fund payment

- 7.1 An applicant must make a claim for an Exceptional Hardship Fund award by submitting an application to the Council, preferably via email to benefitsmail@tendringdc.gov.uk.
- 7.2 If it is not possible to make a claim via email or if any further help is required, assistance is available at the Council Tax Office, Pier Avenue, Clacton.
- 7.3 Where the Revenues and Benefits Service identify a household that is failing to clear previous years Council Tax but are paying current Council Tax with best endeavours, then their ability to pay arrears maybe considered for help through the hardship fund. This clause is not intended to cover those taxpayers who have not paid or have failed to pay until a summons has been issued.
- 7.4 In most cases the person who claims the Exceptional Hardship Fund award will be the person liable to pay Council Tax, however, a claim can be accepted from someone acting on another's behalf, such as an appointee, if it is considered reasonable.

8.0 Changes in circumstances

- 8.1 The Council may revise an award from the Exceptional Hardship Fund where the applicant's circumstances have changed.

9.0 Duties of the applicant and the applicant's household

- 9.1 A person claiming an Exceptional Hardship Fund payment is required to:
- Provide the Council with such information as it may require to make a decision;
 - Tell the Council of any changes in circumstances that may be relevant to their ongoing claim; and
 - Provide the Council with such other information as it may require in connection with their claim.

10.0 The award and duration of an Exceptional Hardship Payment

- 10.1 Both the amount and the duration of the award are determined at the discretion of the Council, and will be done so on the basis of the evidence supplied and the circumstances of the claim.
- 10.2 The start date of such a payment and the duration of any payment will be determined by the Council. In any event, the maximum length of the award will not exceed the end of the financial year in which the award is given.

11.0 Award of the Exceptional Hardship Fund payment

- 11.0 Any Exceptional Hardship Fund payment will be made direct onto the customer's Council Tax account, thereby reducing the amount of Council Tax payable.

12.0 Overpaid Exceptional Hardship Fund Payments

- 12.1 Overpaid Exceptional Hardship Fund payments will generally be recovered directly from the applicant's council tax account, thus increasing the amount of council tax due and payable.

13.0 Notification of an award

- 13.1 The Council will notify the outcome of each application for Exceptional Hardship Fund payments in writing. The notification will include the reason for the decision and advise the applicant of their appeal rights.

14.0 Appeals

- 14.1 Exceptional Hardship Fund payments are not part of Council Tax Support, and are therefore not subject to the statutory appeal process.
- 14.2 If the applicant is not satisfied with the decision in respect of an application for an Exceptional Hardship Fund payment, a decision to reduced amount of Exceptional Hardship Fund payment, a decision not to backdate an Exceptional Hardship Fund payment or a decision that there has been an overpayment of an Exceptional Hardship Fund payment, the Council will look at the decision again.
- 14.3 An officer, other than the original decision maker, will consider the appeal by reviewing the original application and any other additional information and/or representation made, and will make a decision within 14 days of referral or as soon as practicable. This decision will be final.
- 14.4 Any request for an appeal must be made within one month of the date of the notification letter confirming the original decision.
- 14.5 The outcome of the appeal will be set out in writing, detailing the reasons for the decision or upholding the original decision.

15.0 Fraud

- 15.1 The Council is committed to protect public funds and ensure funds are awarded to the people who are rightfully eligible to them.
- 15.2 An applicant who tries to fraudulently claim an Exceptional Hardship Fund payment by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.
- 15.3 Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

16.0 Complaints

- 16.1 The Council's Complaints Procedure (available on the Council's website) will be applied in the event of any complaint received about this policy.

17.0 Policy Review

- 17.1 This policy will be reviewed at least every year and updated as appropriate to ensure it remains fit for purpose. However, the review may take place sooner should there be any significant changes in legislation.

A.2 APPENDIX 4

Under the Council Tax (Prescribed Classes of Dwellings) regulations the following discretionary discounts will apply for the 2022/2023 financial year:-
<p>Class A – Unoccupied and furnished dwellings with a planning restriction preventing occupation for at least 28 days.</p> <p>0% discount (on the days when the property cannot be used due to a planning restriction a statutory exemption is allowed under Class G).</p>
<p>Class B – Unoccupied and furnished dwellings without a planning restriction preventing occupation for at least 28 days.</p> <p>0% discount</p>
<p>Class C – Unoccupied and substantially unfurnished dwellings.</p> <p>0% discount</p>
<p>Class D – Unoccupied and unfurnished requiring major repairs or alterations.</p> <p>(a) which satisfies the requirement set out in the regulations unless it has been such a dwelling for a continuous period of twelve months or more ending immediately before the day in question;</p> <p>(b) the requirement referred to in paragraph (a) is that the dwelling is vacant and—</p> <ul style="list-style-type: none">(i) requires or is undergoing major repair work to render it habitable, or(ii) is undergoing structural alteration; or(iii) has undergone major repair work to render it habitable, if less than six months have elapsed since the date on which the alteration was substantially completed and the dwelling has continuously remained vacant since that date; <p>(c) For the purposes of paragraph (b) above “major repair work” includes structural repair work.</p> <p>100% discount up to 12 months</p>

Care Leaver's Council Tax Discount Policy

Introduction

This policy utilises the discretionary power available to billing authorities arising from S13A(1)(c) of the Local Government Finance Act 1992 to reduce, or further reduce, the amount of council tax a care leaver is liable to pay with effect from 1 April 2022.

Definitions

For the purpose of this policy, a 'care leaver' is defined as:

A person aged up to 21, who has either

- (a) been looked after by Essex County Council 'Essex' for at least 13 weeks since the age of 14; and who was looked after by the local authority at school-leaving age or after that date; or
- (b) who is entitled to leaving care support from Essex.

The Children Act 1989 defines the categories of children entitled to leaving care support as:

'Eligible children' are those young people aged 16-17 who are still in care and have been 'looked after' for a total of 13 weeks from the age of 14 and including their 16th birthday;

'Relevant children' are those young people aged 16 and 17 who have already left care, and who were 'looked after' for at least 13 weeks from the age of 14 and have been 'looked after' at some time while they were 16 or 17;

'Former relevant children' are those young people aged 18, 19 or 20 who have been eligible and/or relevant.

Policy statement

For the purpose of calculating the amount of discretionary council tax reduction to apply, care leavers and those in their household are required to take steps to minimise their liability for council tax by claiming discounts, exemptions and council tax reduction.

After all discounts, exemptions and council tax reduction have been claimed the Council will reduce the council tax liability so that the liability of the household is the same that it would have been had the care leaver been a 'disregarded persons' (such as students) as detailed in s11 and Schedule 1 of the Local Government Finance Act 1992

For example:

A care leaver joining an existing household with a single person discount in place will be given sufficient discretionary relief to ensure that the council tax liability does not increase as a result of their presence.

A household where only care leavers are liable to pay council tax will be given sufficient discretionary relief to extinguish the council tax liability completely.

A care leaver in a property, which would otherwise be exempt from council tax, will be given sufficient discretionary relief to ensure that no council tax continues to be payable.

A.2 APPENDIX 6

Council Tax Premiums to apply for the 2022/2023 financial year:-	
<i>From 1 April 2022, the following additional amounts of council tax (a premium) will be charged when a property has been empty for two years or more:</i>	
Properties that are empty for two years, but less than five years, will attract a premium of 100%, and therefore charged 200% of the set council tax.	
Properties that are empty for five years, but less than ten years, will attract a premium of 200%, and be charged 300% of the set council tax.	
Properties that are empty for ten years or more will attract a premium of 300%, and be charged 400% of the set council tax.	

The above premiums will apply to the property, so a change of ownership or tenancy will not affect the premium.

ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT for 2022/23

The Council is required to have a policy on providing a prudent minimum revenue provision which must be approved by Full Council each year.

Unlike a mortgage where amounts of principal are repaid each month, the borrowing undertaken by this Council may be repayable on maturity at an agreed future date. To reflect this, the minimum revenue provision (MRP) exists which is a concept whereby an amount is charged to revenue each year in order to have sufficient monies set aside to meet the future repayment of principal on any borrowing undertaken.

The regulations require Local Authorities to set aside as its annual MRP an amount that it considers to be “prudent”. The aim of the regulations is that the period over which an MRP is calculated closely relates to the life of the asset.

However in the case of the Housing Revenue Account (HRA) it has been the Council’s policy not to make any MRP charge to the HRA because the level of borrowing relating to the HRA is significantly less than the value of the housing stock. Following the implementation of the new self financing arrangements from April 2012, the structure of the borrowing to fund the associated HRA debt settlement was based on principal being repaid over the 30 years of the HRA business plan. Therefore this principal is in effect the amount set aside to repay debt and will therefore be treated as HRA MRP. In terms of MRP for ‘old’ HRA debt, this will be kept under review as part of future HRA business planning processes.

The options applicable in calculating MRP are as follows:

Where Capital Expenditure is financed by Government Supported Borrowing

- **Regulatory Method** – This is where borrowing is supported by the Government through the Formula Grant and Local Authorities can continue to use the existing approach as set out in the old regulations.
- **Capital Financing Method** – Similar to the above, Local Authorities can continue to set aside 4% of their General Fund capital expenditure financed by borrowing each year as MRP. The difference compared with the regulatory method is that it excludes a transitional adjustment that relates to the regulations that were applicable before the current regulations. As this adjustment does not apply to TDC, the two approaches are essentially the same.

Where Capital Expenditure is financed by Prudential Borrowing

- **Asset Life Method** – Two alternatives are provided within the guidance. The first is that MRP can be calculated by taking the amount borrowed and dividing it by the associated assets useful life – equal instalment method. The second is based on a more complicated annuity basis although based on the same principle.
- **Depreciation Method** – This requires that an MRP is made in accordance with current rules for depreciation accounting whereby an amount would be charged equal to the annual depreciation of the specific asset which could differ from the previous options given the alternatives for calculating depreciation.

A significant advantage of the asset life method over the depreciation method is that MRP does not have to start until the year the related asset becomes operational which may be different to the year in which depreciation would be charged.

It is important to note that subject to the type of asset acquired there may be a significant impact on the revenue budget, which would need to be taken into account in any future spending / borrowing decisions.

Having reviewed the position for 2022/23, no changes compared to 2021/22 are proposed. Therefore the Annual Minimum Revenue Provision Policy Statement for 2022/23 is as follows:

In accordance with the Local Authorities (Capital Finance and Accounting)(England)(Amendment) Regulations 2008, the Council's policy for the calculation of MRP for 2022/23 shall be the Capital Financing Requirement Method for supported borrowing and the Asset Life (equal instalment) Method for prudential borrowing.

COUNCIL

30 NOVEMBER 2021

JOINT REFERENCE FROM THE CABINET AND THE PLANNING POLICY & LOCAL PLAN COMMITTEE

A.3 TENDRING COLCHESTER BORDERS GARDEN COMMUNITY (TCBGC) JOINT COMMITTEE

(Report prepared by Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable Council to consider the Cabinet's and the Planning Policy & Local Plan Committee's recommendations that a Joint Tendring Colchester Borders Garden Community Committee is appointed for the discharge of executive and non-executive functions related to the TCBGC and that the Terms of Reference of the Joint Committee are included within Part 3 of the Council's Constitution.

EXECUTIVE SUMMARY

Planning Policy & Local Plan Committee – 11 November 2021 (Minute 23)

The Committee gave consideration to a report of the Deputy Chief Executive & Monitoring Officer (A.1) which sought its approval to formally recommend to Full Council that a joint Development Plan Document be prepared together with Colchester Borough Council; and further that a Joint Committee be established with Colchester Borough Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community.

Having considered all of the information and advice contained in the Officer report and its appendices, it was:-

“RESOLVED that the Planning Policy & Local Plan Committee recommends to Full Council that –

- (a) a joint Development Plan Document is prepared together with Colchester Borough Council in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004;*
- (b) a Joint Committee is established with Colchester Borough Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community for the discharge of executive and non-executive functions related to TCBGC, pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972 on the terms of reference attached at Appendix A to item A.1 of the Report of the Deputy Chief Executive & Monitoring Officer; and*
- (c) the third elected Member of the Joint Committee to be appointed by the Full Council should be a Member from a political group that is not represented on the Cabinet.”*

Cabinet – 12 November 2021 (Minute 77)

Cabinet gave consideration to a report of the Corporate Finance & Governance Portfolio Holder (A.7) which sought its approval for referral to Full Council the draft terms of reference of a Joint Committee to be established for the Tendring Colchester Borders Garden Community together with Tendring District Council, Colchester Borough Council and Essex County Council.

