



CABINET

DATE: Friday, 16 December 2022
TIME: 10.30 am
VENUE: Committee Room - Town Hall,
Station Road, Clacton-on-Sea,
CO15 1SE

MEMBERSHIP:

Councillor Neil Stock OBE	- Leader of the Council
Councillor Jeff Bray	- Portfolio Holder for Planning
Councillor Carlo Guglielmi	- Deputy Leader; Portfolio Holder for Corporate Finance and Governance
Councillor Paul Honeywood	- Portfolio Holder for Housing
Councillor Lynda McWilliams	- Portfolio Holder for Partnerships
Councillor Mary Newton	- Portfolio Holder for Business and Economic Growth
Councillor Alex Porter	- Portfolio Holder for Leisure and Tourism
Councillor Michael Talbot	- Portfolio Holder for the Environment and Public Space

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DATE OF PUBLICATION: THURSDAY, 8 DECEMBER 2022

AGENDA

1 **Apologies for Absence**

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

2 **Minutes of the Last Meeting (Pages 1 - 14)**

To confirm and sign the minutes of the last meeting of the Cabinet held on Friday 4 November 2022.

3 **Declarations of Interest**

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

4 **Announcements by the Leader of the Council**

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

5 **Announcements by Cabinet Members**

The Cabinet is asked to note any announcements made by Members of the Cabinet.

6 **Matters Referred to the Cabinet by the Council - A.1 - Petition: Green Space Development and Sale - Holland Haven (Pages 15 - 22)**

To enable Cabinet to formally consider a petition submitted in relation to the potential sale or development of the green spaces by The Gap and at Haven Avenue/The Esplanade in Holland-on-Sea.

7 **Matters Referred to the Cabinet by a Committee**

There are no matters referred to the Cabinet by a Committee on this occasion.

8 **Leader of the Council's Items**

There are none on this occasion.

9 **Cabinet Members' Items - Report of the Corporate Finance & Governance Portfolio Holder - A.2 - Annual Review of the Council's Constitution (Pages 23 - 132)**

This report asks Cabinet to approve the recommended changes to the Constitution for referral onto Full Council following a review undertaken by the Portfolio Holder for Corporate Finance and Governance through a Working Party constituted for this purpose.

10 **Cabinet Members' Items - Report of the Corporate Finance & Governance Portfolio Holder - A.3 - Updated General Fund Financial Forecast including proposed Budget changes in 2022/23 along with Budget Proposals for 2023/24 (Pages 133 - 158)**

To enable Cabinet to consider the updated financial forecast, including budget changes in 2022/23 and budget proposals for 2023/24 for consultation with the Resources and Services Overview and Scrutiny Committee.

11 Cabinet Members' Items - Report of the Housing Portfolio Holder - A.4 - Update on Spendells House and review of budget (Pages 159 - 164)

To update Cabinet on progress with Spendells House following the decision taken on 26 June 2020 to bring the property back into use as temporary accommodation.

12 Cabinet Members' Items - Joint Report of the Corporate Finance & Governance Portfolio Holder and the Housing Portfolio Holder - A.5 - Purchase of the Leasehold Interest in a Residential Property in Dovercourt (Pages 165 - 172)

To seek approval, in principle, from Cabinet for the purchase of the leasehold interest in a residential property in Dovercourt.

13 Cabinet Members' Items - Joint Report of the Housing Portfolio Holder and the Corporate Finance & Governance Portfolio Holder - A.6 - Updated Housing Revenue Account Business Plan and Budget Proposals 2023/24 (Pages 173 - 190)

To set out and seek approval of an updated HRA Business Plan, which includes proposed changes in 2022/23 along with budget proposals for 2023/24.

14 Cabinet Members' Items - Report of the Partnerships Portfolio Holder - A.7 - Determination of a Nomination to Register an Asset of Community Value: St John's Ambulance Hall, 55 Station Road, Manningtree (Pages 191 - 210)

To determine whether the St Johns Ambulance Hall meets the criteria set out in the Localism Act 2011 ("the Act") and the Assets of Community Value (England) Regulations 2012 ("the Regulations") following its nomination as an Asset of Community Value by Manningtree Town Council. No other criteria are pertinent.

15 Management Team Items

There are no Management Team items submitted for Cabinet's consideration on this occasion.

16 Exclusion of Press and Public

The Cabinet 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 17 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A, as amended, of the Act."

17 Cabinet Members' Items - Joint Report of the Corporate Finance & Governance Portfolio Holder and the Housing Portfolio Holder - B.1 - Terms for the Leasehold Purchase of a Property in Dovercourt (Pages 211 - 232)

To agree terms for the leasehold purchase of a residential property in Dovercourt.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Cabinet is to be held in the Committee Room, at the Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 10.30 am on Friday, 27 January 2023.

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Notice of Intention to Conduct Business in Private

Notice is hereby given that, in accordance with Regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, Agenda Item No. 17 is likely to be considered in private for the following reason:

The item detailed below will involve the disclosure of exempt information under:-

Paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) to Schedule 12A, as amended, to the Local Government Act 1972:

Item 17 - Cabinet Members' Items - Joint Report of the Corporate Finance & Governance Portfolio Holder and the Housing Portfolio Holder - B.1 - Terms for the Leasehold Purchase of a Property in Dovercourt.

Information for Visitors

TOWN HALL **FIRE EVACUATION PROCEDURE**

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**MINUTES OF THE MEETING OF THE CABINET,
HELD ON FRIDAY, 4TH NOVEMBER, 2022 AT 10.33 AM
IN THE ESSEX HALL, TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15
1SE**

Present:	Councillor N R Stock OBE	Leader of the Council (Chairman)
	Councillor J D Bray	Portfolio Holder for Planning
	Councillor P B Honeywood	Portfolio Holder for Housing
	Councillor M C Newton	Portfolio Holder for Business & Economic Growth
	Councillor A O J Porter	Portfolio Holder for Leisure & Tourism
	Councillor M J Talbot	Portfolio Holder for Environment & Public Space

Group Leaders Present by Standing Invitation: Councillors J B Chapman BEM (Leader of the Independents Group), I J Henderson (Leader of the Labour Group), G G I Scott (the Leader of the Liberal Democrats Group), M E Stephenson (Leader of the Tendring Independents Group) and G R Placey (Deputy Leader of the Tendring First Group)

Also Present: Councillor C D Amos

In Attendance: Ian Davidson (Chief Executive), Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Lee Heley (Corporate Director (Place & Economy)), Gary Guiver (Director (Planning)), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Ian Ford (Committee Services Manager) and William Lodge (Communications Manager)

61. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors E T Allen (Leader of the Tendring First Group), G V Guglielmi (Deputy Leader of the Council & Portfolio Holder for Corporate Finance and Governance) and L A McWilliams (Portfolio Holder for Partnerships).

62. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the minutes of the meeting of the Cabinet, held on Friday 7 October 2022, be approved as a correct record and be signed by the Chairman.

63. DECLARATIONS OF INTEREST

There were no Declarations of Interest made by Councillors at this time though later on in the meeting as reported under Minute 71 below, Councillor Chapman BEM declared a Personal Interest in the subject matter of item A.4 of the Report of the Leisure & Tourism Portfolio Holder insofar as her family held a licence for a beach hut in Brightlingsea.

64. ANNOUNCEMENTS BY THE LEADER OF THE COUNCIL

The Leader of the Council (Councillor N R Stock OBE) announced that the previous week that he had attended a meeting of the Leaders and Chief Executives of North Essex Councils (i.e. Harlow, Epping, Uttlesford, Chelmsford, Braintree, Colchester, Maldon and Tendring) who together represented 1 million people, included two cities and whose areas covered from a London Underground station at Epping to one of the longest stretches of coastline in the country.

That meeting had demonstrated a combined will to look at sharing services and delivering services remotely in an effort to bring about budget savings, efficiencies and to help with the recruitment and retention of staff. An example of where such savings and efficiencies could potentially be made lay in waste management. At present in Essex, 12 waste collection authorities undertook the same essential task in many different ways but all delivered their waste to the one Waste Disposal Authority. A uniformity of waste collection could result in a great financial saving for the local council tax payer who did not greatly care about municipal boundaries.

There was a collective recognition of the need to avoid financial calamities such as those that had afflicted Thurrock and Slough and also to look closely at any devolution proposals that came down from the Government.

The Leader stated that, in due course a Memorandum of Understanding would be entered into. That and any other related decision would, of course, be subject to the Council's usual decision-making processes.

65. ANNOUNCEMENTS BY CABINET MEMBERS

There were no announcements by Cabinet Members on this occasion.

66. MATTERS REFERRED TO THE CABINET BY THE COUNCIL

There were no matters referred to the Cabinet by the Council on this occasion.

67. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - REFERENCE FROM THE PLANNING POLICY & LOCAL PLAN COMMITTEE - A.1 - CONSERVATION AREA CHARACTER APPRAISAL AND MANAGEMENT PLANS FOR GREAT OAKLEY AND KIRBY-LE-SOKEN

Cabinet was informed that the Planning Policy & Local Plan Committee ("the Committee"), at its meeting held on 10 October 2022 (Minute 23 referred), had considered a comprehensive report (and appendices) of the Acting Director (Planning) which had reported to it the third in a series of 'Conservation Area Appraisal and Management Plans' that had been prepared for the Council by Essex Place Services. That report had also sought the Committee's recommendation to Cabinet that they be approved for public consultation purposes.

The Committee's decision at its meeting held on 10 October 2022 had been as follows:-

"RESOLVED that the Planning Policy and Local Plan Committee:

1. *endorses the new Conservation Area Appraisal and Management Plans for Great Oakley (Appendix 1) and Kirby-le-Soken (Appendix 2) Conservation Area;*
2. *recommends to Cabinet that the above documents (forming Appendices 1 and 2) be published for consultation with the public and other interested parties;*
3. *notes that Conservation Area Appraisal and Management Plans for the District's other un-reviewed Conservation Areas will be brought before the Committee in due course over the next 6 months; and*
4. *recommends to Cabinet that a leaflet be produced by Officers for the residents of properties in all of the District's Conservation Areas and areas proposed, through the Conservation Area reviews, to be included in the Conservation Areas. Such leaflet to inform residents, in basic terms, of the purpose, implications and controls in relation to Conservation area status; and that the leaflets be distributed to the relevant households in those areas with the 2023 Council Tax Bill."*

The Planning Portfolio Holder (Councillor Bray), in response thereto, had submitted the following comments:-

"I thank the Planning Policy and Local Plan Committee for its consideration of this latest tranche of Conservation Area Character Appraisal and Management Plans and I sincerely welcome, once again, their recommendation to Cabinet that these be published for consultation. Reviewing all of the District's Conservation Areas is one of the key actions in the Council's Heritage Strategy and the progress so far has been very good. Ensuring we have an up-to-date appraisal for each and every Conservation Area will enable residents, developers, planners and our Planning Committee to understand the key characteristics that make each area special and which need to be preserved and enhanced when making planning applications and determining them. They will also enable us to reconsider the boundaries of each area and determine whether any Article 4 Directions are needed to provide an extra level of protection and control.

I also very much welcome and endorse the proposal that explanatory Conservation Area leaflets be distributed to the relevant households with the 2023 Council Tax Bill if this is viable and practicable."

Having duly considered the recommendations submitted to it by the Planning Policy & Local Plan Committee, together with the contents of the Great Oakley Conservation Area Appraisal and the Kirby-le-Soken Conservation Area Appraisal:-

It was moved by Councillor Bray, seconded by Councillor P B Honeywood and:-

RESOLVED that –

- (a) the new Conservation Area Appraisal and Management Plans for: Great Oakley (Appendix 1) and Kirby-le-Soken (Appendix 2) be approved for consultation with the public and other interested parties; and
- (b) the Assistant Director (Finance & IT), in consultation with the Corporate Finance & Governance Portfolio Holder, the Housing Portfolio Holder, the Planning Portfolio Holder and the Director (Planning), be authorised to include a leaflet to inform residents, in basic terms, of the purpose, implications and controls in relation to

conservation area status with the 2023 Council Tax Bill to be sent in due course to the relevant households within those Conservation Areas.

68. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - REFERENCE FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE - A.2 - SCRUTINY OF THE DECISION TO GIVE CONSENT FOR AN EVENT BY FRINTON SUMMER THEATRE

It was reported that, in accordance with the decision of Council on 12 July 2022 (Minute 29 referred), the Resources and Services Overview & Scrutiny Committee ('the Committee') had undertaken an enquiry at its meeting held on 17 October 2022 of the following decision taken by the Portfolio Holder for Environment and Public Space on 1 April 2022:

- "a) To give consent for the use of the section of Frinton Greensward identified between 14 August 2022 and 5 September 2022 by the Frinton Summer Theatre subject to any necessary licences being obtained and conditions being adhered to; and*
- b) That the details of any consents given make it clear that consent is given for this event only and that future events will be evaluated on their merits at the time."*

The Assistant Director (Building and Public Realm) had submitted a report to the Committee to support its enquiry. That report had attached the full Portfolio Holder decision, the supporting report prepared by Officers for the Portfolio Holder, the revised application for the use of the Greensward submitted by Frinton Summer Theatre and representations received and considered by the Portfolio Holder on the proposed use.

Members of the Committee had been advised at the meeting that:

"The Council was the freehold owner of The Greensward at Frinton. That Frinton Summer Theatre, Registered Charity No: 1170429, had applied to erect a temporary tent on the Greensward in order to put on a main summer production, a secondary production and community outreach activities. An initial application from the Theatre had been refused by Officers as the detail provided by the Theatre was limited at that stage. Ward Councillors had been consulted on the proposal. The applicant then submitted a revised application with greater detail. Officers had the delegation to make a decision on the revised application. However, following consultation, the Portfolio Holder had agreed to make the decision.

Consultation with the Ward Councillors had indicated that they remained opposed to the revised application. The evidence in the report to the Committee, and as outlined orally by the Portfolio Holder during the meeting, had indicated that there were a number of Town Councillors and businesses in Frinton who had supported the revised application. So had relevant Portfolio Holders at Essex County Council and the Leisure & Tourism Portfolio Holder at this District Council.

The Portfolio Holder outlined to the Committee the extent to which he had considered matters around the revised application and had determined that the use of the Greensward was appropriate in this case.

Upon payment of all charges by the Theatre Company, there was no residual cost to this Council arising from the authorised use of the Greensward by the Theatre Company as a consequence of the decision taken by the Portfolio Holder.

The Committee was also made aware that there was no policy in place that managed the authorisation of usage of the District Council's public spaces for events."

The Portfolio Holder had further assisted the Committee with its enquiry by answering an extensive range of questions from the Committee's members. During the discussion, the Committee's Chairman, and a number of other Councillors had indicated that the evidence presented had identified to them that the Portfolio Holder had considered the relevant facts and that the decision reached had appeared to be appropriate in the circumstances.

The Resources and Services Overview & Scrutiny Committee had decided to make the following recommendations to Cabinet:-

"That Cabinet -

- (a) notes that the Committee supports the intended development of the proposal for a policy in respect of authorising use of Council owned Open Spaces (including criteria and charging), and*
- (b) gives serious consideration to any future requests of proposed events, which are to be held on the Frinton Greensward, as this event has had a serious and detrimental effect to Frinton's residents, its infrastructure, and its businesses."*

In response thereto, the Environment and Public Space Portfolio Holder had submitted the following:-

"I ask that the enquiry by the Resources and Services Overview and Scrutiny Committee into my decision be welcomed. Having considered the outcome of that enquiry by the Committee, I ask Cabinet to:

- (a) note that the Committee supports the intended development of the proposal for a policy in respect of authorising use of Council owned Open Spaces (including criteria and charging), and*
- (b) record that consideration to any future requests for proposed events which are to be held on the Frinton Greensward will be given."*

Having duly considered the recommendations submitted by the Resources and Services Overview & Scrutiny Committee together with the Environment & Public Space Portfolio Holder's response thereto:-

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

RESOLVED that the recommendations made by the Resources and Services Overview & Scrutiny Committee be noted and that the response of the Environment and Public Space Portfolio Holder thereto be endorsed.

69. LEADER OF THE COUNCIL'S ITEMS

There were no items referred to the Cabinet by the Leader of the Council on this occasion.

70. CABINET MEMBERS' ITEMS - REPORT OF THE ENVIRONMENT & PUBLIC SPACE PORTFOLIO HOLDER - A.3 - DETAILED REPLY TO THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE'S RECOMMENDATIONS IN RESPECT OF THE WASTE, RECYCLING AND LITTERING ENQUIRY

Further to Minute 37 (15.7.22) Cabinet considered the Environment & Public Space Portfolio Holder's detailed reply to the Resources and Services Overview and Scrutiny Committee's recommendations to Cabinet following its inquiry into elements of the waste, recycling and litter collection service. That detailed reply was set out in the Appendix to item A.3 of the Report of the Environment & Public Space Portfolio Holder.

Having duly considered the recommendations submitted by the Resources and Services Overview & Scrutiny Committee together with the Environment & Public Space Portfolio Holder's detailed response thereto:-

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

RESOLVED that the detailed response of the Environment and Public Space Portfolio Holder to the recommendations made by the Resources and Services Overview & Scrutiny Committee be noted (both being set out in the Appendix to the Portfolio Holder's report) and that they thereto be approved.