Having considered all of the information and advice contained in the Portfolio Holder's report and its appendices, it was:-

“RESOLVED that Cabinet –

- (a) endorses the proposal that a joint Development Plan Document be prepared together with Colchester Borough Council, and further that a Joint Committee is established with Colchester Borough Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community;*
- (b) agrees that all three Councils should be represented on the appointed Joint Committee with full voting rights;*
- (c) agrees that executive functions in relation to the preparation of the joint Development Plan Document are delegated to be discharged by the appointed Joint Committee in accordance with Sections 101(5) and 102(1)(b) of the Local Government Act 1972;*
- (d) agrees that each Council should be represented on the appointed Joint Committee with 3 members each under Section 102(2) of the Local Government Act 1972, one of which will be a member of the Cabinet, appointed by the Leader of the Council;*
- (e) agrees the Terms of Reference for the Joint Committee, as set out in Appendix A to item A.7 of the Report of the Leader of the Council, for recommendation onto Full Council in respect of non-executive functions;*
- (f) endorses the Leader of the Council to delegate further executive functions to the Tendring Colchester Borders Garden Community Joint Committee, in consultation with the Monitoring Officer and the Section 151 Officer;*
- (g) authorises the Acting Director (Planning), in consultation with the Leader of the Council and the Portfolio Holder for Corporate Finance and Governance to enter into a partnership agreement between the Councils, if deemed necessary, in order to support the operation of the Joint Committee and Tendring Colchester Borders Garden Community project; and*
- (h) authorises the Portfolio Holder for Corporate Finance and Governance to allocate further financial contributions from the existing Garden Communities budget to support the Tendring Colchester Borders project for the purposes of local plan making.*

RECOMMENDED TO FULL COUNCIL that:

- (i) a Tendring Colchester Borders Garden Community Joint Committee be appointed for the discharge of executive and non-executive functions related to TCBGC, pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972 on the terms of reference attached at Appendix A to item A.7 of the Report of the Portfolio Holder for Corporate Finance & Governance;*

- (j) Part 3 of the Constitution (Responsibility of Functions) be amended to include the Terms of Reference of the Joint Committee; and*
- (k) the Terms of Reference of the Planning Policy and Local Plan Committee be amended, as set out in Appendix B to the aforementioned report.”*

RECOMMENDATIONS

That Council approves that –

- (a) a joint Development Plan Document is prepared together with Colchester Borough Council in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004;**
- (b) a Tendring Colchester Borders Garden Community (TCBGC) Joint Committee be appointed for the discharge of executive and non-executive functions related to TCBGC, pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972 on the terms of reference attached at Appendix C;**
- (c) Part 3 of the Constitution (Responsibility of Functions) be amended to include the Terms of Reference of the Joint Committee;**
- (d) the Terms of Reference of the Planning Policy and Local Plan Committee be amended, as set out in Appendix D;**
- (e) the Chairman of the Planning Policy & Local Plan Committee (currently Councillor Turner) and a Member from a political group that is not represented on the Cabinet be appointed to serve on the Tendring Colchester Borders Garden Community Joint Committee;**
- (f) a substitute member of the Committee be appointed; and**
- (g) the Leader of the Council be requested to appoint a member of the Cabinet to serve on the Tendring Colchester Borders Garden Community Joint Committee.**

PART 2 – SUPPORTING INFORMATION

BACKGROUND

Planning Policy & Local Plan Committee – 11 November 2021 (Minute 23)

The Planning Policy & Local Plan Committee (“the Committee”), at its meeting held on 11 November 2021, gave consideration to a report of the Deputy Chief Executive & Monitoring Officer (A.1) which sought its approval to formally recommend to Full Council that a joint Development Plan Document be prepared together with Colchester Borough Council; and further that a Joint Committee be established with Colchester Borough Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community.

Members present at that meeting were aware that the Tendring Colchester Borders Garden Community (TCBGC) was located across Tendring District Council’s (TDC) and Colchester Borough Council’s (CBC) Local Planning Authority’s area, and that accordingly those Councils could consider establishing a Joint Committee made up of members from

both of those Councils.

The Committee recalled that both TDC and CBC had now adopted a common Section 1 of their Local Plan, which had the shared vision of sustainable development and allocation of TCB Garden Community, which would be further defined through a joint Development Plan Document (DPD) providing detailed parameters and policies (as required within Section 1 – Policies SP7 & 8).

Members were reminded at the meeting that this Committee, at a previous meeting held on 29 June 2021, had approved the updated Local Development Scheme for 2021-24, which had made reference to the jointly prepared DPD with Colchester for the TCBGC. However, a formal decision was required under Section 28 of the Planning and Compulsory Purchase Act 2004. The Committee needed therefore to formally recommend this to Full Council, and the outcome of this meeting would be reported to Cabinet at its meeting on 12 November 2021 when it would also be considering the Joint Committee for TCBGC.

It was felt that due to the joint nature of Section 1 there was a case to be made for a Joint Committee for Tendring and Colchester, which would also include members from Essex County Council (ECC), continuing with the existing partnership working on this project. This format had been adopted elsewhere and linked into decisions around infrastructure and possibly other County matters.

The Committee was advised that it was possible to delegate various functions to a Joint Committee but that at this stage the proposed Terms of Reference for the Joint Committee would be limited to planning functions related to preparing for plan making through the DPD process; and development control and determination of planning applications for TCBGC against the common Section 1 and adopted DPDs.

It was reported that ECC had also proposed to transfer/delegate their relevant planning functions to the Joint Committee for the Tendring Colchester Borders Garden Community.

Members were informed on 11 November 2021 that the alternative to establishing a Joint Committee, was to leave the current arrangements in place such that Cabinet and/or the relevant Committee of both Councils would be involved in the decision making process for production of the Draft DPD. Once the DPD was adopted, the relevant Council's Planning Committee would deal with any individual planning application in their area. This latter option could present some complications associated with managing the practicalities, introducing delay to the process and it was therefore considered beneficial to advance the joined up and partnership approach through to decision making.

The Committee was informed that the Tendring Colchester Borders Garden Community Member Group had assessed the various options and considered the joint committee approach for both the TCBGC joint DPD and Development Control functions would best demonstrate the Councils' continued partnership commitment to delivering the Garden Community, provide increased confidence to developers and remove delayed individual decision making through working together for the benefit of the residents in both areas.

Members were assured at the meeting that the establishment of the Joint Committee would be limited to the TCBGC and all other local planning authority functions would remain unaffected and rest with TDC and CBC.

The proposed Terms of Reference and Scheme of Delegation of the TCBGC Joint Committee were set out in Appendix A to the Officer report and consequential

amendments to this Committee's delegated functions and responsibilities were set out in Appendix B thereto.

The Committee was made aware that further executive functions related to the TCBGC could be delegated by the Leader of the Council, as the project developed and a partnership agreement might be deemed necessary between the Councils to formulate arrangements between them.

Having considered all of the information and advice contained in the Officer report and its appendices:-

It had been moved by Councillor Fairley, seconded by Councillor Bush and:-

RESOLVED that the Planning Policy & Local Plan Committee recommends to Full Council that –

- (a) a joint Development Plan Document is prepared together with Colchester Borough Council in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004;
- (b) a Joint Committee is established with Colchester Borough Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community for the discharge of executive and non-executive functions related to TCBGC, pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972 on the terms of reference attached at Appendix A to item A.1 of the Report of the Deputy Chief Executive & Monitoring Officer; and
- (c) the third elected Member of the Joint Committee to be appointed by the Full Council should be a Member from a political group that is not represented on the Cabinet.

A copy of the published report of the Deputy Chief Executive & Monitoring Officer to the Committee's meeting held on 11 November 2021 is attached as Appendix A to this report.

Cabinet – 12 November 2021 (Minute 77)

Cabinet, at its meeting held on 12 November 2021, gave consideration to a report of the Corporate Finance & Governance Portfolio Holder (A.7) which sought its approval for referral to Full Council the draft terms of reference of a Joint Committee to be established for the Tendring Colchester Borders Garden Community together with Tendring District Council, Colchester Borough Council and Essex County Council.

Members present at the meeting were aware that the Tendring Colchester Borders Garden Community (TCBGC) was located across Tendring District Council's (TDC) and Colchester Borough Council's (CBC) Local Planning Authority's area, and that accordingly those Councils could consider establishing a Joint Committee made up of members from both of those Councils.

Cabinet recalled that both TDC and CBC had now adopted a common Section 1 of their Local Plan, which had the shared vision of sustainable development and allocation of TCB Garden Community, which would be further defined through a joint Development Plan Document (DPD) providing detailed parameters and policies (as required within Section 1 – Policies SP7 & 8).

It was felt that due to the joint nature of Section 1 there was a case to be made for a Joint

Committee for Tendring and Colchester, which would also include members from Essex County Council (ECC), continuing with the existing partnership working on this project. This format had been adopted elsewhere and linked into decisions around infrastructure and possibly other County matters.

Cabinet was advised that it was possible to delegate various functions to a Joint Committee but that at this stage the proposed Terms of Reference for the Joint Committee would be limited to planning functions related to preparing for plan making through the DPD process; and development control and determination of planning applications for TCBGC against the common Section 1 and adopted DPDs.

It was reported that ECC had also proposed to transfer/delegate their relevant planning functions to the Joint Committee for the Tendring Colchester Borders Garden Community.

Members were informed at the meeting that the alternative to establishing a Joint Committee, was to leave the current arrangements in place such that Cabinet and/or the relevant Committee of both Councils would be involved in the decision making process for production of the Draft DPD. Once the DPD was adopted, the relevant Council's Planning Committee would deal with any individual planning application in their area. This latter option could present some complications associated with managing the practicalities, introducing delay to the process and it was therefore considered beneficial to advance the joined up and partnership approach through to decision making.

Cabinet was reminded that the Tendring Colchester Borders Garden Community Member Group had assessed the various options and considered the joint committee approach for both the TCBGC joint DPD and Development Control functions would best demonstrate the Councils' continued partnership commitment to delivering the Garden Community, provide increased confidence to developers and remove delayed individual decision making through working together for the benefit of the residents in both areas.

Members were assured at the meeting that the establishment of the Joint Committee would be limited to the TCBGC and all other local planning authority functions would remain unaffected and rest with TDC and CBC.

The proposed Terms of Reference and Scheme of Delegation of the TCBGC Joint Committee were set out in Appendix A to the Portfolio Holder's report and consequential amendments to TDC's Planning Policy and Local Plan Committee delegated functions and responsibilities were set out in Appendix B thereto.

Cabinet was informed that further executive functions related to the TCBGC could be delegated by the Leader of the Council, as the project developed and a partnership agreement might be deemed necessary between the Councils to formulate arrangements between them.

Having considered all of the information and advice contained in the Portfolio Holder's report and its appendices:-

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

RESOLVED that Cabinet –

- (a) endorses the proposal that a joint Development Plan Document be prepared together with Colchester Borough Council, and further that a Joint Committee is established with Colchester Borough Council and Essex County Council in relation to the

Tendring Colchester Borders Garden Community;

- (b) agrees that all three Councils should be represented on the appointed Joint Committee with full voting rights;
- (c) agrees that executive functions in relation to the preparation of the joint Development Plan Document are delegated to be discharged by the appointed Joint Committee in accordance with Sections 101(5) and 102(1)(b) of the Local Government Act 1972;
- (d) agrees that each Council should be represented on the appointed Joint Committee with 3 members each under Section 102(2) of the Local Government Act 1972, one of which will be a member of the Cabinet, appointed by the Leader of the Council;
- (e) agrees the Terms of Reference for the Joint Committee, as set out in Appendix A to item A.7 of the Report of the Leader of the Council, for recommendation onto Full Council in respect of non-executive functions;
- (f) endorses the Leader of the Council to delegate further executive functions to the Tendring Colchester Borders Garden Community Joint Committee, in consultation with the Monitoring Officer and the Section 151 Officer;
- (g) authorises the Acting Director (Planning), in consultation with the Leader of the Council and the Portfolio Holder for Corporate Finance and Governance to enter into a partnership agreement between the Councils, if deemed necessary, in order to support the operation of the Joint Committee and Tendring Colchester Borders Garden Community project; and
- (h) authorises the Portfolio Holder for Corporate Finance and Governance to allocate further financial contributions from the existing Garden Communities budget to support the Tendring Colchester Borders project for the purposes of local plan making.

RECOMMENDED TO FULL COUNCIL that:

- (i) a Tendring Colchester Borders Garden Community Joint Committee be appointed for the discharge of executive and non-executive functions related to TCBGC, pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972 on the terms of reference attached at Appendix A to item A.7 of the Report of the Portfolio Holder for Corporate Finance & Governance;
- (j) Part 3 of the Constitution (Responsibility of Functions) be amended to include the Terms of Reference of the Joint Committee; and
- (k) the Terms of Reference of the Planning Policy and Local Plan Committee be amended, as set out in Appendix B to the aforementioned report.

A copy of the published report of the Corporate Governance & Finance Portfolio Holder to the Cabinet's meeting held on 12 November 2021 is attached as Appendix B to this report.

CURRENT POSITION

Council is now requested to consider the proposals for a Joint Committee for the TCBGC as recommended by the Cabinet and the Planning Policy & Local Plan Committee.

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BACKGROUND PAPERS FOR THE DECISION

Published Minutes of the meeting of the Planning Policy & Local Plan Committee held on 11 November 2021.
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Published Minutes of the meeting of the Cabinet held on 12 November 2021.

APPENDICES

<u>Appendix A</u> – Published Report of the Deputy Chief Executive & Monitoring Officer for the meeting of the Planning Policy & Local Plan Committee held on 11 November 2021.

<u>Appendix B</u> - Published Report of the Corporate Finance and Governance Portfolio Holder for the meeting of the Cabinet held on 12 November 2021.
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<u>Appendix C</u> - Terms of Reference of the Joint Committee

<u>Appendix D</u> – Amended Terms of Reference of the Planning Policy & Local Plan Committee.