71. CABINET MEMBERS' ITEMS - REPORT OF THE LEISURE & TOURISM PORTFOLIO HOLDER - A.4 - TENDRING BEACH HUT STRATEGY REVISITED

Councillor Chapman BEM declared a Personal Interest in the subject matter of this item insofar as her family held a licence for a beach hut in Brightlingsea.

Cabinet considered a report of the Leisure & Tourism Portfolio Holder (A.4), which presented it with a draft emerging Beach Hut Strategy Review for its approval for public consultation purposes and which sought its authority to invite stakeholder comment on the document.

Members were informed that the Council had adopted its Beach Hut Strategy in 2013, in order to provide a consistent approach to the management of that service in subsequent years. This revision of the existing strategy was in order to update a number of issues relating to beach huts; to ensure beach hut conditions were adhered to; and appropriate resources were considered to monitor the service.

It was reported that, along the Tendring coastline there were currently 3,057 beach huts directly under the operation and management of Tendring District Council (TDC). The objectives for the Beach Huts Service at TDC, as set out in the strategy, were to provide a customer focused, efficient, quality service, seeking income opportunities, which had potential (subject to further business case and decisions), to facilitate:

- *Improved seafront assets and infrastructure*
- *Increased awareness of local seafront issues*

- *Support for tourism and inward investment strategies of the Council*

Cabinet was aware that beach huts were a key part of the Tendring seafront landscape and were regularly captured in tourism images, as features of the District, in Brightlingsea, Clacton-on-Sea, Holland-on-Sea, Frinton-on-Sea and Walton-on-the-Naze, Harwich and Dovercourt.

Cabinet was informed that TDC had contacted all beach hut licence holders in April 2022, to inform them of an intention to review the existing Beach Hut Strategy. In the summer of 2022, the Council had consulted on seven key issues, which would form the basis of a review of the existing Strategy. Those issues were as follows:

- *Limiting the onward renting of beach huts by issuing a number of new commercial agreements through a transparent tender process;*
- *Limiting the issue of future beach hut agreements to one per household;*
- *Revising/updating the existing Beach Hut Specification;*
- *Where licence holders have adapted their huts to include extensions, such as patios and verandas which are not covered by the specification, look to work with those parties to ensure their removal;*
- *Developing a future funded business plan to consider additional staffing resources to ensure beach hut conditions are adhered to and to take appropriate enforcement action where necessary;*
- *Improving customer service through exploring the feasibility of an improved digital platform for those with beach huts;*
- *Developing a business plan for developing new beach huts and utilising the additional income for increased resources and seafront investment.*

Members were advised that a pre-consultation questionnaire exercise had been carried out on those seven points and that 2,673 people had completed it. A breakdown of those responses was summarised within the Portfolio Holder's report and the full consultation response was attached as Appendix B to that report. Following the consultation, a number of proposals on how to address each of the seven points above had been drafted. They were set out in the draft strategy (attached as Appendix A to the Portfolio Holder's report).

Each of the points had been further reviewed and amendments had been made where it had been deemed appropriate to form the emerging document. Those amendments had included changes to how Commercial Agreements were proposed to be issued following final adoption of the Strategy and the types of agreements which were suggested to be issued in future for beach huts.

Cabinet was reminded that once approved by it, the views of current licence holders, Beach Hut Associations and other stakeholders on the draft new Strategy would be requested through a consultation process, which would last a minimum of six weeks. The Strategy was due to then return to Cabinet in February 2023 for consideration of the consultation comments and its final adoption.

Members were made aware that some points covered in the Strategy could be delivered upon adoption by the Cabinet and that other points would be longer term, and would require a detailed business plan.

Short term changes to the beach hut agreements resulting from the adopted strategy would be implemented by April 2023 and licence holders would be informed directly, with a minimum of 28 days' notice. It was also proposed to move from licences to leases, with an implementation date of 1 April 2024. The greater security afforded to those with beach huts, would result in an increase in annual charges. Any Commercial Agreements issued however, would be implemented in advance of the wider roll out, following Cabinet's adoption of the Strategy.

In order to approve the draft strategy in principle and to authorise the consultation to ensure that the views of local people on the content of the strategy were considered prior to adoption and implementation which would lead to an improved beach hut service going forward, in terms of governance, improvements to seafront aesthetics and ensuring a regulated service for rentals:-

It was moved by Councillor Porter, seconded by Councillor Stock OBE and:-

RESOLVED that Cabinet approves the content of the revised draft Beach Hut Strategy for consultation purposes and authorises Officers to seek stakeholder comment on the document for a minimum six-week period.

72. **CABINET MEMBERS' ITEMS - REPORT OF THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER - A.5 - FINANCIAL PERFORMANCE REPORT 2022/23 & 2023/24 - GENERAL UPDATE AT THE END OF QUARTER 2**

Cabinet considered a report of the Corporate Finance & Governance Portfolio Holder (A.5), which provided it with a general update and overview of the Council's financial position against the 2022/23 budget and looked ahead to 2023/24 and beyond.

At the invitation of the Leader of the Council, the Council's Section 151 Officer (Richard Barrett) presented to Members a summary of the contents of the report and its implications going forward for the Council's financial position.

Section 1 – Items for inclusion in the budget / forecast for both 2022/23 and 2023/24.

In consultation with Services, forecasts had been made of potential variances that would remain at the end of 2022/23 along with their impact in 2023/24. For 2023/24, further items had been included as part of developing the longer term forecast.

Although the budget remained subject to further updates as the forecast continued to be developed over the next few months, the current estimated net additional costs in 2022/23 totalled £3.389m, with a forecast budget 'gap' of £4.079m in 2023/24. Further details were set out in Appendix 1A to the Portfolio Holder.

Section 3 of Appendix 1A set out how those budget 'gaps' were proposed to be funded, which included the refocusing of existing budgets / reserves.

Section 2 – Detailed commentary on the in-year financial position 2022/23.

The position to the end of September 2022, as set out in more detail within Appendix 2, showed that overall the General Fund Revenue Account was underspent against the profiled budget by £10.960m. As usual at this time of the year, a key influence on the position to date was the timing of general expenditure and/or income budgets, although

it was acknowledged that further variances could emerge over the second half of 2022/23. In terms of the timing against expenditure budgets, a significant level of the variance to date reflected the COVID 19 Business Grant Schemes, where a final reconciliation process remained in progress in consultation with the Department for Business, Energy and Industrial Strategy (BEIS).

As highlighted above, rather than reporting / adjusting the position at the end of Q2, Services had been asked to estimate if any variances to date were likely to remain at the end of the year rather than being due to timing issues. Although variances to date were set out within Appendix 2, the proposed budget adjustments for 2022/23 set out in Appendix A1 aimed to address the expected year-end position.

As highlighted within previous related reports to Cabinet, the Chief Executive continued to chair the regular Budget, Performance and Delivery meeting of Senior Managers where any emerging issues were discussed.

In respect of other areas of the budget such as the Housing Revenue Account, capital programme, collection performance and treasury activity, apart from additional details set out in the Portfolio Holder report, there were other no major issues that had been identified to date.

Any emerging issues would be monitored and updates provided in future reports, which would include their consideration as part of updating the long term financial forecast.

A half year treasury management review had been carried out with a summary set out in the Portfolio Holder's report along with an associated recommendation to temporarily increase the aggregate limit of funds that could be placed overnight with the Council's bankers for the period that Officers might not be available over the Christmas break.

Section 3 – Detailed commentary on the updated long term forecast from 2023/24.

Appendix 3 set out the detailed forecast for 2023/24 and beyond. For 2023/24, the current budget 'gap' was estimated to be £4.079m, with the main elements of this forecast position being translated into itemised figures within Appendix 1A.

The forecast / budget setting process remained a 'live' process and so work remained on-going in consultation with the various Services across the Council in order to identify further savings opportunities or other potential unavoidable cost pressures that might need to be considered as the detailed budgets were finalised for reporting to Cabinet in December 2022 / January 2023.

The long term forecast still provided an effective method of managing financial risks. The on-going impact from various financial challenges was still evolving and it was therefore important to highlight that the money set aside in the Forecast Risk fund reflected a balanced and realistic approach, and as set out in Section 3 of the Portfolio Holder's report, this fund provided additional flexibility and time in considering how the Council could deliver the required savings from 2024/25 onwards.

A detailed review of risks associated with the long-term forecast was subject to an on-going review and was separately reported within Appendix 3B.

As highlighted in the report considered by Cabinet at its previous meeting on 7 October 2022, given the scale of the financial challenges that the Council faced, it was proposed to engage all Members as early as possible in this process to add resilience to the Council's financial position heading into 2023. At the time of finalising the Portfolio Holder's report, invites were being prepared to send to all Group Leaders to enable meetings to be arranged with relevant Officer(s), who would be able to provide additional detail around the forecast and approach set out in this report.

As highlighted in earlier financial performance reports, the Corporate Investment Plan would continue to play an important role in supporting the response to the financial challenges ahead. Given the scale of the on-going financial challenge faced by the Council the Corporate Investment Plan remained under review in parallel with the work highlighted above, but it would be presented to Cabinet later once the Council's underlying financial position had become clearer before further investment opportunities could be considered.

Notwithstanding the above, a number of mostly unavoidable items had been identified via the Corporate Investment Plan process, which were included within Appendix 1A, some of which related to both 2022/23 and 2023/24.

As set out within Section 3 and Appendix 3A, the on-going savings required to deliver financial sustainability going forward totalled £1.150m in 2024/25 rising to £4.250m in 2025/26 before falling back to the underlying longer-term target of £0.450m in 2026/27. The scale of the savings was significant and would present a major challenge for the Council.

In order to set out the latest financial position for the Council; to respond to emerging issues in 2022/23; and to develop the budget and long term forecast from 2023/24:-

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

RESOLVED that Cabinet –

- (a) notes the Council's in-year financial position at the end of September 2022 along with the updated financial forecast for 2023/24 and beyond;
- (b) approves the proposed adjustments to the 2022/23 budget, as set out in Appendix 1A and agrees that the budget adjustments for 2023/24 as set out within the same appendix be included as part of developing the forecast and detailed estimates for further consideration by Cabinet at its December 2022 meeting;
- (c) requests the Resources and Service Overview and Scrutiny Committee to comment on the latest financial position of the Council set out in this report; and
- (d) in respect of the Council's Treasury Management Practices, the aggregate amount of money that can be placed overnight with the Council's bankers be increased temporarily from £1.000m to £1.500m over the Christmas break.

73. **CABINET MEMBERS' ITEMS - JOINT REPORT OF THE HOUSING PORTFOLIO HOLDER AND THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER - A.6 - THE LOCAL COUNCIL TAX SUPPORT SCHEME, DISCRETIONARY COUNCIL TAX EXEMPTIONS / DISCOUNTS / PREMIUMS FOR 2023/24 AND ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT 2023/24**

Cabinet considered a joint report of the Housing Portfolio Holder and the Corporate Finance & Governance Portfolio Holder (A.6), which enabled it to consider for onward recommendation to Full Council the following:

- Local Council Tax Support Scheme (LCTS) 2023/24 (including associated exceptional hardship policy);
- Discretionary Council Tax Exemptions, Discounts and Premiums for 2023/24; and
- Annual MRP Policy Statement for 2023/24.

It was reported that given the impact on residents from welfare reforms, including universal credit along with the on-going impact from COVID19 / cost of living challenges, it was proposed to continue with the principle of providing financial stability wherever possible to Tending claimants. It was therefore proposed to keep the 2023/24 LCTS scheme the same as for 2022/23, which provided for a maximum discount of 80% for working age claimants.

Cabinet was informed that the associated exceptional hardship policy had also been subject to annual review and it was not proposed to make any changes from the scheme operating in 2022/23 and so would remain available to support eligible claimants. Additional financial support remained available to claimants via this scheme, which was supported by associated COVID 19 grant funding from the Government.

In respect of discretionary council tax discounts, exemptions and premiums (including discounts for young people leaving care), it was also not proposed to make any changes for 2023/24, with the same levels applying as in 2022/23.

Members were further informed that the Annual Minimum Revenue Provision Policy Statement had also been reviewed for 2023/24 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 22 November 2022, 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 late in the budget cycle.

Given the recommendation to continue with the existing LCTS scheme, it was not proposed to formally refer it for scrutiny to the Resources and Services Overview and Scrutiny Committee, but it would be considered by Full Council on 22 November 2022. To enable the implementation of an LCTS Scheme in 2023/24 along with the required council tax discounts, exemptions and premiums and an MRP Policy Statement:-

It was moved by Councillor P B Honeywood, seconded by Councillor Bray and:-

RESOLVED that Cabinet -

-
- a) agrees that the LCTS scheme for 2023/24 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 2023;
- b) agrees the Council Tax Exceptional Hardship Policy as set out in Appendix B;
- c) agrees the discretionary Council Tax exemptions, discounts and premiums for 2023/24 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 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 2023; and
- d) recommends to Council that the Annual Minimum Revenue Provision (MRP) Policy Statement for 2023/24, as set out in Appendix F, be approved.

74. MANAGEMENT TEAM ITEMS - REPORT OF THE MONITORING OFFICER - A.7 - LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN FINDINGS

Cabinet was aware that the Constitution (Article 12.03(a)) required the Monitoring Officer to report to Cabinet (or to Council for non-executive functions) if any decision or omission had given rise to maladministration. This report concerned omissions that the Local Government and Social Ombudsman ('the Ombudsman') had determined were maladministration. There were two separate cases. Both related to applications for housing by the Council (with one also concerning Council Tax recovery). Both households had been in private rented accommodation at the time.

Case 1

In the first case, the Ombudsman had determined the complaint on 1 July 2022. The investigation had identified that the Council had adjusted the effective date of the application for housing from September 2018 to April 2019 and had not notified the applicant of the adjustment. There had also been a delay of five months in notifying the applicant of a request for additional medical information and an occupational therapist assessment of the applicant's accommodation at the time. The medical panel had not considered the evidence of the applicant until June 2021. Whilst the pandemic had contributed to some of the delay, in referencing the case to the medical panel, it was not the only factor. The assessment of the medical panel had been backdated to April

2019. Prior to submitting the complaint to the Ombudsman, the Council had considered these circumstances. The Council had, as part of its processes, apologised and offered the complainant £200 to recognise the time and trouble they had been put to in making the complaint and for any distress it had caused. The Ombudsman considered that this offer had remedied the injustice caused.

The Ombudsman had not found that the delays incurred in this case had affected the applicant's opportunity to be rehoused by the Council.

It was reported that, since the period to which the complaint related, the Council had introduced a new digital self-service system to manage applications to the housing register, which was relieving the pressure on its housing team. It had also restructured its housing team to provide a more effective service. In a further measure, it had reviewed the process for handling medical assessments and had carried out further work to ensure medical assessments were timely and outcomes communicated to applicants.

Case 2

In the second case, determined on 1 September 2022, the Ombudsman had considered that the medical circumstances associated with an application for housing should have been reviewed in response to a representation received. The representations had been made in June 2019. Whilst the case had not been subject to a full review, with a call for fresh evidence made, the existing position had been re-examined and an offer of support to the complainant had been made. The Ombudsman had been of the view that the Council knew, or could reasonably conclude, that the needs of the household had increased since the last set of medical assessments had taken place. On that basis, a full review and call for fresh assessments should have been made. In 2017, the Council had made an offer of accommodation to the complainant and this had been declined following advice received by the complainant from the County Council's Occupational Therapists. The medical needs had indicated that a single storey property was required.

The Ombudsman did not find that the review of the case in June 2019 would have affected the complainant's opportunity to be rehoused by the Council. There were also other elements of the complaint around housing that the Ombudsman had not upheld.

In addition to the housing application matters referred to above, the complainant had, between 2018/19 and 2021/22, accrued arrears in Council Tax of around £635 including costs. Recovery agents had been engaged when the complainant had not responded to bills, reminders and summonses from the Council directly. In February 2019, an enforcement agent had noted that the complainant might be potentially vulnerable on grounds of mental health illness. In April 2019, a further contact with recovery agents had recorded that the complainant was "not in a good place" and feeling suicidal. Those interactions should have meant that the case was referred back to the Council. However, it was not and recovery steps had continued. It had then been returned to the Council in 2019 (and at that stage had included council tax arrears for 2019/20 as well). The Ombudsman had considered that the delay in referring the case from recovery agents back to the Council would have caused distress to the complainant.

Prior to submitting the complaint to the Ombudsman, the Council had considered the circumstances. The Council had, as part of its processes, written off a significant part of the complainant's council tax debt.

Since the Ombudsman's investigation, and in accordance with the agreed recommendations, the Council had apologised to the complainant and had made payments totalling £500 for the identified failings across housing and council tax recovery. Debt advice had also been offered. A briefing for housing staff on issues identified in this case had also been programmed.

Under powers delegated to the Chief Executive, decisions authorising the payments outlined in this report had been made and published separately. Those decisions had followed consultation with the Portfolio Holder for Housing

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

RESOLVED that Cabinet notes the report.