A.3 APPENDIX A

PLANNING POLICY AND LOCAL PLAN COMMITTEE

11 NOVEMBER 2021

REPORT OF THE DEPUTY CHIEF EXECUTIVE & MONITORING OFFICER

A.1 – TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT DEVELOPMENT PLAN DOCUMENT & JOINT COMMITTEE

(Report prepared by Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
For the Planning Policy and Local Plan Committee to formally recommend to Full Council that a joint Development Plan Document is prepared together with Colchester Borough Council; and that a Joint Committee is established with Colchester Borough Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community.
EXECUTIVE SUMMARY
<p>The Tendring Colchester Borders Garden Community (TCBGC) is located across Tendring and Colchester's Local Planning Authority's area, accordingly the District/Borough Councils can consider establishing a Joint Committee made up of members from each of their Councils.</p> <p>Both Tendring and Colchester have now adopted a common Section 1 of their Local Plan, which has the shared vision of sustainable development and allocation of TCB Garden Community, which will be further defined through a joint Development Plan Document (DPD) providing detailed parameters and policies (as required within Section 1 – Policies SP7 & 8).</p> <p>The Planning Policy and Local Plan Committee, at its meeting on 29th June 2021 approved the updated Local Development Scheme for 2021-24, which made reference to the jointly prepared Development Plan Document (DPD) with Colchester for the TCBGC however, a formal agreement is required under Section 28 of the Planning and Compulsory Purchase Act 2004. The Committee need to formally recommend this to Full Council, the outcome of this will be updated to Cabinet at its meeting also considering the Joint Committee for TCBGC on 12th November 2021.</p> <p>Because of the joint nature of Section 1 there is a case to be made for a Joint Committee for Tendring and Colchester, and include members from Essex County Council, continuing with the existing partnership working on this project. This format has been adopted elsewhere and links into decisions around infrastructure and possibly other County matters.</p> <ul style="list-style-type: none">(i) It is possible to delegate various functions to a Joint Committee but at this stage the proposed Terms of Reference would be limited to planning functions related to: preparing for plan making through the DPD process; and(ii) development control and determination of planning applications for TCBGC against the common Section 1 and adopted DPDs.

Essex County Council have also proposed to transfer/delegate their relevant planning functions to the Joint committee for Tendring Colchester Borders Garden Community.

The alternative to establishing a Joint Committee, is to leave the current arrangements in place such that Cabinet and/or the relevant Committee of both Councils would be involved in the decision making process for production of the Draft DPD. Once the DPD is adopted, the relevant Council's Planning Committee would deal with any individual planning application in their area. This latter option could present some complications associated with managing the practicalities, delay the process and it is considered beneficial to advance the joined up and partnership approach through to decision making.

The Tendring Colchester Borders Garden Community Member Group have assessed the various options and consider the Joint Committee approach for both the TCBGC joint DPD and Development Control functions will demonstrate the Councils continued partnership commitment to delivering the Garden Community, provide increased confidence to the developers and Government, remove delayed individual decision making through working together for the benefit of the residents in both areas.

The establishment of the Joint Committee will be limited to the TCBGC with all other local planning authority functions remaining unaffected and resting with Tendring District and Colchester Borough Councils.

The proposed Terms of Reference and Scheme of Delegation of the TCBGC Joint Committee are set out in Appendix A and consequential amendments to the District Council's Planning Policy and Local Plan Committee are set out in Appendix B.

Further executive functions related to the TCBGC can be delegated by the Leader, as the project develops and a partnership agreement may be deemed necessary between the Councils to formulate arrangements between them.

RECOMMENDATION

That the Planning Policy and Local Plan Committee recommends to Full Council:

- (a) that a joint Development Plan Document is prepared together with Colchester Borough Council in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004; and**
- (b) that a Joint Committee is established with Colchester Borough Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community for the discharge of executive and non-executive functions related to TCBGC, pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972 on the terms of reference and attached as Appendix A.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

North Essex Garden Communities forms part of the Council's Corporate Plan under Building Sustainable Communities for the Future. The Councils' 'Place Shaping' role is key to planning for the future needs of our communities. The Joint Committee will assist in ensuring a cohesive approach to the housing and infrastructure needed to make a successful community.

The Joint Committee will provide appropriate governance and decision making arrangements between partner Councils in relation to the Tendring Colchester Borders Garden Community.

Section 1 of the Local Plan adopted by Full Council in January 2021 contains a specific Policy (SP 8) for the Development & Delivery of a New Garden Community in North Essex, which states:

“Tendring/Colchester Borders, a new garden community which will deliver between 2,200 and 2,500 homes, 7 hectares of employment land and provision for Gypsies and Travellers within the Plan period (as part of an expected overall total of between 7,000 and 9,000 homes and 25 hectares of employment land to be delivered beyond 2033).

The garden community will be holistically and comprehensively planned with a distinct identity that responds directly to its context and is of sufficient scale to incorporate a range of homes, employment, education & community facilities, green space and other uses to enable residents to meet the majority of their day-to-day needs, reducing the need for outward commuting. It will be comprehensively planned from the outset, with delivery phased to achieve the whole development, and will be underpinned by a comprehensive package of infrastructure. A Development Plan Document (DPD) will be prepared for the garden community, containing policies setting out how the new community will be designed, developed and delivered in phases, in accordance with the principles in paragraphs i-xiv below. No planning consent for development forming part of the garden community will be granted until the DPD has been adopted”.

All development forming part of the garden community will comply with the principles set out in SP8.

Requirements of the Tendring/Colchester Borders Garden Community Development Plan Document (DPD) are set out in Policy SP 9 of the adopted Section 1 of the Local Plan and states:

“The adoption of the DPD will be contingent on the completion of a Heritage Impact Assessment carried out in accordance with Historic England guidance. The Heritage Impact Assessment will assess the impact of proposed allocations upon the historic environment, inform the appropriate extent and capacity of the development and establish any mitigation measures necessary. The DPD will be produced in consultation with the local community and stakeholders and will include a concept plan showing the disposition and quantity of future land-uses, and give a three dimensional indication of the urban design and landscape parameters which will be incorporated into any future planning applications; together with a phasing and implementation strategy which sets out how the rate of development will be linked to the provision of the necessary social, physical and environmental infrastructure to ensure that the respective phases of the development do not come forward until the necessary infrastructure has been secured. The DPD and any application for planning permission for development forming part of the garden community must be consistent with the requirements set out in this policy. For the Plan period up to 2033, housing delivery from the garden community, irrespective of its actual location, will be distributed equally between Colchester Borough Council and Tendring District Council. If, after taking into account its share of delivery from the garden community, either of those authorities has a shortfall in delivery against the housing requirement for its area, it will need to make up the shortfall within its own area. It may not use the other authority’s share of delivery from the garden community to make up the shortfall.”

RESOURCES AND RISK

Joint DPD work is already being funded through the Local Plan budget and the new Joint Committee would be serviced within the normal committee administration process.

The administration costs of the Joint Committee will be funded through the project costs however, the responsibility for administration of the Committee will sit with Tendring District Council until agreed otherwise.

LEGAL

Every Local Planning Authority must prepare and maintain a Local Development Scheme (LDS) in accordance with Section 15 of Planning and Compulsory Purchase Act 2004 (as amended). The LDS is the Council's rolling project plan (often covering a period of three years) for producing its Local Development Documents and sets out a timetable for the delivery. The LDS must identify:

- Which of their Local Development Documents are local plans or supplementary planning documents;
- The subject matter and geographical area to which any local plan relates;
- Which local plans (if any) are to be prepared jointly with another Council and
- The timetable for the preparation and revision of the local plans.

Local Planning Authorities must revise their LDS at such time as they consider appropriate and make available to the public the up-to-date text and a copy of any amendments made and published on the Council's website, together with up-to-date information showing compliance (or non-compliance) with the timetable.

Under Section 28 of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act"), two or more local authorities may agree to prepare one or more joint local development documents. Pursuant to Regulation 4(4A) and (4C) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the making of an agreement to prepare one or more joint development plan documents shall not be the responsibility of an executive of the authority. The decision therefore to agree to prepare a joint development plan document must be made by Full Council. Tendring District Council's Planning Policy and Local Plan Committee, at its meeting on 29th June 2021 approved the updated LDS for 21-24, which made reference to the jointly prepared DPD with Colchester for the TCBGC however, a formal agreement is required under Section 28 of the 2004 Act. The Committee need to formally recommend this to Full Council, the outcome of this will be updated to Cabinet at its meeting considering its report on the establishment of a Joint Committee for TCBGC.

The DPD process and Development Control functions involve both executive and non-executive responsibilities therefore it is important to ensure the correct decision making body is delegating the right functions to any Joint Committee. Only planning functions relating to TCBGC are proposed for delegation at this time however, this can be expanded once the governance arrangements with the developer and their partners evolve.

The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) specify functions which are not to be the responsibilities of an authority's Cabinet or are to be the responsibility of such an executive only to a limited extent or only in limited circumstances.

Paragraphs (1) to (3) of Regulation 4 allocate responsibility for various aspects of functions relating to the formulation and preparation of plans and strategies of the descriptions specified in Schedule 3 between a Council and their Cabinet. Schedule 3 lists Development Plan Documents as defined by Section 15 of the 2004 Act. Therefore, whilst the formulation and preparation of the DPDs are

executive functions and can be discharged by a Joint Committee, some actions relating to the DPD process are designated to Full Council and these have been reflected in the Terms of Reference as proposed in Appendix A.

Full Council, upon recommendation from Cabinet, can agree to the appointment of the Joint Committee for the Development Control functions and act as planning authority in that regard.

The proposed Terms of Reference for the Joint Committee are attached to the Report as Appendix A. Consequently, some changes will be required to the Terms of Reference to the Planning Policy and Local Plan Committee and these are attached as Appendix B.

OTHER IMPLICATIONS

Area or Ward affected:

Alresford & Elmstead
Ardleigh & Little Bromley

Consultation/Public Engagement:

No public consultation has been undertaken for the establishment of a Joint Committee however, it is important to recognise that the work of the Joint Committee will still involve public consultation, statutory and otherwise through a detailed community engagement strategy. All environmental and equality considerations are taken into account through plan making and individual decision making of the Joint Committee.

PART 3 – SUPPORTING INFORMATION

Local Development Scheme (LDS) inc. TCBGC DPD

The Council's Local Development Scheme (LDS) was approved by Tendring's Planning Policy and Local Plan Committee in June 2021, which sets out an indicative timetable for preparing key planning documents. It is particularly useful for the public, partner organisations and third parties to understand, broadly, the programme of work and how the Council proposes to resource and manage it. The LDS covers the adoption of the new Local Plan, the Tendring Colchester Borders Garden Community Development Plan Document (DPD); the future review of the Local Plan and the production of other key planning documents. It includes the anticipated timetable of consultation periods, examinations and expected dates of adoption.

The LDS refers to the Tendring Colchester Borders Development Plan Document (DPD) for the Garden Community in west Tendring. A DPD follows the same process for preparation as a Local Plan. It builds on policy or policies in the Local Plan and provides significantly more implementation detail. Any DPD for west Tendring will require the co-operation and collaboration with Colchester Borough Council. This DPD in Colchester's LDS is described as a 'Strategic Growth Development Plan Document'. In Section 1 of the Adopted Local Plan, Policy SP8 states:

"The Strategic Growth DPD will set out the nature, form and boundary of the new community. The document will be produced in consultation with stakeholders and will include a concept plan showing the disposition and quantity of future land-uses, and give a three dimensional indication of the urban design and landscape parameters which will be incorporated into any future planning applications;

together with a phasing and implementation strategy which sets out how the rate of development will be linked to the provision of the necessary social, physical and environmental infrastructure, to ensure that the respective phases of the development do not come forward until the necessary infrastructure has been secured. The DPD will provide the framework for the subsequent development of more detailed masterplans and other design and planning guidance for the Tendring / Colchester Borders Garden Community.”

The LDS sets out the following timetable for the production, consultation and approval of the TCBGC joint DPD:

Tendring Colchester Garden Community Development Plan Document Joint (DPD)	
Subject and scope	This document will contain policies and allocations to guide the new Garden Community proposed at the Tendring/Colchester border. This DPD will be produced jointly with Colchester Borough Council and Essex County Council.
Geographical area	The broad location for the Garden Community is identified in the Section 1 Local Plan. The precise boundaries will be designated in this DPD
Chain of conformity	Tendring and Colchester Local Plans The relevant Planning Acts and Regulations Essex Minerals and Waste Plans National Planning Policy Framework (NPPF).
Indicative timetable for production	
Document Preparation	Winter 2020/21 – Winter 2021/22
Member approval of draft DPD	Winter 2021/22
Draft DPD Consultation	Winter 2021/22
Document Preparation	Spring 2022 – Autumn 2022
Member approval of submission DPD	Autumn 2022
Submission DPD Consultation	Autumn 2022
Submission to Secretary of State	Winter 2022
Examination	Winter 2022
Inspector's report	Spring 2023

TCBGC Member Group:

Colchester, Essex and Tendring Councils (the Partner Councils) recognise their strategic executive objectives, contractual responsibilities and statutory functions covering highways, education, and planning functions and the inter-relationship between these in delivering the Garden Community.

Essex County Council (ECC) has been working with Homes England (acting on behalf of MHCLG) to enter into formal contract (Grant Determination Agreement (GDA)) with one another for the Housing Infrastructure Fund (HIF). Within the GDA there are a number of responsibilities on ECC as the Grant Recipient which will impact upon the delivery of the programme and ECC will ensure they keep the TDC & CBC (the LPAs) informed of progress or delays in this regard.

The Partner Councils have signed a Memorandum of Understanding setting out how they will work together towards their intended objective of unlocking development at TCBGC as well as demonstrating the LPAs agreement with the content of the Housing Delivery Statement and the Recovery and Recycling Strategy but was not intended to create any contractual arrangement between the Partner Councils.

The Partner Councils have established a TCBGC Member Group whose purpose is to continue the strong partnership working arrangements which existed prior to the formation of NEGC Ltd and

during its trading and provide political oversight of the delivery of the Garden Community at Tendring Colchester Borders. The Group is not a formal decision-making body.

The Partner Councils are committed to the Garden Community Principles and will collectively work together to deliver and oversee the programme in an open and transparent manner. The Member Group will continue its role alongside any newly established Joint Planning Committee.

HIF

The Tendring Colchester Borders Garden Community indicative housing trajectory, produced based on evidence to support the shared Section 1 of the Local Plans states that the first 100 homes will be delivered on site by 2024/25.

At Essex County Council's Development and Regulation Committee on 1st November 2021, the planning application for the Link road was approved.

CURRENT POSITION

The options for a Joint Committee have been considered by the TCBGC Member Group, which Councillors G. Guglielmi and Turner attend on behalf of Tendring District Council. Through assessment of the options the proposed Terms of Reference have been discussed and it is recommended that those attached as Appendix A are adopted by Tendring, Colchester and Essex Councils to formally appoint the Joint Committee to exercise these functions delegated to it.

Essex County Council are also proposing to delegate their Local Planning Authority functions to the Joint Committee for Tendring Colchester Borders Garden Community.

In exercising the above functions, the kind of matters that would fall to the Joint Committee to consider, in the determination of planning applications would include:

- Housing – all tenures (market, affordable, and specialist housing for elderly persons etc);
- New schools (primary, secondary, special education needs early years and post 16);
- Community centre, community hub and library;
- leisure uses, sports provision, and allotments;
- Country parks, recreation and public open space;
- Any waste development proposals;
- Sustainable Urban Drainage;
- Town/neighbourhood centre(s) and associated shops (all shapes and sizes);
- Public realm, footpaths and dedicated cycle routes/network;
- All new roads and road crossing within the Garden Community;
- Any segregated/dedicated bus routes;
- Commercial and employment sites, including energy for waste proposals; and
- Minerals planning applications.

In addition the Joint Committee would also have a role in considering:

- The heads of terms for S106 obligations relating to the mitigation measures, necessary infrastructure and affordable housing required to deliver a policy compliant development.
- Development viability, where relevant, in relation to S106 obligations.
- Stewardship model aligned to the S106 and associated permissions.

- Ongoing monitoring of the compliance of development with agreed permissions, related obligations/conditions and its implementation to an agreed standard.

The proposed Joint Committee will be appointed by both Cabinet and Council with regards to the executive and non-executive functions, as set out and will consist of 3 members from each Council, one of which has to be a member of each Council's respective Cabinets, appointed by the Leader. Each authority will have equal voting rights with the Chairman rotating annually.

It is not currently proposed that the Joint Committee will replace the TCBGC Member Group, as the role of the former will be to oversee the preparation of the statutory process for both the joint DPD production and determining subsequent planning applications within the Garden Community. The TCBGC Member Group consists of Cabinet Members and Chairman of the Tendring District Council's Planning Policy and Local Plan Committee with responsibility for the delivery of the Garden Community providing overarching strategic direction, working collaboratively across the 3 Councils and with the developers, where such involvement does not compromise the Councils' statutory decision making processes.

Although is not currently being suggested that this partnership approach is formalised beyond the existing terms of reference of the TCBGC Member Group, this will be kept under review as discussions with the Developers progress.

The development of the TCBGC will be underpinned by a comprehensive 'master-planned' approach informed by technical research and evidence as well as the feedback received through stakeholder engagement. The master-planning work already being undertaken by the authorities working with consultants Prior + Partners will inform key elements of the Joint Development Plan Document (DPD) that will go before the proposed Joint Committee for consideration, including the overall spatial layout of the TCBGC and the policies within the joint DPD that will be used in the determination of future planning applications. In turn, there will be an expectation for applicants for planning permission to also follow a master-planned approach both in conforming to the requirements of the joint DPD and in generating more detailed proposals and design approaches for relevant phases of the development.

Mersea Homes hold options over the majority of the land within the TCBGC area and they have recently announced they are working with a lead development partner, Latimer to develop the TCBGC.

Latimer is the development arm of Clarion Housing Group. Clarion Housing is the UK's largest housing association, owning and managing 125,000 homes. The Councils will work closely and effectively with the Developers in overseeing the planning and delivery of the TCBGC. This partnership will be governed by planning and/or delivery agreements. From a planning perspective Planning Performance Agreements (PPAs) and Memoranda of Understanding (MoUs) set out how the parties will work together to comprehensively plan the TCBGC through the strategic and development management phases.

Due to a new Joint Committee being established the terms of reference of the Council's Planning Policy and Local Plan Committee will need to be amended, as proposed in Appendix B. Cabinet should recommend these to Council to formally approve as part of the Constitution in the normal manner.

A.3 APPENDIX B

CABINET

12 NOVEMBER 2021

REPORT OF CORPORATE FINANCE AND GOVERNANCE PORTFOLIO HOLDER

A.7 TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

(Report prepared by Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
To recommend to Cabinet and for referral to Full Council the draft terms of reference of a Joint Committee to be established for the Tendring Colchester Borders Garden Community together with Tendring District/Colchester Borough Council and Essex County Council.
EXECUTIVE SUMMARY
<p>The Tendring Colchester Borders Garden Community (TCBGC) is located across Tendring and Colchester's Local Planning Authority's area, accordingly the District/Borough Councils can consider establishing a Joint Committee made up of members from each of their Councils.</p> <p>Both Tendring and Colchester have now adopted a common Section 1 of their Local Plan, which has the shared vision of sustainable development and allocation of TCB Garden Community, which will be further defined through a joint Development Plan Document (DPD) providing detailed parameters and policies (as required within Section 1 – Policies SP7 & 8).</p> <p>Because of the joint nature of Section 1 there is a case to be made for a Joint Committee for Tendring and Colchester, and include members from Essex County Council, continuing with the existing partnership working on this project. This format has been adopted elsewhere and links into decisions around infrastructure and possibly other County matters.</p> <p>(i) It is possible to delegate various functions to a Joint Committee but at this stage the proposed Terms of Reference would be limited to planning functions related to: preparing for plan making through the DPD process; and</p> <p>(ii) development control and determination of planning applications for TCBGC against the common Section 1 and adopted DPDs.</p>

Essex County Council have also proposed to transfer/delegate their relevant planning functions to the Joint Committee for Tendring Colchester Borders Garden Community.

The alternative to establishing a Joint Committee, is to leave the current arrangements in place such that Cabinet and/or the relevant Committee of both Councils would be involved in the decision making process for production of the Draft DPD. Once the DPD is adopted, the relevant Council's Planning Committee would deal with any individual planning application in their area. This latter option could present some complications associated with managing the practicalities, delay the process and it is considered beneficial to advance the joined up and partnership approach through to decision making.

The Tendring Colchester Borders Garden Community Member Group have assessed the various options and consider the joint committee approach for both the TCBGC joint DPD and Development Control functions will demonstrate the Councils continued partnership commitment to delivering the Garden Community, provide increased confidence to the developers and remove delayed individual decision making through working together for the benefit of the residents in both areas.

The establishment of the Joint Committee will be limited to the TCBGC and all other local planning authority functions will remain unaffected and rest with Tendring District/Colchester Borough Council.

The proposed Terms of Reference and Scheme of Delegation of the TCBGC Joint Committee are set out in Appendix A and consequential amendments to the District Council's Planning Policy and Local Plan Committee are set out in Appendix B.

Further executive functions related to the TCBGC can be delegated by the Leader, as the project develops and a partnership agreement may be deemed necessary between the Councils to formulate arrangements between them.

RECOMMENDATION(S)

That Cabinet:

- (a) following consideration by the Planning Policy and Local Plan Committee to recommend to Full Council that a joint Development Plan Document is prepared together with Colchester Borough Council, a Joint Committee is established with Colchester Borough Council and Essex County Council in relation to the Tendring Colchester Borders Garden Community;**
- (b) subject to (a) agrees that all three Councils should be represented on the appointed Joint Committee with full voting rights;**
- (c) executive functions in relation to the preparation of the joint Development Plan Document are delegated to be discharged by the appointed Joint**

Committee in accordance with Sections 101(5) and 102(1)(b) of the Local Government Act 1972;

- (d) agrees each Council should be represented on the appointed Joint Committee with 3 members under Section 102(2) of the Local Government Act 1972, one of which will be a member of the Cabinet, appointed by the Leader;**
- (e) agrees the Terms of Reference for the Joint Committee, as set out in Appendix A for recommendation onto Full Council in respect of non-executive functions;**
- (f) endorses support to the Leader to delegate further executive functions to the Tendring Colchester Borders Garden Community Joint Committee, in consultation with the Monitoring and Section 151 Officers;**
- (g) delegates authority to the Acting Director of Planning, in consultation with the Leader and Portfolio Holder for Corporate Finance and Governance to enter into a partnership agreement between the Councils, if deemed necessary to support the operation of the Joint Committee and Tendring Colchester Borders Garden Community project;**
- (h) delegates authority to the Portfolio Holder for Corporate Finance and Governance to allocate further financial contributions from the existing Garden Communities budget to support the Tendring Colchester Borders project for the purposes of local plan making; and**
- (i) Recommends to Full Council that:**
 - (i) a Tendring Colchester Borders Garden Community Joint Committee is appointed for the discharge of executive and non-executive functions related to TCBGC, pursuant to Sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972 on the terms of reference attached at Appendix A;**
 - (ii) Part 3 – Responsibility of Functions of the Constitution is amended to include the Terms of Reference of the Joint Committee; and**
 - (iii) The Terms of Reference of the Planning Policy and Local Plan Committee be amended as set out in Appendix B.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

North Essex Garden Communities forms part of the Council's Corporate Plan under Building Sustainable Communities for the Future. The Councils' 'Place Shaping'

role is key to planning for the future needs of our communities. The Joint Committee will assist in ensuring a cohesive approach to the housing and infrastructure needed to make a successful community.

The Joint Committee will provide appropriate governance and decision making arrangements between partner Councils in relation to the Tendring Colchester Borders Garden Community.

Section 1 of the Local Plan adopted by full council in January 2021 contains a specific Policy (SP 8) for the Development & Delivery of a New Garden Community in North Essex, which states:

“Tendring/Colchester Borders, a new garden community which will deliver between 2,200 and 2,500 homes, 7 hectares of employment land and provision for Gypsies and Travellers within the Plan period (as part of an expected overall total of between 7,000 and 9,000 homes and 25 hectares of employment land to be delivered beyond 2033).

The garden community will be holistically and comprehensively planned with a distinct identity that responds directly to its context and is of sufficient scale to incorporate a range of homes, employment, education & community facilities, green space and other uses to enable residents to meet the majority of their day-to-day needs, reducing the need for outward commuting. It will be comprehensively planned from the outset, with delivery phased to achieve the whole development, and will be underpinned by a comprehensive package of infrastructure. A Development Plan Document (DPD) will be prepared for the garden community, containing policies setting out how the new community will be designed, developed and delivered in phases, in accordance with the principles in paragraphs i-xiv below. No planning consent for development forming part of the garden community will be granted until the DPD has been adopted”.

All development forming part of the garden community will comply with the principles set out in SP8.

Requirements of the Tendring/Colchester Borders Garden Community Development Plan Document (DPD) are set out in Policy SP 9 of the adopted Section 1 of the Local Plan and states:

“The adoption of the DPD will be contingent on the completion of a Heritage Impact Assessment carried out in accordance with Historic England guidance. The Heritage Impact Assessment will assess the impact of proposed allocations upon the historic environment, inform the appropriate extent and capacity of the development and establish any mitigation measures necessary. The DPD will be produced in consultation with the local community and stakeholders and will include a concept plan showing the disposition and quantity of future land-uses, and give a three dimensional indication of the urban design and landscape parameters which will be incorporated into any

future planning applications; together with a phasing and implementation strategy which sets out how the rate of development will be linked to the provision of the necessary social, physical and environmental infrastructure to ensure that the respective phases of the development do not come forward until the necessary infrastructure has been secured. The DPD and any application for planning permission for development forming part of the garden community must be consistent with the requirements set out in this policy. For the Plan period up to 2033, housing delivery from the garden community, irrespective of its actual location, will be distributed equally between Colchester Borough Council and Tendring District Council. If, after taking into account its share of delivery from the garden community, either of those authorities has a shortfall in delivery against the housing requirement for its area, it will need to make up the shortfall within its own area. It may not use the other authority's share of delivery from the garden community to make up the shortfall."

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

Joint DPD work is already being funded through the Local Plan budget and the new Joint Committee would be serviced within the normal committee administration process.