The Meeting was declared closed at 11.44 am

Chairman

CABINET

16 DECEMBER 2022

REFERENCE FROM COUNCIL

A.1 PETITION: GREEN SPACE DEVELOPMENT AND SALE – HOLLAND HAVEN

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To formally report the receipt of a petition submitted in relation to the potential sale or development of the green spaces by The Gap and at Haven Avenue/The Esplanade in Holland-on-Sea.

EXECUTIVE SUMMARY

An e-petition submitted by Sharon Tyler, as lead petitioner, was received on 8 October 2022. The petition was signed by 171 persons and stated:-

“We the undersigned petition the Council to not sell or develop the green spaces by The Gap and at Haven Avenue/The Esplanade in Holland-on-Sea.”

Asset management is an executive function and therefore the Cabinet is the appropriate body to consider this matter.

In accordance with the Council’s adopted Scheme for Dealing with Petitions the receipt of this Petition was reported, for Members’ information, to the meeting of the Full Council held on 22 November 2022. This matter has now been investigated and a report prepared and presented to the Cabinet on the basis that the Petition contained between 30 and 249 signatures.

Having discussed the petition it will be for Cabinet to decide what action, if any, will be taken.

RECOMMENDATION(S)

That, having duly considered the Petition together with the information provided in this report, the Cabinet decides what action, if any, it wishes to take.

REASON(S) FOR THE RECOMMENDATION(S)

To comply with the adopted scheme for dealing with petitions, as set out in the Council’s Constitution.

ALTERNATIVE OPTIONS CONSIDERED

There are several courses of action available to the Cabinet once the petition has been considered, including:

- *No action (with reasons as to why no action is proposed)*
- *Taking the action requested in the petition*
- *Taking an alternative or amended course of action to that requested in the petition (with reasons as to why such action is being taken)*
- *Undertaking research into the matters raised (this could include referring the matter to the relevant Portfolio Holder, or officer of the Council) and holding a meeting with the petitioners.*
- *Referring the petition to a Committee or an external person/body (such as the County Council or Government body or Public Services or the Ombudsman or Member(s) of Parliament)*
- *Holding a public meeting*
- *Holding an inquiry*
- *Providing a written response to the lead petitioner setting out the Council's views on the request in the petition*
- *Deferring consideration of the petition to a future Cabinet meeting*
- *Calling for a referendum (if permitted under legislation and subject to costs)*

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

In respect of the Corporate Plan 2020/24 Priority Themes the Committee's decision will contribute to:

- Strong Finances and Governance (and specifically using assets to support priorities).

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Asset Management is an executive function that is delegated by the Leader of the Council to the Cabinet collectively and, individually, to the Corporate Finance & Governance Portfolio Holder (depending on the nature of the decision required) in schedule 3 of part 3 of the Council's Constitution. The overall function of the Council's Executive is the discharge, in accordance with the Council's policy framework all functions of the Council (including "local choice functions") except those functions which cannot by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and other legislation, be the responsibility of the Executive.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Not applicable.

USE OF RESOURCES AND VALUE FOR MONEY

External Audit expect the following matters to be demonstrated in the Council's decision making:

- A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;*
- B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and*
- C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.*

As such, set out in this section the relevant facts for the proposal set out in this report.

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Not Applicable in this instance.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Nothing in addition to those matters already set out in the report.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Not Applicable in this instance.

MILESTONES AND DELIVERY

Not Applicable in this instance.

ASSOCIATED RISKS AND MITIGATION

Not Applicable in this instance.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The Council's adopted Scheme for Dealing with Petitions states, inter alia:-

- Receipt of a petition will be formally acknowledged to the lead petitioner in writing or by email as appropriate, within five working days of its receipt.
- The appropriate Ward Member(s) will be informed of receipt of a petition and when and how the petition will be considered.

- When a petition is being considered by Cabinet or Council/Committee...the lead petitioner will be invited to address the Cabinet or Council/Committee, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead petitioner, present the petition to Cabinet or Council/Committee on behalf of the relevant petitioners.
- The lead petitioner will be informed, in writing, of the Cabinet or Council's decision and this information will also be published on the Council's website via the Minutes of the relevant meeting at which the petition was dealt with. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and will also be given the opportunity to attend and address that meeting and if appropriate, answer any questions posed at the meeting.

EQUALITIES

In line with the Public Sector Equality Duty, public bodies such as the Council must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex, sexual orientation.

Not Applicable in this instance.

SOCIAL VALUE CONSIDERATIONS

There are no social value considerations relevant to this report having regard to the Public Services (Social Value) Act 2012.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

There is no impact on the Council's aim for its activities to be carbon neutral by 2030 including the actions, policies and milestones in its Climate Change Action Plan.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

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

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	None
Health Inequalities	None
Area or Ward affected	ST BARTHOLOMEWS Ward

PART 3 – SUPPORTING INFORMATION

ASSISTANT DIRECTOR (BUILDING & PUBLIC REALM)'S ASSESSMENT AND ADVICE

Following a motion put to the full Council in November 2020 by Councillor Placey the Cabinet requested a review of Council owned assets that could be used for the construction of new Council homes or used or released in return for capital receipts in order to support Council priorities.

As part of that exercise sites in Holland-on-Sea were identified for further consideration along with a number of other sites throughout the District. A total of 69 sites were identified, with three already pending action after earlier decisions.

A report for Cabinet consideration was prepared identifying the sites and inviting determination of in respect of which of them to commence the property dealing procedure. Three previously identified sites were identified for priority disposal action, two of the then identified sites were identified for action.

On 15 July 2022 Cabinet agreed the identified priority actions and decided to progress with the property dealing procedure in relation to all of the identified sites.

Officers have begun to progress the identified priority actions, as resources permit, but no detailed assessment of any of the other sites has yet been undertaken.

On 04 November 2022 Cabinet considered a report outlining the Council's financial outlook including a number of housing and property investment requirements that could not be funded.

It is likely that looking forward it will be increasingly necessary to practice asset management in order to deliver property and other obligations and aspirations.

Section 123 of the Local Government Act 1972 provides that any proposal for disposal of open space must be advertised in the local press and representations taken into account. Any planning application will necessitate statutory and neighbour consultation and due consideration to any responses. Both of these would happen at a later stage in the property dealing process. Cabinet may wish to note the petition, thank the petitioner and request that these views and others are taken into account as the property dealing procedure unfolds, subject to available resources.

Portfolio Holder's Comment:

"The sites at Holland on Sea have been identified as part of a process to review potential development or other options throughout the District. They should not be considered in isolation or outside of that process. No decision has yet been taken to build on or dispose of any land. This process was begun following questions raised at the full Council and has consumed considerable time and effort to get to this stage. Given the Council's financial position and aspirations for housing and public space improvement the Authority must look towards careful use and rationalisation of its properties in order to reduce costs, avoid clinging to unproductive space and facilitate investment in services and facilities."

BACKGROUND

An e-petition submitted by Sharon Tyler, as lead petitioner, was received on 8 October 2022.

The petition was signed by 171 persons and stated:-

“We the undersigned petition the Council to not sell or develop the green spaces by The Gap and at Haven Avenue/The Esplanade in Holland-on-Sea.”

The receipt of this Petition was reported, for Members’ information, to the meeting of the Full Council held on 22 November 2022.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

Cabinet Meeting on 15 July 2022 - Minute 40 - Cabinet Members’ Items – Report of the Corporate Finance & Governance Portfolio Holder – A.5 – Initiation of the Property Dealing Procedure in order to explore the Development Potential of various areas of Council Land

“RESOLVED that Cabinet -

- (a) *agrees to initiate the Property Dealing Procedure in respect of each of the areas identified in Appendix A to the Portfolio Holder’s report;*
- (b) *agrees that priority action be taken in relation to bringing forward proposals for further decision in relation to the potential development of the sites at Fernlea Road, Harwich and Seaview Close, Little Oakley, as contained in the appendix and subject to the Council’s Corporate Priority actions;*
- (c) *determines a prioritised list of the other sites, having regard to:*
 - i) the likely ease or otherwise of completing disposal actions with limited resources;*
 - ii) the identified need for social housing provision in the area;*
 - iii) the number of potential dwellings identified;*
 - iv) the potential level of capital contribution to other priorities;*

all to be subject to further decision in relation to the allocation of resources required; and
- (d) *requests that Officers bring forward processes and ultimately reports for further decision in respect of the freehold disposal of sites at Crome Road Clacton-on-Sea, Dover Road, Brightlingsea and Burrows Close, Clacton-on-Sea.”*

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

E-Petition to the Council submitted by the Lead Petitioner (Ms. Sharon Tyler).