The administration costs of the Joint Committee will be funded through the project costs however, the responsibility for administration of the Committee will sit with Tendring District Council until agreed otherwise.

LEGAL

Every Local Planning Authority must prepare and maintain a Local Development Scheme (LDS) in accordance with Section 15 of Planning and Compulsory Purchase Act 2004 (as amended). The LDS is the Council's rolling project plan (often covering a period of three years) for producing its Local Development Documents and sets out a timetable for the delivery. The LDS must identify:

- Which of their Local Development Documents are local plans or supplementary planning documents;
- The subject matter and geographical area to which any local plan relates;
- Which local plans (if any) are to be prepared jointly with another Council and
- The timetable for the preparation and revision of the local plans.

Local Planning Authorities must revise their LDS at such time as they consider appropriate and make available to the public the up-to-date text and a copy of any amendments made and published on the Council's website, together with up-to-date information showing compliance (or non-compliance) with the timetable.

Under Section 28 of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act"), two or more local authorities may agree to prepare one or more joint local development documents. Pursuant to Regulation 4(4A) and (4C) of the Local

Authorities (Functions and Responsibilities) (England) Regulations 2000, the making of an agreement to prepare one or more joint development plan documents shall not be the responsibility of an executive of the authority. The decision therefore to agree to prepare a joint development plan document must therefore be made by full Council. Tendring District Council's Planning Policy and Local Plan Committee, at its meeting on 29th June 2021 approved the updated LDS for 21-24, which made reference to the jointly prepared DPD with Colchester for the TCBGC however, a formal agreement is required under Section 28 of the 2004 Act. A report will be presented to the Committee at its meeting on 11th November 2021, to formally recommend this to Full Council, the outcome of this will be updated to Cabinet at its meeting considering this report.

Section 29 of the 2004 Act provides that if one or more local planning authorities agree with a county council to establish a joint committee for the purposes of the plan-making system, such as the production and approval of Local Development Documents, Secretary of State's approval is required. An Order under Section 29 must specify the authorities and the county council who will constitute the joint committee and may make provision as to such other matters as the Secretary of State thinks are necessary or expedient to facilitate the exercise by the joint committee of its functions. Any application to the Secretary of State for an Order under Section 29 would include proposed terms of reference and standing orders.

A Joint Committee established under Section 29 can only be dissolved by the Secretary of State. Due to the timetable for production of joint DPD and HIF housing delivery deadlines, it is considered that seeking Secretary of State approval for a Joint Committee under Section 29 of the 2004 Act will cause unnecessary delay which may prevent the establishment of the Joint Committee prior to decisions being required. This option has therefore been discounted although, it must be noted consequently, certain decisions will still be required by the individual Councils.

Alternatively, the Councils may establish a Joint Committee using Sections 101(5), 102(1)(b) and 102(2) of the 1972 Act, through resolution of Cabinet for executive and full Council for non-executive responsibilities.

The DPD process and Development Control functions involve both executive and non-executive responsibilities therefore it is important to ensure the correct decision making body is delegating the right functions to any Joint Committee. Only planning functions relating to TCBGC are proposed for delegation at this time however, this can be expanded once the governance arrangements with the developer and their partners evolve.

Section 101(5) of the Local Government Act 1972 enables two or more local authorities to discharge any of their functions by a joint committee, where arrangements are in force for them to do so. Section 9EA of the Local Government Act 2000 enables the Secretary of State to make regulations to allow an executive of a local authority to arrange for the discharge of any executive functions. This includes arrangements with other authorities.

The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 (SI 2012 no. 1019) were made pursuant to Section 9EA. Regulation 4 of the 2012 Regulations provides the Leader and Cabinet with the power to make arrangements for executive functions to be discharged jointly. Part 4 of those regulations sets out the legal framework for the joint exercise of functions.

Regulation 11(2) will apply where at least one of the functions is one which is the responsibility of an executive and the arrangements may provide for one joint committee to discharge all of the functions which are the subject of the arrangements on behalf of those authorities.

Regulation 11(5) confirms that where functions are to be discharged by the joint committee relate to those of Council and its Committees the appointment of the joint committee is to be made under Section 102(1)(b) of the 1972 Act.

Regulation 11(7) confirms arrangements can be made for a joint committee to discharge executive and non-executive functions, the appointment of the joint committee is made under Section 102(1)(b) of the 1972 Act, with the numbers appointed and their term of office fixed by Council, with the agreement of Cabinet.

Officers are permitted to be given delegated powers from a Joint Committee and the Scheme of Delegation is referred to in its Terms of Reference.

Regulation 12(4) requires that where the joint committee is discharging executive functions, at least one member of the authority's Cabinet must be a member of the joint committee (appointed by the Leader).

The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) specify functions which are not to be the responsibilities of an authority's Cabinet or are to be the responsibility of such an executive only to a limited extent or only in limited circumstances.

Paragraphs (1) to (3) of Regulation 4 allocate responsibility for various aspects of functions relating to the formulation and preparation of plans and strategies of the descriptions specified in Schedule 3 between a Council and their Cabinet. Schedule 3 lists Development Plan Documents as defined by Section 15 of the 2004 Act. Therefore, whilst the formulation and preparation of the DPDs are executive functions and can be discharged by a joint committee, some actions relating to the DPD process are designated to Full Council and these have been reflected in the Terms of Reference as proposed in Appendix A.

Full Council, upon recommendation from Cabinet, can agree to the appointment of the Joint Committee for the Development Control functions and act as planning authority in that regard.

The proposed Terms of Reference for the Joint Committee are attached to the Report as Appendix A.

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.

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. The Constitution will require amendment following the establishment of the Joint Committee.

OTHER IMPLICATIONS

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

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

The establishment of a Joint Committee itself would not have any direct impact on these considerations however, it is important to recognise that the work of the Joint Committee will still involve public consultation, statutory and otherwise through a detailed community engagement strategy. All environmental and equality considerations are taken into account through plan making and individual decision making of the Joint Committee.

OPTIONS CONSIDERED

The arrangements, for both plan making (planning policy) and development control purposes (determination of planning applications), to be considered are:

Joint Committees established under Section 101 Local Government Act 1972 (Cabinet and Council resolutions only):

1. DPD functions;

Membership: Both District/Borough Councils with collective voting

2. Development Control functions;

Membership: Both District/Borough Councils with collective voting

3. Option 2 plus County Council

Membership: All three Councils with collective voting

4. DPD and Development Control functions:

Membership: Both District/Borough Councils with collective voting

5. DPD and Development Control functions:

Membership: Both District/Borough Councils with collective voting
Essex Council Council advisory non-voting membership

6. DPD and Development Control functions:

Membership: All three Councils with collective voting (but not extensive powers of Section 29 joint committee)

Joint Committees established under Section 29 Planning and Compulsory Purchase Act 2004 (Secretary of State approval required):

7. DPD functions

Membership: All three Councils with collective voting

8. DPD and Development Control collective voting

Membership: All three Councils with collective voting

Status Quo:

- 9.** Existing Committees within Tendring and Colchester Councils each retaining DPD functions, for approval by both Councils and determination of planning applications under current rules.

Due to the timetable for production of joint DPD and HIF housing delivery deadlines, it is considered that seeking Secretary of State approval for a Joint Committee with the County Council will cause unnecessary delay which may prevent the establishment of the JPC prior to decisions being required.

This report recommends Option 6 as the proposed model for the establishment of the Joint Committee for TCBGC.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Local Development Scheme (LDS) inc. TCBGC DPD

The Council's Local Development Scheme (LDS) was approved by Tendring's Planning Policy and Local Plan Committee in June 2021, which sets out an indicative timetable for preparing key planning documents. It is particularly useful for the public, partner organisations and third parties to understand, broadly, the programme of work and how the Council proposes to resource and manage it. The LDS covers the adoption of the new Local Plan, the Tendring Colchester Borders Garden Community Development Plan Document (DPD); the future review of the Local Plan and the production of other key planning documents. It includes the anticipated timetable of consultation periods, examinations and expected dates of adoption.

The LDS refers to the Tendring Colchester Borders Development Plan Document (DPD) for the Garden Community in west Tendring. A DPD follows the same process for preparation as a Local Plan. It builds on policy or policies in the Local Plan and provides significantly more implementation detail. Any DPD for west Tendring will require the co-operation and collaboration with Colchester Borough Council. This DPD in Colchester's LDS is described as a 'Strategic Growth Development Plan Document'. In Section 1 of the Adopted Local Plan, Policy SP8 states: *"The Strategic Growth DPD will set out the nature, form and boundary of the new community. The document will be produced in consultation with stakeholders and will include a concept plan showing the disposition and quantity of future land-uses, and give a three dimensional indication of the urban design and landscape parameters which will be incorporated into any future planning applications; together with a phasing and implementation strategy which sets out how the rate of development will be linked to the provision of the necessary social, physical and environmental infrastructure, to ensure that the respective phases of the development do not come forward until the necessary infrastructure has been secured. The DPD will provide the framework for the subsequent development of more detailed masterplans and other design and planning guidance for the Tendring / Colchester Borders Garden Community."*

The LDS sets out the following timetable for the production, consultation and approval of the TCBGC joint DPD:

Tendring Colchester Garden Community Development Plan Document Joint (DPD)

Subject and scope

This document will contain policies and allocations to guide the new Garden Community proposed at the Tendring/Colchester border. This DPD will be produced jointly with

	Colchester Borough Council and Essex County Council.
Geographical area	The broad location for the Garden Community is identified in the Section 1 Local Plan. The precise boundaries will be designates in this DPD
Chain of conformity	Tendring and Colchester Local Plans The relevant Planning Acts and Regulations Essex Minerals and Waste Plans National Planning Policy Framework (NPPF).
Indicative timetable for production	
Document Preparation	Winter 2020/21 – Winter 2021/22
Member approval of draft DPD	Winter 2021/22
Draft DPD Consultation	Winter 2021/22
Document Preparation	Spring 2022 – Autumn 2022
Member approval of submission DPD	Autumn 2022
Submission DPD Consultation	Autumn 2022
Submission to Secretary of State	Winter 2022
Examination	Winter 2022
Inspector's report	Spring 2023

TCBGC Member Group:

Colchester, Essex and Tendring Councils (the Partner Councils) recognise their strategic executive objectives, contractual responsibilities and statutory functions

covering highways, education and planning functions and the inter-relationship between these in delivering the Garden Community.

Essex County Council (ECC) has been working with Homes England (acting on behalf of MHCLG) to enter into formal contract (Grant Determination Agreement (GDA)) with one another for the Housing Infrastructure Fund (HIF). Within the GDA there are a number of responsibilities on ECC as the Grant Recipient which will impact upon the delivery of the programme and ECC will ensure they keep the TDC & CBC (the LPAs) informed of progress or delays in this regard.

The Partner Councils have signed a Memorandum of Understanding setting out how they will work together towards their intended objective of unlocking development at Tendring Colchester Borders Garden Community (TCBGC) as well as demonstrating the LPAs agreement with the content of the Housing Delivery Statement and the Recovery and Recycling Strategy but was not intended to create any contractual arrangement between the Partner Councils.

The Partner Councils have established a TCBGC Member Group whose purpose is to continue the strong partnership working arrangements which existed prior to the formation of NEGC Ltd and during its trading and provide political oversight of the delivery of the Garden Community at Tendring Colchester Borders. The Group is not a formal decision-making body.

The Partner Councils are committed to the Garden Community Principles and will collectively work together to deliver and oversee the programme in an open and transparent manner. The Member Group will continue its role alongside any newly established Joint Committee.

HIF

The Tendring Colchester Borders Garden Community indicative housing trajectory, produced based on evidence to support the shared Section 1 of the Local Plans states that the first 100 homes will be delivered on site by 2024/25.

At Essex County Council's Development and Regulation Committee on 1st November 2021, the planning application for the Link Road was approved.

CURRENT POSITION

The options for a Joint Committee have been considered by the TCBGC Member Group, which Councillors G. Guglielmi and Turner attend on behalf of Tendring District Council. Through assessment of the options the proposed Terms of Reference have been discussed and it is recommended that those attached as Appendix A are adopted by Tendring, Colchester and Essex Councils to formally appoint the Joint Committee to exercise these functions delegated to it.

Essex County Council are also proposing to delegate Local Planning Authority functions to the Joint Committee for Tendring Colchester Borders Garden Community.

In exercising the above functions, the kind of matters that would fall to the joint Committee to consider, in the determination of planning applications would include:

- Housing – all tenures (market, affordable, and specialist housing for elderly persons etc.)
- New schools (primary, secondary, special education needs early years and post 16)
- Community centre, community hub and library
- leisure uses, sports provision, and allotments
- Country parks, recreation and public open space
- Any waste development proposals.
- Sustainable Urban Drainage
- Town/neighbourhood centre(s) and associated shops (all shapes and sizes)
- Public realm, footpaths and dedicated cycle routes/network
- All new roads and road crossing within the Garden Community
- Any segregated/dedicated bus routes
- Commercial and employment sites, including energy for waste proposals.
- Minerals planning applications.

In addition the joint Planning Committee would also have a role in considering:

- The heads of terms for S106 obligations relating to the mitigation measures, necessary infrastructure and affordable housing required to deliver a policy compliant development.
- Development viability, where relevant, in relation to S106 obligations.
- Stewardship model aligned to the S106 and associated permissions.
- Ongoing monitoring of the compliance of development with agreed permissions, related obligations/conditions and its implementation to an agreed standard.