Report of the Corporate Finance & Governance Portfolio Holder (A.5) – Initiation of the Property Dealing Procedure in order to explore the Development Potential of various areas of Council Land – submitted to Cabinet on 15 July 2022.

Published Minutes of the Cabinet meeting held on 15 July 2022.

APPENDICES

None	
REPORT CONTACT OFFICER(S)	
Name	Ian Ford
Job Title	Committee Services Manager
Email/Telephone	iford@tendingdc.gov.uk (01255) 686584

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CABINET

16 DECEMBER 2022

REPORT OF THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER

A.2 ANNUAL REVIEW OF THE COUNCIL'S CONSTITUTION

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report asks Cabinet to approve the recommended changes to the Constitution for referral onto Full Council following a review undertaken by the Portfolio Holder for Corporate Finance and Governance through a Working Party constituted for this purpose.

The main proposals cover a number of miscellaneous amendments to the Council Procedure Rules, Articles of the Constitution, Overview and Scrutiny Procedure Rules, the Property Dealing Procedure, the Procurement Procedure Rules, the Financial Procedure Rules and Delegated Powers in order to ensure the Council's Constitution remains effective, efficient and consistent at an operational level. The key changes to each of these documents are highlighted within the body of this Report.

EXECUTIVE SUMMARY

The Review of the Constitution Portfolio Holder Working Party (CRWP)'s membership included the Portfolio Holder and Councillors Allen, Barry, Coley, I J Henderson, M E Stephenson, Talbot, Wiggins and Winfield (with Councillors Baker, Fowler and Placey as designated substitutes). The CRWP met on 24 October, 14 November and 21 November 2022.

A summary of the proposed changes compared to the existing Parts of the Constitution is provided under each heading in the background section of this report and in each case, the content has been revised to provide greater clarity, ensure effectiveness and efficient up to date working practices for both Members and Officers and also to ensure it is in accordance with legislation, where necessary.

RECOMMENDATION

1. That Cabinet RECOMMENDS TO COUNCIL that:

- (a) the Council's Constitution be amended to reflect the proposed changes as set out in Appendices A to D and F to N attached hereto this report;**
- (b) Council notes and endorses the Monitoring Officer's firmly reiterated advice that Members using the "Approval of the previous Minutes" item on agendas as a way of raising matters from that previous meeting, whether loosely connected or not, is not acceptable as such actions did not comply with the need to give the requisite public notice of matters that would be discussed at a committee etc. meeting i.e. it breached local government law;**
- (c) Council further notes and endorses the proposed change to Article 7.08 (Cabinet Procedure Rule 1.5); and**

(d) Council additionally notes that:-

- (i) the Centre for Governance and Scrutiny, Lawyers in Local Government and the Association of Democratic Services Officers are proposing to issue guidance in the area of “call-ins” of Executive decisions and so it is likely that this Council will need to look further at this in 2023 (and particularly its implications for Overview and Scrutiny Procedure Rules 17 and 18) once that guidance is issued;**
- (ii) the practice guides prepared by the Head of Democratic Services & Elections to assist members of Overview and Scrutiny Committees and support officers to develop appropriate approaches to individual enquiries would be reviewed in Autumn 2023;**
- (iii) the Council’s Procurement Strategy and the Procurement Procedure Rules will need to be reviewed once the Procurement Bill (HL) currently at Report Stage in the House of Lords is enacted and come into effect; and**
- (iv) the review of the Council’s procedure for Planning Committee Site Visits as set out in the Members’ Planning Code and Protocol (in Part 6 of the Constitution) is still ongoing although at this current time no constitutional changes have been highlighted as being necessary.**

2. That Cabinet resolves that Cabinet Procedure Rule 1.5 be amended to reflect the proposed change as set out in Appendix E attached hereto this report.

REASON(S) FOR THE RECOMMENDATION(S)

Having considered the outcome of the annual review of the Constitution carried out by the Review of the Constitution Portfolio Holder Working Party and the Portfolio Holder’s recommendations arising therefrom, and in order to enable those recommendations to be submitted to the Full Council for approval and adoption.

ALTERNATIVE OPTIONS CONSIDERED

- (1) Not to approve some or all of the Portfolio Holder’s recommendations;
- (2) To amend or substitute some or all of the Portfolio Holder’s recommendations.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Agreeing the proposed changes will ensure that the Council demonstrates good governance and operates efficiently in pursuit of its priorities.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The outcome of the annual review of the Constitution by the Review of the Constitution Portfolio Holder Working Party is reported elsewhere in this report. During the review members of the working Party consulted, as appropriate, the members of their respective political groups.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation	YES/NO	If Yes, indicate which by which criteria it is	<input type="checkbox"/> Significant effect on two or more wards
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a Key Decision (see the criteria stated here)	a Key Decision	<input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
	And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	Not Applicable in this instance

X The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:

In accordance with Section 37 of the Local Government Act 2000, as amended, a local authority operating executive arrangements must prepare and keep up to date a document which contains a copy of the authority's standing orders for the time being and such other information as the authority considers appropriate.

Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, sets out functions which must not be the responsibility of the Executive and therefore rests with Council or its committees. The power to make amendments to the standing orders and the Constitution rests with full Council.

Article 15 of the Council's Constitution provides that changes to the Constitution are approved by Full Council after receiving a recommendation from Cabinet following consideration of a proposal from the Monitoring Officer and a recommendation via the Portfolio Holder with responsibility for corporate governance. Article 15 also provides authority to the Monitoring Officer to make minor changes to the Constitution arising from changes to the organisational structure of the Council.

Article 12 of the Constitution provides that the Council's Monitoring Officer will ensure the Constitution is up to date. This function takes into account legislative requirements and best practice.

Section 19 of the Police and Justice Act 2006 states:

(1) Every local authority shall ensure that it has a committee (the "crime and disorder committee") with power—

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
- (b) to make reports or recommendations to the local authority with respect to the discharge of those functions.

...

(3) A local authority must—

- (a) ensure that its crime and disorder committee has power (whether by virtue of [\[section 9F\(2\) or 21\(2\) of the Local Government Act 2000\]](#)² or regulations made under [\[section 9JA\(2\) or 32\(3\)\]](#)³ of that Act or otherwise) to make a report or recommendations to the local authority with respect to any matter which is a local crime and disorder matter in relation to a member of the authority, and

- (b) make arrangements which enable any member of the authority who is not a member of the crime and disorder committee to refer any local crime and disorder matter to the committee.

Regulation 4 of the Crime and Disorder (Overview and Scrutiny) Regulations 2009/942 states:

“A crime and disorder committee shall meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions as the committee considers appropriate but no less than once in every twelve month period.”

FINANCE AND OTHER RESOURCE IMPLICATIONS

Risk

Providing clarity through clearer and consistent procedure rules contained within the Constitution prevents confusion and different interpretation and enhances the Council’s overall governance arrangements.

X **The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:**

The Section 151 Officer provided feedback on some of the proposed amendments through the review.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	N/A
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	N/A
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	N/A

MILESTONES AND DELIVERY

Annual review of the Constitution carried out by the Review of the Constitution Portfolio Holder Working Party – October and November 2022.

Submission of Corporate Finance & Governance Portfolio Holder’s recommendations to formal Cabinet meeting – 16 December 2022.

Submission of Cabinet’s recommendations to Full Council for approval and adoption – 24 January 2023.

Implementation of approved changes to the Constitution – 25 January 2023.

ASSOCIATED RISKS AND MITIGATION

Not implementing the amendments to the Constitution will negatively impact the Council’s governance arrangements.

EQUALITY IMPLICATIONS	
The purpose of the Constitution is to:	
<ol style="list-style-type: none"> 1 Provide key elements of the Council's overall governance arrangements; 2 Enable decisions to be taken efficiently and effectively; 3 Create an effective means of holding decision-makers to public account; 4 Enable the Council to provide clear leadership to the community, working in partnership with the local community, businesses and other organisations for the long term well-being of the District; 5 Support the involvement of the local community in the process of local authority decision making; 6 Ensure that no one will review, or scrutinise, a decision in which they were directly involved; 7 Help Councillors represent their residents more effectively; 8 Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for their decisions; and 9 Provide the framework and structure in which cost effective quality services to the community are delivered. 	
SOCIAL VALUE CONSIDERATIONS	
None	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030	
The Council's previous decision in March 2022 to continue with the encouragement of Members to opt out of the default position of receiving printed copies of the summons of a meeting (with agendas and reports) before reverting to solely receiving summons via electronic notifications from May 2023 is consistent with the Council's policy of its operations becoming carbon neutral by 2030.	
OTHER RELEVANT CONSIDERATIONS OR 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	None
Health Inequalities	None
Area or Ward affected	None directly.