The proposed Joint Committee will be appointed by both Cabinet and Council with regards to the executive and non-executive functions, as set out and will consist of 3 members from each Council, one of which has to be a member of each Council's respective Cabinets, appointed by the Leader. Each authority will have equal voting rights with the Chairman rotating annually.

It is not currently proposed that the Joint Committee will replace the TCBGC Member Group, as the role of the former will be to oversee the preparation of the statutory process for both the joint DPD production and determining subsequent planning applications within the Garden Community. The TCBGC Member Group consists of Cabinet Members and Chairman of the Tendring District Council's Planning Policy and Local Plan Committee with responsibility for the delivery of the Garden Community providing overarching strategic direction, working collaboratively across the 3 Councils and with the developers, where such involvement does not compromise the Councils' statutory decision making processes. Although it is not currently being suggested that this partnership approach is formalised beyond the

existing terms of reference of the TCBGC Member Group, this will be kept under review as discussions with the Developers progress. Delegation is sought for the Acting Director for Planning, in consultation with the Leader (as Portfolio Holder for Planning) and the Deputy Leader (Portfolio Holder for Corporate Finance and Governance) to negotiate any partnership agreement considered necessary between the Councils for the purposes of jointly exercising executive functions in regards of the TCBGC.

The development of the TCBGC will be underpinned by a comprehensive 'master-planned' approach informed by technical research and evidence as well as the feedback received through stakeholder engagement. The master-planning work already being undertaken by the authorities working with consultants Prior + Partners will inform key elements of the Joint Development Plan Document (DPD) that will go before the proposed Joint Committee for consideration, including the overall spatial layout of the TCBGC and the policies within the joint DPD that will be used in the determination of future planning applications. In turn, there will be an expectation for applicants for planning permission to also follow a master-planned approach both in conforming to the requirements of the joint DPD and in generating more detailed proposals and design approaches for relevant phases of the development.

Mersea Homes hold options over the majority of the land within the TCBGC area and they have recently announced they are working with a lead development partner, Latimer to develop the TCBGC.

Latimer is the development arm of Clarion Housing Group. Clarion Housing is the UK's largest housing association, owning and managing 125,000 homes. The Councils will work closely and effectively with the Developers in overseeing the planning and delivery of the TCBGC. This partnership will be governed by planning and/or delivery agreements. From a planning perspective Planning Performance (PPAs) and Memoranda of Understanding (MoUs) set out how the parties will work together to comprehensively plan the TCBGC through the strategic and development management phases.

Due to a new Joint Committee being established the terms of reference of the Council's Planning Policy and Local Plan Committee will need to be amended, as proposed in Appendix B. This amendment reflects that the Local Plan Committee's remit in relation to a decision on whether to do a joint Local Plan or Supplementary Planning document and the creation of a joint committee with another authority will remain but excluding those decisions which have been delegated to the Joint Committee in relation to Tendring Colchester Borders Garden Community. Cabinet is required to formally recommend the amended Terms of Reference onto Full Council to approve as part of the Constitution in the normal manner.

FURTHER HEADINGS RELEVANT TO THE REPORT
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<u>Timetable:</u>

<p>In accordance with the LDS, Member approval of the draft joint DPD is due to in Winter 2021/22, therefore any Joint Committee should be established by the end of the calendar year for 2021 to ensure the decision making is not delayed impacting upon the project delivery programme. Once the joint DPD is adopted, the Developers will apply for planning permission in accordance with the policy requirements and design standards within the joint DPD during 2023. This allows for delivery on site by 2024/25 to meet the requirements of the HIF grant.</p>

PROPOSED TERMS OF REFERENCE FOR TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE

1. Parties:

- (1) Tendring District Council ("TDC")
- (2) Colchester Borough Council ("CBC")
- (3) Essex County Council ("ECC")

2. Status:

This Committee is a joint committee for Tendring Colchester Borders Garden Community (TCBGC) formed by resolutions of the Cabinets and Full Councils of TDC, CBC and ECC pursuant to sections 101(5), 102(1)(b) and 102(2) of the Local Government Act 1972. The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, Regs 11 (7) and 12 (4) *(These regulations determine arrangements involving joint committees and membership)*.

TDC and CBC have agreed pursuant to Section 28 of the Planning and Compulsory Purchase Act 2004 to prepare a joint local development document, for the purposes of these Terms of Reference to be known as a joint TCBGC DPD, although the name of the Garden Community may change throughout the process.

3. Membership:

- 2 Members appointed by TDC (one of which must be the Chairman of the Planning Policy and Local Plan Committee) plus 1 Cabinet member appointed by the Leader
- 2 Members appointed by CBC (one of which must be the Chairman of the Local Plan Committee) plus 1 Cabinet member appointed by the Leader
- 2 Members appointed by ECC plus 1 Cabinet member appointed by the Leader

- 3.1 All members of the Committee shall have undertaken suitable training which shall have been approved by the parties.

4. Terms of reference:

- 4.1 The Committee's remit is to jointly discharge the functions ('the Functions') set out in Appendix 1 in relation the Tendring Colchester Borders Garden

Community, the exercise of which have been delegated to the Committee by TDC, CBC and ECC, subject to the limitation in paragraphs 4.3 and 4.4.

4.2 The functions delegated by TDC, CBC and ECC include:-

- (a) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:
 - a. is in accordance with the Local Development Schemes;
 - b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;
 - c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
 - d. has regard to the adopted Section 1 of CBC & TDC's Local Plan;
 - e. has regard to the resources likely to be available for implementing the proposals in the document;
 - f. other such matters the Secretary of State prescribes; and
 - g. complies with the Council's Statement of Community Involvement
- (b) the power to formulate and prepare a draft Joint Development Plan Document for consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
- (c) carry out an appraisal of the sustainability of the proposals within the joint TCBGC DPD and approve the findings of the appraisal;
- (d) make recommendations to TDC and CBC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
- (e) consideration of amendments or modifications of the joint TCBGC DPD recommended by the person carrying out the independent examination under section 20 of the 2004 Act;
- (f) recommend to CBC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012; and
- (g) the power of the TDC and CBC as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

- (h) To exercise TDC, CBC and ECC's local planning authorities' powers and duties in relation to development control including for the avoidance of doubt the power to approve authorise and direct the respective Local Planning Authorities to enter into agreements regulating the development or use of land pursuant to S106 of the Town and Country Planning Act 1990 and related powers.
- 4.3 Note that the following are the sole responsibility of TDC and CBC's full Council's:
- a) Responsibility for giving of instructions to the Cabinet and Joint Committee to reconsider the draft plan submitted by the Joint Committee for the Council's consideration.
 - b) The amendment of the draft joint development plan document submitted by the Joint Committee for the full Council's consideration.
 - c) The approval of the joint development plan document for the purposes of consultation submission to the Secretary of State for independent examination.
 - d) The adoption of the joint development plan document.
- 4.4 Committee shall discharge the functions relating to town and country planning and development control as specified in *Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)*, falling wholly or substantially within the Tendring Colchester Borders Garden Community area shown coloured purple on the plan contained at Appendix 2.
- 4.5 The Committee may exercise the subsidiary powers authorised pursuant to section 111, Local Government Act 1972 in connection with the discharge of the functions.
- 4.6 The Committee may exercise the powers of delegation contained in section 101(2), Local Government Act 1972 and agree a Scheme of delegation to officers.
- 4.7 TDC, CBC or ECC may request an application to be considered by the Committee in accordance with an agreed scheme.
- 4.8 All members of the Committee shall be entitled to vote on any matter to be determined by the Committee.

5. Standing Orders

- 5.1 The Committee shall be governed by the Standing Orders set out in Appendix 3.
- 5.2 The Committee shall have the power to amend the Standing Orders from time to time within the scope of these Terms of Reference following consultation with the Council's Monitoring Officers.

6. Administration

- 6.1 The Council which is the local planning authority shall receive applications relating to the functions in the usual way and shall be responsible for all administrative stages leading to and flowing from the exercise of the functions.
- 6.2 The administration of the Committee will be undertaken by TDC who shall be responsible for all matters connected with the administration of the Committee, including the preparation and dispatch of agendas and securing premises at which the Committee may meet.

Functions delegated by Tendring District Council and Colchester Borough Council to the Joint Committee in relation to Tendring Colchester Borders Garden Community.

1. The functions delegated by TDC and CBC: -

- (a) To exercise the Council's functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:
 - a. is in accordance with the Local Development Schemes;
 - b. includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;
 - c. meets the "tests of soundness" as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;
 - d. has regard to the adopted Section 1 of CBC & TDC's Local Plan;
 - e. has regard to the resources likely to be available for implementing the proposals in the document;
 - f. other such matters the Secretary of State prescribes; and
 - g. complies with the Council's Statement of Community Involvement
- (b) the power to formulate and prepare a draft Joint Development Plan Document for consultation under Regulation 18 of the Town and Country Planning (Local Planning)(England) Regulations 2012;
- (c) carry out an appraisal of the sustainability of the proposals within the joint TCBGC DPD and approve the findings of the appraisal;
- (d) make recommendations to TDC and CBC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
- (e) consideration of amendments or modifications of the joint TCBGC DPD recommended by the person carrying out the independent examination under section 20 of the 2004 Act;
- (f) recommend to CBC and TDC adoption of Joint Development Plan Documents in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012; and

(g) the power of the TDC and CBC as local planning authority to determine planning applications by virtue of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. The functions delegated by TDC, CBC & ECC: -

(a) To exercise TDC, CBC and ECC's local planning authorities' powers and duties in relation to development control including for the avoidance of doubt the power to approve authorise and direct the respective Local Planning Authorities to enter into agreements regulating the development or use of land pursuant to S106 of the Town and Country Planning Act 1990 and related powers within the Tendring Colchester Borders Garden Community area showed coloured purple on the plan in Appendix 2.

3. In exercising the functions in paragraph 2(a) the kind of matters that would fall to the Joint Committee to consider, in the determination of planning applications would include:

- Housing – all tenures (market, affordable, and specialist housing for elderly persons etc.)
- New schools (primary, secondary, special education needs early years and post 16)
- Community centre, community hub and library
- leisure uses, sports provision, and allotments
- Country parks, recreation and public open space
- Any waste development proposals.
- Sustainable Urban Drainage
- Town/neighbourhood centre(s) and associated shops (all shapes and sizes)
- Public realm, footpaths and dedicated cycle routes/network
- All new roads and road crossing within the Garden Community
- Any segregated/dedicated bus routes
- Commercial and employment sites, including energy for waste proposals.
- Minerals planning applications.

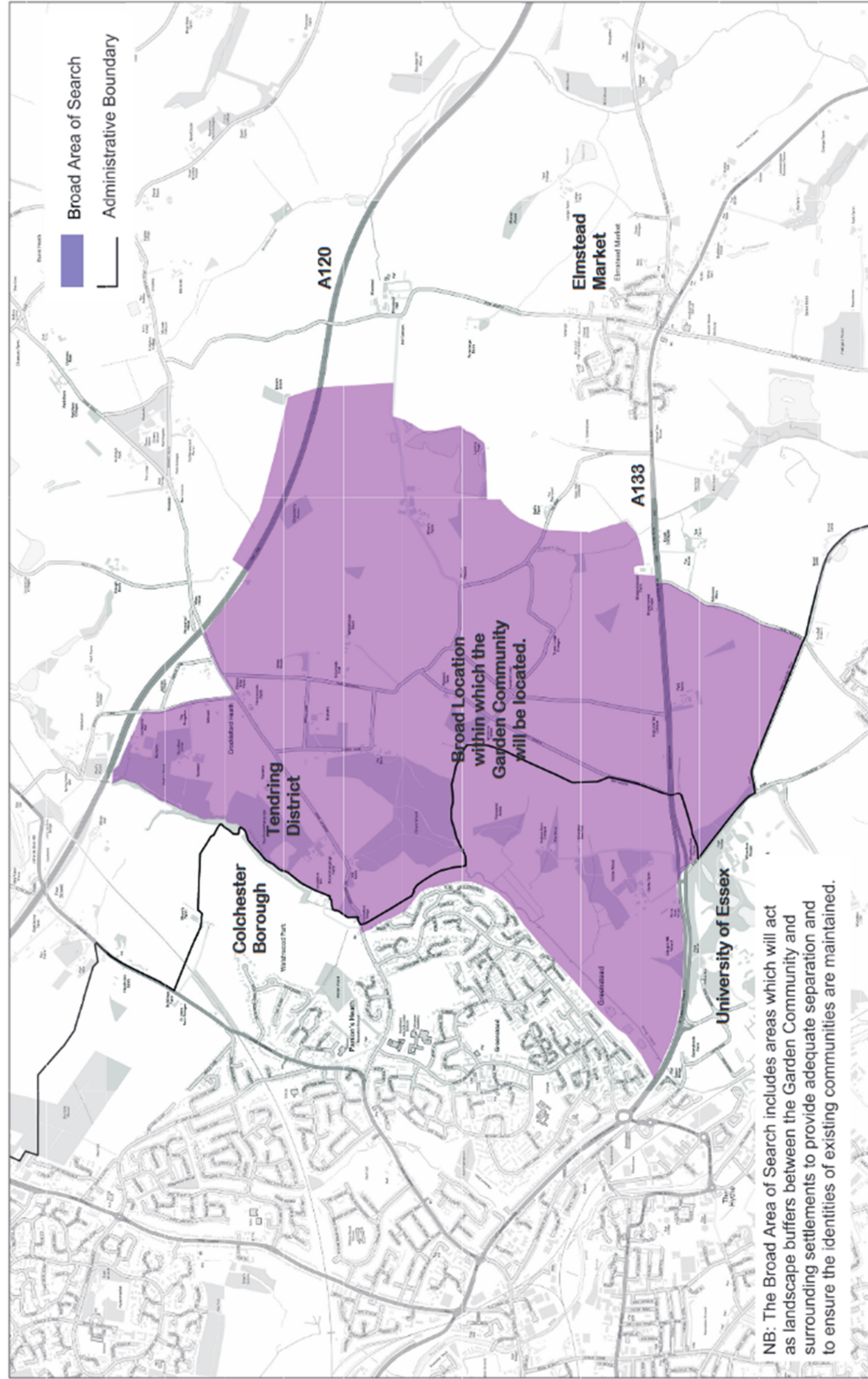
4. In addition the Joint Planning Committee would also have a role in considering:

- The heads of terms for S106 obligations relating to the mitigation measures, necessary infrastructure and affordable housing required to deliver a policy compliant development.
- Development viability, where relevant, in relation to S106 obligations.
- Stewardship model aligned to the S106 and associated permissions.