PART 3 – SUPPORTING INFORMATION

BACKGROUND
<p>The CRWP reviewed various areas of the Constitution and the following changes are recommended (note that references to Part numbers relate to the Constitution prior to any amendments now submitted):</p> <p>(a) <u>Council Procedure Rules – Section 1 (Full Council)(Part 4.1 to 4.24):</u></p> <p><u>Rule 8 – Quorum</u></p> <p>In order to provide clarity as to the actions the Chairman should take if, at the time that it is scheduled to start, the meeting is found to be inquorate. Currently, Rule 8 only sets out the action to be taken in the event that the meeting becomes inquorate after it has</p>

started.

Rule 11 – Questions by Members

Considered whether the text of a Question submitted pursuant to Rule 11 should be printed within the Council Book given that the question usually also contained a statement, and given that the Council had had a recent occurrence when it had been alleged that that accompanying statement had not been factually correct.

Rule to be amended so that only the text of the Question will be included within the full Council Agenda. None of the accompanying preamble or explanatory statements (if any) submitted by the Questioner will be so included (Rule 11.2). The minutes of the Council meeting will record the text of the question plus any preamble or supporting statement (if any) together with the response given thereto and that, if appropriate, a question of clarification and a response was asked and given, without detailing the content (Rule 11.7).

Rule 11.8 amended to clarify that the time limit of two minutes for asking the question includes the making of any preamble or statements in support of that question.

Rule 11.9 amended to clarify that once the Council meeting has commenced a Member may withdraw their question with the consent of the Chairman.

Rule 12 (Motions on Notice) and other consequential changes

In accordance with the decision of Full Council taken at its meeting held on 29 March 2022 (Minute 150 referred), the CRWP discussed the outcome of the fundamental review by Officers of the way in which Motions on Notice submitted in accordance with Council Procedure Rule (CPR) 12 were dealt with procedurally at meetings of the Full Council. The CRWP expressed their compliments to the drafting of a new procedure which was welcomed as being clearer and worked on the principle of a motion being debated at the Full Council meeting to which it was put, unless there were reasons not to, following Officers' advice.

Current Rule 12 to be deleted and replaced in its entirety by the new proposed Rule 12.

Consequential "knock-on" amendments to Rule 16.5 (Amendments to Motions) and Rule 36 (Attendance at Meetings). Rule 36 amendments to clarify, inter alia, the rights of the Mover of the Motion under Rule 12 should their motion be referred by full Council to a Committee.

Rule 19 (Voting)

Amended to include, inter alia, a clarifying paragraph (new Rule 19.1) to make it clear that a Member should not vote if they have not been present for the whole of the consideration of that item.

Consequential "knock-on" amendments to Rule 25.1 (Suspension of Council Procedure Rules) and Rule 32 (Application to Committees and Sub-Committees).

Rule 20 (Minutes)

The CRWP considered at the Monitoring Officer's request the content of the Minutes of Council, Committee or Sub-Committee meetings. The Monitoring Officer felt that this was

especially relevant for the Planning Committee, particularly as the Courts, within their judgements had looked at the content of the minutes, as a record of the discussion within the meeting in order to give an indication of what had been taken into account before the decision had been made, whilst accepting that not everything could be included i.e. the Minutes could not be a verbatim record of the proceedings.

The Monitoring Officer also raised the issue of the “Approval of the previous Minutes” item on agendas being used as a way of raising matters from that previous meeting, whether loosely connected or not. The Monitoring Officer had reiterated firmly to Members that this did not comply with the need to give the requisite public notice of matters that would be discussed at a committee etc. meeting i.e. it breached local government law.

Rule 20.2 (Form of Minutes) to be amended to clarify that the Minutes of committee and sub-committee meetings will include only summarised details of the issues covered in the debate when that body is considering applications, hearings and appeals or receiving evidence. In addition, when a Member has submitted their apologies for absence, and if so requested by the Member concerned, the Minutes will record the reason for their absence.

Rule 32 (Application to Committees and Sub-Committees)

To add, inter alia, a reference to Rule 15 (Motions or Questions affecting persons employed by the Council) within Rule 32 in order to correct an omission given that the text of Rule 15 specifically refers to meetings of a committee or sub-committee. A consequential amendment be made to Rule 15 itself in order to remove some superfluous words.

*The proposed changes to the Council Procedure Rules (Section 1) are shown in **RED** in Appendix A.*

(b) Council Procedure Rules – Section 2 (Committees)(Part 4.25 to 4.31):

Rule 34 (Appointment of Substitute Members of Committees, Sub-Committees and Working Parties)

The Working Party considered at the Monitoring Officer’s request whether a substitution should apply for the whole meeting of a committee or sub-committee or whether the Member being substituted should have the option of appointing a substitute for a particular Agenda item or items only.

Rule 34.2 (Eligibility and Effect) to be amended to make it clear that a substitution applies for the whole meeting of a committee or sub-committee.

Rule 36 – Attendance at Meetings

To include a formal right for the Portfolio Holder with the responsibility for Planning to attend and to speak, on behalf of the Cabinet, on strategic planning issues that are to be considered by the Planning Policy & Local Plan Committee.

To clarify that where a Member has submitted a Motion to Council under the proposed new Rule 12.2 and that motion has been referred to a Committee under new Rule 12.6 or new Rule 12.7, that Member will have the right to attend the relevant meeting of that Committee and present their Motion, as appropriately permitted under new Rule 12.10.

The proposed changes to Section 2 of the Council Procedure Rules are shown in **RED** in **Appendix B**.

(c) Article 4.01(a) – Policy Framework – Review of Local Choice inclusions

The Working Party noted that the Monitoring Officer (MO) will be exercising her delegated powers (under Article 15.02(b) – Changes to the Constitution) to delete the Sustainable Community Strategy from the Policy Framework as the Council is no longer required by statute to produce one (Deregulation Act 2015 – Section 100(1)).

The Working Party also reviewed the list of “local choice” plans and strategies included within the Policy Framework and decided to recommend that the reference to the IT Strategy and Information Governance should be deleted and a reference to the Social Value Policy should be added.

Proposed changes to Article 4 are shown in **RED** in **Appendix C**.

(d) Article 6 – Overview and Scrutiny Function (Part 2): (Part 2.13 to 2.15)

Article 6.02(i) (Community Leadership Overview & Scrutiny Committee: Terms of Reference)

In order to make it clear and obvious that the Community Leadership Overview & Scrutiny Committee is the Council’s designated “crime and disorder committee” for the purposes of fulfilling the requirements of the Police and Justice Act 2006.

The proposed changes to Article 6 are shown in **RED** in **Appendix D**.

(e) Article 7.08 (Cabinet Procedure Rule 1.5)

In order to make clear that where a Member has submitted a Motion to Council under the proposed new Council Procedure Rule 12.2 and that motion has been referred to the Cabinet under new Rule 12.6 or new Rule 12.7, that Member will have the right to attend the relevant meeting of the Cabinet and present their Motion, as appropriately permitted under new Rule 12.10.

Proposed changes to Article 7 are shown in **RED** in **Appendix E**.

(f) Article 13.03 (Key Decisions)

In order to incorporate a regular review mechanism for the definition of a Key Decision and to clarify the circumstances in which an executive decision would not necessarily have to be treated as a Key Decision.

Proposed changes to Article 13.03 are shown in **RED** in **Appendix F**.

(g) Licensing and Registration Committee: Terms of Reference and Delegated Powers

The Working Party considered a recommendation made by the Licensing and Registration Committee, at its meeting held on 31 August 2022, that the delegated powers under that Committee be amended insofar as, in future, any requests to amend the Hackney Carriage Fare Scale will be determined by Officers, in consultation with the Chairman of that Committee and that the full Committee will become involved only in the

event that public representations are received in response to the statutory Public Notice.

The Working Party also considered and endorsed the outcome of the wider review of the terms of reference and delegated powers of the Licensing and Registration Committee and its Sub-Committees carried out by the Head of Democratic Services & Elections and the Licensing Manager which put forward a number of other changes.

*The proposed changes to the terms of reference and delegated powers of the Licensing and Registration Committee are shown in **RED** in **Appendix G**.*

(h) Planning Committee: Terms of Reference and Delegated Powers

The Working Party reviewed the terms of reference and delegated powers of the Planning Committee and put forward a change in relation to increasing the amount of time available to a Tendring District Councillor to make a request in accordance with the Members' Referral Scheme that a planning application should be referred to the Planning Committee.