- Ongoing monitoring of the compliance of development with agreed permissions, related obligations/conditions and its implementation to an agreed standard.

Tending Colchester Borders Garden Community - Broad Area of Search

LAD/00007



Appendix 2

Plan showing Tending Colchester Borders Garden Community

NB: The Broad Area of Search includes areas which will act as landscape buffers between the Garden Community and surrounding settlements to provide adequate separation and to ensure the identities of existing communities are maintained.

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<p style="text-align: center;">Standing Orders for Tendring Colchester Borders Garden Community Joint Committee</p>
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1. Appointment of Chair and Deputy Chair

- 1.1 The Committee shall, at its first meeting in each municipal year, and from time to time as it considers necessary, elect a Chair and Deputy Chair. The Chair and Deputy Chair shall rotate between the Council's.
- 1.2 In the absence from any meeting of the Chair and Deputy Chair, a Chair for that meeting shall be appointed by the meeting but shall relinquish the chair if the Chair or Deputy Chair subsequently arrives at the meeting.

2. Appointment of Spokespersons

- 2.1 Each of the Councils shall nominate one of the committee members which it appoints as its spokesperson.

3. Notice of and Summons to Meetings

- 3.1 The administration of the Committee shall be undertaken by Tendring District Council who will give notice to the public of the time and place of any meeting in accordance with the access to information rules applicable to local authorities. At least five clear days before a meeting, the Committee Service will send an agenda by post and/or electronically to every member of the Committee. The agenda will give the date, time and location of each meeting and specify the business to be transacted and will be accompanied by such details as are available.
- 3.2 The Committee Service will take reasonable steps to ensure that a copy of the agenda and accompanying papers are placed on deposit at the offices of each of the councils for public inspection at least five clear days before the meeting and are published on the Council's web sites. The Committee Service will ensure that arrangements are put in place for the inspection of background papers in accordance with section 100D, Local Government Act, 1972 and to ensure compliance with all other provisions of Part VA, of that Act.
- 3.3 Dates, times and venues for meetings shall be determined by the Committee. In the absence of agreement or in cases of urgency, meetings may be called by the Committee Service following consultation with the Chair and Deputy Chair.

- 3.4 If at any time Tendring District Council was unable to fulfil its role in providing the administration to the Committee, Colchester Borough Council or Essex County Council will perform the functions.

4. Membership

- 4.1 Committee members shall be appointed by the Councils from time to time in accordance with the Committee's terms of reference. A Council may at any time replace one or more of its nominated members by notice given to the Committee Service.

5. Substitute Members

- 5.1 Each Council will appoint one substitute member. Each Council will notify the Committee Service of substitute members appointed.
- 5.2 Substitute members will have all the powers and duties of an ordinary member of the Committee. For the purposes of briefing meetings and circulation of papers, substitute members shall be treated in the same manner as ordinary members.
- 5.3 Substitute members may attend meetings in the capacity of an ordinary member of the Committee. The substitute member should withdraw from participation as a member of the Committee in the business at that meeting during any period at which the ordinary member is in attendance.

6. Quorum

- 6.1 The quorum of a meeting of the Committee shall be as follows: -
- 2 Members from Tendring District Council
 - 2 Members from Colchester Borough Council
 - 2 Member from Essex County Council

7. Public speaking rights

- 7.1 Members of the public have the public speaking rights set out in Annex A.
- 7.2 The Committee shall have the power to amend the public speaking rights.

8. Voting

- 8.1 All members of the Committee shall be entitled to vote upon any decision due to be made by the Committee.
- 8.2 Every question shall be decided by a show of hands, subject to Rule 8.3.

- 8.3 If any member demands a named vote and is supported by two other members, the question shall be determined by a named vote and the Committee Service shall record and enter in the minutes the names of each member present and whether they voted for or against or abstained.
- 8.4 Any member may, immediately after any vote is taken, require a record to be made in the minutes of whether they voted for or against or abstained.
- 8.5 If there are equal numbers of votes for and against, the Chair will have a second and casting vote.

9.0 Tenure of office

- 9.1 A member shall cease to be a member of the Committee if the person—
(a) resigns in accordance with paragraph 9.3;
(b) is removed or replaced by the Council which made the appointment; or
(c) ceases to be a member of a constituent Council (and does not on the same day again become a member of that or any other Council).
- 9.2 A person who ceases to be a member of the Committee shall be eligible for reappointment.
- 9.3 A member may resign from the Committee by sending written notice delivered to the proper officer of the Council which appointed the member;
- 9.4 Any casual vacancy shall be filled as soon as practicable by the body which appointed the member of the Committee whose membership has ceased.

10. Minutes

- 10.1 The Chair will sign the minutes of the Committee at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record.

11. Exclusion of Public

- 11.1 Members of the public and press may only be excluded either in accordance with the Access to Information provisions of the Local Government Act 1972 (consideration of 'exempt information') or Rule 13 (Disturbance by Public).

12. Disorderly Conduct: Misconduct of a Member

- 12.1 If at any meeting of the Committee any member, in the opinion of the Chair, misconducts themselves by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Committee, the Chair or any other member may move "That

the member named be not further heard", and the motion if seconded shall be put and determined without discussion.

- 12.2 If the member named continues their misconduct after a motion under the foregoing Rule has been carried, the Chair shall either move "that the member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or adjourn the meeting of the Committee for such period as in their discretion shall consider expedient.
- 12.3 In the event of a general disturbance which in the opinion of the Chair renders the due and orderly despatch of business impossible, the Chair, in addition to any other power vested in him/her, may adjourn the meeting of the Committee for such period as in their discretion shall consider expedient.

13. Disorderly Conduct: Disturbance by members of the public

- 13.1 If a member of the public interrupts the proceedings at any meeting the Chair shall warn them. If a member of the public continues the interruption the Chair shall order their removal from the meeting.
- 13.2 In case of a general disturbance in any part of the room open to the public the Chair shall order that part to be cleared.

14. Suspension of Standing Orders

- 14.1 Any of these Standing Orders may, so far as is lawful, be suspended by motion passed unanimously by those entitled to vote on the application in question. Any motion to suspend any part of these rules shall specify the purpose of their suspension. Any suspension shall only be to the extent and for the length of time necessary to achieve the stated purpose.

15. Attendance at the Committee by other members of the Councils

- 15.1. A member of any of the Councils who is not a member of the Committee may speak at a meeting of the Committee at the request or with the permission of the Committee or of its Chair made or obtained before the meeting. Such request or permission shall specify the matters in respect of which the member shall be permitted to speak.

16. Attendance at the Committee by Council Officers

- 16.1 The relevant Officers from the Councils will attend the Committee meetings to present the reports and advise the Committee in relation to its decision making.

17. Statements of Community Involvement

- 17.1 Public consultation in relation to pre application matters shall be dealt with in accordance with the Statement of Community Involvement or other appropriate procedures of the Council responsible for issuing the consent.

<p style="text-align: center;">Tendring Colchester Borders Garden Community Joint Committee</p>
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PART A

Public Speaking Arrangements- General

1. Members of the public, who want to speak about an item which is to be considered at a meeting of the Committee can do so if they have notified the Committee Service by 12.00 noon on the day before the meeting.

At the Committee Meeting

2. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.
3. Each speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.
4. The Chair will ask the speaker to come to the table at the beginning of the discussion of the report of the relevant item. The Chair will then invite them to speak following the Officer's introduction to the report on the item.
5. The speaker should address the Chair of the Committee, which is the normal convention for Committees.
6. Speakers should remember to:
 - Keep to 3 minutes or whatever other period has been agreed.
 - Highlight the main points they wish to raise and be as brief and concise as possible.
 - Be courteous.

At the conclusion of the public speaking, the Committee will discuss and determine the item.

<p style="text-align: center;">Tendring Colchester Borders Garden Community Joint Committee</p>
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PART B

Public Speaking Arrangements- Planning Applications

1. Members of the public, or applicants or their agents, who want to speak about an application which is to be considered at a meeting of the Committee can do so if they have:
 - (a) in the case of members of the public, already submitted a written representation on an application; and
 - (b) notified the Committee Service by 12.00 noon on the day before the meeting.
2. A member of the public who has made a written representation on a planning application which is to be determined by the Committee, will be notified in writing about the committee date and their public speaking rights in the week before the Committee meeting.

At the Committee Meeting

3. A list of public speakers is available at the meeting. Agenda items for which there are public speakers are taken first, normally in the order of the agenda.
4. Each speaker will be allowed three minutes in which to make their representation. The Chair will tell the speaker when the three minutes has elapsed and the speaker must stop when requested by the Chair. The Chair has discretion to extend this time limit.
5. If more than one person wants to make a representation about the same application, then they should choose someone to act as a spokesperson. When several people wish to speak on the same application but wish to raise different issues, the Chair may agree to those speakers making representations. In these circumstances, less time may need to be given to each speaker.
6. The Chair will ask the speaker to come to the table at the beginning of the discussion of the report on the relevant application. The Chair will then invite them to speak following the Officer's introduction to the report on the application.
7. The speaker should address the Chair of the Committee, which is the normal convention for Committees.
8. Speakers should remember to:

- Keep to 3 minutes or whatever other period has been agreed.
- Keep to the planning issues raised by the application.
- Highlight the main points they wish to raise and be as brief and concise as possible.
- Be courteous.

At the conclusion of the public speaking, the Committee will discuss and determine the planning application.

<p>Planning Policy and Local Plan Committee</p>	<p>To exercise the Council's functions relating to overseeing the preparation of the Local Plan* and ensuring it meets the "tests of soundness" from national and planning policy.</p> <p>The exercise of the Council's functions, powers and duties in relation to the following:</p> <ol style="list-style-type: none"> 1. To oversee the preparation of the new Tendring District Local Plan* to ensure that it meets the "tests of soundness" set out in the National Planning Policy Framework. 2. To ensure that the Local Plan* is "positively prepared", based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development. 3. To ensure the Local Plan* is "justified", promoting the most appropriate strategy for growth, when considered against reasonable alternatives, based on proportionate evidence. 4. To ensure that the Local Plan* is "effective", being deliverable over the plan period and based on effective joint working on cross- boundary strategic priorities. 5. To ensure that the Local Plan* is "consistent with national policy" enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework. 6. To ensure that the Council effectively complies with the statutory duty to co-operate. 7. To consider and recommend the content of the Local Plan*, in consultation with the Cabinet, for consideration and formal approval by Full Council for either public consultation (preferred options or pre-submission versions), submissions to the Secretary of State (to be examined by a Planning Inspector), or final adoption (following receipt of the Planning Inspector's report). 8. To recommend Supplementary Planning Documents (SPDs) and other planning documents to Cabinet for public consultation and final adoption (**). 9. To approve the preparation, commissioning and subsequent publication of studies, surveys and other technical documents that form part of the "evidence base" needed to justify the content of the Local Plan*, Supplementary Planning Documents (SPDs) and other planning documents (**). 	
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	<p>10. To scrutinise, note and understand the recommendations and conclusions of the “evidence base” to ensure that it provides a robust platform upon which to base policies and proposals in the Local Plan*, SPDs and other planning documents (**).</p> <p>11. To approve the publication of the Annual Monitoring Report (AMR) each year and to consider whether or not it highlights development trends that may or may not require changes to policies or proposals in the Local Plan*, SPDs or other planning documents.</p> <p>12. To consider representations submitted in response to public consultation exercises on the Local Plan*, SPDs or other planning documents and consider the need for any changes to these documents in response to any issues that they raise (**).</p> <p>13. Approve the work programme required for the Committee to undertake its functions effectively and in a timely manner.</p> <p>14. Refer to Cabinet any recommendations in respect of the Council's overall strategy, policies and guidance, where functions are the responsibility of the Cabinet, such as Supplementary Planning Documents (**).</p> <p>15. Approve for recommendation of non-statutory planning policy and guidance to be considered by the Council, the Planning Committee, Cabinet (for executive functions), officers in the discharge of its statutory planning functions, including (but not limited to) avoiding detriment to local neighbourhoods (as long as they are not contrary to the National Planning Policy Framework).</p> <p><i>*The Local Plan can consist of one or more “Development Plan Documents” which could include one document for the majority of the Tendring District and a separate document, if necessary, prepared jointly with Colchester Borough Council, for any major development crossing the Tendring/Colchester border.</i></p> <p><i>A Joint Committee has been established with Colchester Borough and Essex County Councils for the Tendring Colchester Borders Garden Community DPD and other Local Planning Authority matters.</i></p> <p><i>(** With the exception of matters related to the Tendring Colchester Borders Garden Community which are delegated to the Joint Committee).</i></p>	
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COUNCIL

30 NOVEMBER 2021

REFERENCE FROM COMMUNITY LEADERSHIP OVERVIEW & SCRUTINY COMMITTEE

A.4 COVID-19 MEMORIAL AND ANNUAL DAY OF REMEMBRANCE

(Report prepared by Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable Council to consider the Community Leadership Overview and Scrutiny Committee's recommendation in relation to a motion submitted at the meeting of the Council held on 13 July 2021 by Councillor Mark Stephenson in relation to a proposed Covid-19 Memorial and Annual Day of Remembrance.

EXECUTIVE SUMMARY

Further to Minute 24 of the meeting of the Community Leadership Overview & Scrutiny Committee held on 8 November 2021 this report seeks to enable Council to consider the Community Leadership Overview and Scrutiny Committee's recommendation in relation to a motion submitted at the meeting of the Council held on 13 July 2021 by Councillor Mark Stephenson in relation to a proposed Covid-19 Memorial and Annual Day of Remembrance.

Having considered Councillor Stephenson's motion and in order to enable this matter to be brought to a conclusion at this meeting of the Full Council, the Community Leadership Overview & Scrutiny Committee decided to recommend to Full Council:-

"That the motion as submitted be approved with the additional wording that the proposed memorial be located in the Clacton-on-Sea Memorial Gardens, adjacent to Marine Parade West, with the intention that the memorial should be an uplifting positive initiative for the whole District."

RECOMMENDATION

That the Council should support the motion as originally submitted by Councillor M E Stephenson, subject to the addition of the following wording:-

"That the proposed memorial be located in the Clacton-on-Sea Memorial Gardens, adjacent to Marine Parade West, with the intention that the memorial should be an uplifting positive initiative for the whole District."

PART 2 – SUPPORTING INFORMATION

BACKGROUND

At its meeting held on 13 July 2021 Council had before it a motion submitted by Councillor

M E Stephenson pursuant to the provisions of Council Procedure Rule 12 in which he proposed that the Council create a Memorial and Annual day of Remembrance. That Motion was worded as follows:-

“That Tendring District Council acknowledges the heartache, pain and suffering that Covid-19 has inflicted upon our residents and their families and that this Council supports the provision of a memorial to allow us all to recognise and commemorate the loss of so many loved ones.

The memorial to be situated in a form acceptable to those who have lost loved ones, be that a garden, plaque or public artwork, taking into consideration their wishes, at a suitable location, where families could gather together throughout the year at a day and time significant to them.

That this Council also considers an Annual Day of Remembrance to be established, where all members of the community could gather together for a service of Remembrance.

In addition, the commemoration would also remember all those key workers and volunteers, who continue to provide, throughout this pandemic, help and support and comfort to the bereaved in their time of need.”

At the meeting of the Council and in the absence of Councillor Stephenson, Councillor Bush had formally moved the motion. Councillor Baker had then formally seconded the motion.

Councillors Bush and Baker had then given their reasons why they felt that it would be appropriate for the motion to be dealt with at the meeting, namely that there would be a loss of impetus if it was not considered now and that in fact it would be timely to consider the motion at the meeting given the then imminent lifting of Covid-19 restrictions on 19 July 2021 and that in the rush to return to a sense of ‘normality’ there would be a loss of remembrance of the impact of the coronavirus on society.

The Leader of the Council (Councillor Stock OBE), whilst not objecting to the principle of the Motion, had nevertheless requested that the Motion be referred to an appropriate body on the grounds that it would be wrong to rush to a decision on this motion particularly given that the ‘war on Covid’ had not yet been won and that Councillor Stephenson who had submitted the motion was not present to explain the purpose of the motion and to advocate for it. He had then suggested that the motion be referred to an overview and scrutiny committee for an examination in detail as he felt that it was important to get this sensitive issue right.

The Chairman of the Council (Councillor Bray) had then made his ruling on whether the motion should be dealt with at the meeting or stand referred. He had decided that the motion would be referred to the Community Leadership Overview & Scrutiny Committee on the grounds that it was the appropriate body to examine the motion in detail and to report back to Council at a later date.

The motion had thereupon stood referred to the Community Leadership Overview & Scrutiny Committee for its consideration in accordance with the provisions of Council Procedure Rules 12.5 and 12.6.

Councillor Stephenson’s motion was duly submitted to the meeting of the Community Leadership Overview & Scrutiny Committee held on 8 November 2021 (Minute 24 refers).

In accordance with Council Procedure Rule 12.6 (Referred Motions – Right of Mover to Attend Meeting), Councillor Stephenson attended that meeting to answer any questions and/or points of clarification, if requested.

The Community Leadership Overview & Scrutiny Committee was also aware at that meeting that Council Procedure Rule 12.5 (Referral of Motions) states that:-

“Where a motion has been referred in accordance with Rule 12.4 the Cabinet or any relevant Committee shall (subject to the provisions of Rule 12.6) be required to consider such motion and to advise the Council (by no later than the second Ordinary Meeting of the Council held following the date of Council’s referral) of their opinion and reason as to whether such motion should be supported in its original format.*

Prior to making its decision Cabinet or the relevant Committee may following consultation with Officers, require further information to be presented to them for consideration on the implications of the proposed motion. Such a report must be considered in a timely manner.

If the Cabinet or relevant Committee decides to advise the Council of its opinion that such motion in its original format should not be not supported, the Cabinet or relevant Committee may, in addition, suggest to the Council that an amended motion be proposed.

Once Cabinet or any relevant Committee has considered the motion it will be referred back to Council with the recommendation. If an amended motion is proposed by Cabinet, or relevant Committee, when presented back to Council, the amended motion will be debated first, in accordance with Rule 16.5 and Rule 16.10 (b).”

[* In this instance the relevant Full Council meeting is this meeting.]

CURRENT POSITION

Council is now requested to consider the motion as recommended by the Community Leadership Overview & Scrutiny Committee.

BACKGROUND PAPERS FOR THE DECISION

Published Minutes of the meeting of the Full Council held on 13 July 2021.

Published Minutes of the meeting of the Community Leadership Overview & Scrutiny Committee held on 8 November 2021.

APPENDICES

None

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COUNCIL

30 NOVEMBER 2021

REPORT OF CHIEF EXECUTIVE

A.5 **CHANGES IN MEMBERSHIP OF COMMITTEES**

(Report prepared by Ian Ford)

I formally report that, in accordance with the wishes of the Leader of the Conservative Group and the authority delegated to me, the following appointment has been duly made since the last ordinary meeting of the Council, namely:-

Planning Policy & Local Plan Committee

Councillor Nash has been appointed to serve in place of Councillor S A Honeywood.

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

IAN DAVIDSON
CHIEF EXECUTIVE

COUNCIL

30 NOVEMBER 2021

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

A.5 CHANGES IN MEMBERSHIP OF COMMITTEES

Formal appointment dated 12 October 2021.

Questions pursuant to Council Procedure 11.2

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

Question

From Councillor Ivan Henderson to Councillor Lynda McWilliams, Portfolio Holder for Partnerships:

“The Government introduced some new anti-social behaviour (ASB) tools and powers on 20th October 2014. Alongside these new powers are a number of early and informal interventions which can be utilised by this Council if appropriate. List of powers available:

Community Trigger

Civil Injunction

Criminal Behaviour Order

Dispersal Powers

Community Protection Notice

Public Spaces Protection Orders

Closure Notice

Closure Orders

Community Remedy

Can the Portfolio Holder please provide a breakdown on how many times each of these powers have been used within this District and where?”

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Standards Committee

Decision Notice

This Decision records the outcome of the Hearing before the Standards Committee on Wednesday 27 October 2021 in accordance with the Tendring District Council's arrangements for dealing with an allegation that an elected member of Tendring District Council has failed to comply with the Members' Code of Conduct.

These arrangements were approved by full Council on 26th November 2013.

COMPLAINT: An allegation that a Member of the District Council has failed to comply with the Members' Code of Conduct.	
Date of hearing:	Wednesday 27 October 2021
Councillor:	District Councillor Peter Cawthron of Tendring District Council (did not attend)
Complainant:	Lisa Hastings, (Tendring District Council's Deputy Chief Executive & Monitoring Officer) (not in attendance)
Relevant Paragraph(s) of the Members' Code of Conduct:	<p>The alleged breaches related to:</p> <p>(i) paragraph 3.1:</p> <p>The accountability principle of Public Life;</p> <p>In fulfilling Duties and Responsibilities, a Councillor must:</p> <p>(ii) paragraph 3.4(a):</p> <p>not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Authority into disrepute; and</p> <p>(iii) paragraph 3.4(c):</p> <p>comply with any request of the Authority's Monitoring Officer or Section 151 Officer, in connection with an investigation conducted in</p>

	accordance with their respective statutory powers.
Summary of Complaint:	The complaint related to Councillor Peter Cawthron's behaviour at Full Council in November 2020, a formal, recorded and publicly available meeting. During that meeting Councillor Cawthron used a word that is viewed as unacceptable and an obscenity. Councillor Cawthron admitted that it was he who had used the word.
Councillor's Response:	Although Councillor Cawthron initially agreed to consider an apology, he subsequently failed to engage further or respond to any communication sent to him by either the Complainant or the Council's duly appointed Investigator.
Investigator's finding:	<p>By his actions both during and after the Council meeting in November 2020, that Councillor Cawthron conducted himself in a manner that could reasonably be regarded as bringing his office or the Authority into disrepute and was therefore in breach of paragraph 3.4(a) of the Council's Code of Conduct.</p> <p>In addition, by his failure to co-operate with the Monitoring Officer's attempts to resolve the matter informally, and by avoiding and ignoring communications including with the Investigator, that Councillor Cawthron has failed to comply with the Nolan Principle of Accountability and is therefore in breach of paragraph 3.4(c) of the Council's Code of Conduct, which requires a councillor to comply with any request of the Monitoring Officer, or Section 151 Officer, in connection with an investigation conducted in accordance with their respective powers.</p>
Deputy Monitoring Officer's Recommendation(s):	<p>That the Standards Committee:</p> <ul style="list-style-type: none"> (a) notes the outcome of the investigation undertaken by Mr Austin on behalf of the Deputy Monitoring Officer in respect of the complaint against Councillor Cawthron; (b) decides whether Councillor Cawthron has failed to comply with the Code of Conduct, and if

	<p>they find there was no failure, then to dismiss the Complaint; or</p> <p>(c) if the Committee concludes that Councillor Cawthron has failed to comply with the Code of Conduct then to consider what action, if any, the Committee should take as a result of that failure.</p>
Hearing in public/availability of relevant documents for public inspection:	The Hearing was held in public and was also live streamed. Agenda papers were made publicly available.
Decision of the Committee:	<p>The Committee considered:</p> <ul style="list-style-type: none"> - The content of the Investigation Report, including the presentation of the Investigator; and - The views of the Independent Person contained within the Committee Report. <p>The Committee unanimously agreed that Councillor Cawthron's conduct at and after the Council meeting in November 2020 could reasonably be regarded as bringing his office or the Authority into disrepute and that he was therefore in breach of paragraph 3.4(a) of the Council's Code of Conduct; and</p> <p>That by ignoring or avoiding communication with the Monitoring Officer, Councillor Cawthron had also failed to comply with the Nolan Principle of Accountability, and he was also therefore in breach of paragraph 3.4(c) of the Council's Code of Conduct.</p>
Reasons for Decision:	The Committee's reasons for the decision were expressed as their agreement with the findings of the Investigator, at pages 47 to 57 of the published Committee Report.
Sanctions imposed:	The Committee considered the range of sanctions available under Section 8 of the District Council's Complaints Procedure and that any sanctions must be relevant and proportionate and necessary to promote and maintain high standards of conduct. Therefore the sanctions are that:

	<p>(1) the Committee's findings and outcome of the hearing be reported to the November 2021 meeting of the Full Council for its information;</p> <p>(2) the Committee's findings in respect of District Councillor Peter Cawthron's conduct be published on Tendring District Council's website; and</p> <p>(3) the Committee wish it to be noted that they were extremely disappointed that Councillor Cawthron had failed to engage with the Council's Monitoring Officer and the Council's duly appointed Investigator.</p>
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Signed: Councillor Dan Land
Chairman of the Committee

Dated: 3rd November 2021

Background papers: Published Report to the Standards Committee and the Minutes of the meeting held on 27 October 2021.

By virtue of paragraph(s) 2, 3, 4 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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