*The proposed change to the terms of reference and delegated powers of the Planning Committee is shown in **RED** in **Appendix H**.*

(i) Overview and Scrutiny Procedure Rules (Part 5)

Rule 8 (Agenda Items)

To include a provision to enable any member of the authority who is not a member of the crime and disorder committee to refer any local crime and disorder matter to that committee (i.e. the Community Leadership Overview & Scrutiny Committee).

Rule 10 (Procedure at Committee Meetings)

In order to clarify and confirm that Council Procedure Rule 38 (Questions on Notice at Committees and Sub-Committees) does apply to meetings of the Council's overview and scrutiny committees.

Other proposed changes to Rules 1, 4, 6, 7, 11, 12, 13, 15 and 16 reflect the outcome of the review of the Overview and Scrutiny Procedure Rules undertaken by the Council's lead officer for the overview and scrutiny function, Keith Simmons (Head of Democratic Services & Elections) with a view to amending them, where felt appropriate, in order to reflect the recent operational experience of conducting task and finish reviews through working groups and the holding of informal meetings of the overview and scrutiny committees.

The Working Party also noted that:-

- (1) the Centre for Governance and Scrutiny, Lawyers in Local Government and the Association of Democratic Services Officers are proposing guidance in the area of "call-ins" of Executive decisions and so it was likely that the Council would need to look further at this in 2023 (and particularly its implications for Overview and Scrutiny Procedure Rules 17 and 18) once the guidance was issued; and
- (2) the practice guides prepared by the Head of Democratic Services & Elections to assist members of Overview and Scrutiny Committees and support officers to develop appropriate approaches to individual enquiries would be reviewed in Autumn 2023.

*The proposed changes to the Overview & Scrutiny Procedure Rules are shown in **RED** in **Appendix I**.*

(j) Financial Procedure Rules (Part 5): (Part 5.32 to 5.62)

In order to clarify that an Officer Decision will be required in relation to virements in certain circumstances.

*The proposed change to the Financial Procedure Rules is shown in **RED** in **Appendix J**.*

(k) Property Dealing Procedure (Part 5): (Part 5.63 to 5.65)

In order to, inter alia, amend the Property Dealing Procedure (including the table in Appendix A (Levels of Decision Making)) having reviewed the levels of decision making for acquisitions and/or disposal of property as set out in the Property Dealing Procedure (PDP).

*Proposed changes to the Property Dealing Procedure are shown in **RED** in **Appendix K**.*

(l) Procurement Procedure Rules (Part 5): (Part 5.66 to 5.80)

In order to, inter alia, update Officer responsibilities and references to EU rules following a review of the Rules by the Assistant Director (Finance & IT) and the Assistant Director (Governance).

The Working Party also noted that the Council's Procurement Strategy and the Procurement Procedure Rules would need to be reviewed once the Procurement Bill (HL) currently at Report Stage in the House of Lords was enacted and came into effect.

*The proposed changes to the Procurement Procedure Rules are shown in **RED** in **Appendix L**.*

(m) Scheme for Dealing with Petitions (Part 5): (Part 5.86 to 5.91)

To make a minor amendment to Section 1 (How to Submit a Petition to the Council) to reflect the fact the E-petitions are required to be submitted to the Council via the petitions function on the Council's website and not via email. The opportunity has also been taken to clarify the formal status, or lack of it, of e-petitions throughout the process, together with other minor amendments arising from recent operational experience.

*The proposed changes to the Scheme for Dealing with Petitions are shown in **RED** in **Appendix M**.*

(n) Members' Referral Scheme for Planning Applications (Part 6): (Part 6.54 to 6.56)

To make a change in relation to increasing the amount of time available to a Tending District Councillor to make a request in accordance with the Members' Referral Scheme that a planning application should be referred to the Planning Committee and to make it clear that reasons for making such a request should be included.

*The proposed changes to the Members' Referral Scheme for Planning Applications are shown in **RED** in **Appendix N**.*

OTHER MATTERS CONSIDERED:

(o) Planning Committee: Pooling of Substitute Members

At the meeting of the Standards Committee held on 6 April 2022 (Minute 32 refers) and:-

“In response to a request made by Councillor Alexander, the Monitoring Officer (Lisa Hastings) undertook to refer the issue of whether a member of the Planning Committee should be enabled to appoint their substitute from a different political group to their own to the Review of the Constitution Portfolio Holder Working Party for its consideration.”

The CRWP considered that issue at its meeting held on 14 November 2022 (Note 14 refers). The CRWP recalled that the exact same request had been made by Councillor Alexander at the Standards Committee meeting held on 5 February 2020 (Minute 25 refers) which had been referred to the CRWP and considered by it at its meeting held on 25 February 2020 (Note 25 refers). The CRWP had decided, inter alia, on that occasion not to put forward as a recommendation the use of ‘pooled substitutes’ at Planning Committee.

At its meeting held on 14 November 2022 the CRWP reiterated its previous decision i.e. not to put forward as a recommendation the use of ‘pooled substitutes’ at Planning Committee.

(p) Review of the Procedure for Committee Site Visits

Following a very difficult situation with members of the public at a site visit ahead of the meeting of the Planning Committee held on Thursday 22 September 2022 and at the request of the Monitoring Officer, the CRWP, at its meeting held on 14 November 2022, had an initial discussion on the procedure for committee site visits as set out in section 7 of the Members’ Planning Code and Protocol (February 2021).

At that particular site visit the local Parish Council had encouraged public attendance to lobby the Planning Committee members.

During that initial discussion by the CRWP the following matters had been raised:-

- (1) What was the purpose of a site visit?
- (2) Whether every planning application going before the Planning Committee did, in fact, merit a pre-meeting Member site visit;
- (3) What was the definition of “lobbying”?
- (4) Whether the attendance of parish councils and/or the public at Planning Committee site visits should be allowed to continue;
- (5) The role of the Chairman in leading the Planning Committee’s site visits and whether such site visits should instead be led by a senior Planning Officer; and
- (6) Whether the Officer(s) in attendance should keep a record of the interaction between the Committee members and the public etc. at the site visits.

The CRWP subsequently, at its meeting held on 21 November 2022, was informed that a

survey had been emailed to all Members of the Council to ascertain their views on this matter with a deadline for responses of 25 November 2022. In addition, Officers discussed the matter informally with members of the Planning Committee on 24 November 2022. It is intended that the results of the survey will be reported to the All Member Briefing in December. Any changes that are felt to be necessary in relation to the Site Visits Procedure and the wider Constitution will be considered, as appropriate, by the Planning Committee and the Review of the Constitution Portfolio Holder Working Party and thence, via Cabinet, by the Full Council.

PREVIOUS RELEVANT DECISIONS

Full Council, at its meeting held on 29 March 2022 (Minute 150 refers), decided, inter alia, that:

“the Review of the Constitution Portfolio Holder Working Party be requested to carry out a fundamental review during 2022 of the way in which Motions to Council, submitted in accordance with Council Procedure Rule 12, are dealt with procedurally and that the results of that review be submitted to Full Council, via the Cabinet, in due course.”

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Notes of the meetings of the Review of the Constitution Portfolio Holder Working Party held on 24 October, 14 November and 21 November 2022.

APPENDICES

A.2

APPENDIX A	Part 4	<u>Amended Council Procedure Rules – Section One</u>
APPENDIX B	Part 4	<u>Amended Council Procedure Rules – Section Two</u>
APPENDIX C	Part 2	Articles of the Constitution – Article 4 (Policy Framework)
APPENDIX D	Part 2	Articles of the Constitution – Article 6 (Overview & Scrutiny Function)
APPENDIX E	Part 2	Articles of the Constitution – Article 7 (Executive)
APPENDIX F	Part 2	Articles of the Constitution – Article 13 (Decision Making)
APPENDIX G	Part 3	Delegated Powers (Licensing and Registration Committee)
APPENDIX H	Part 3	Delegated Powers (Planning Committee)
APPENDIX I	Part 5	Overview and Scrutiny Procedure Rules - Amendments
APPENDIX J	Part 5	Financial Procedure Rules - Amendment
APPENDIX K	Part 5	Property Dealing Procedure – Amendments
APPENDIX L	Part 5	Procurement Procedure Rules – Amendments
APPENDIX M	Part 5	Scheme for Dealing with Petitions
APPENDIX N	Part 6	Members’ Referral Scheme for Planning Applications

REPORT CONTACT OFFICER(S)

Names

- (1) Ian Ford
- (2) Lisa Hastings
- (3) Keith Simmons

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COUNCIL PROCEDURE RULES

SECTION 1 – COUNCIL MEETINGS

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and Business

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

The annual meeting will:

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

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

1.2 Selection of Councillors on Committees

At the annual meeting, the Council will:

- (i) Appoint the Committees and Sub-Committees it considers appropriate for the municipal year;
- (ii) Decide the size and the terms of reference and delegated powers for any new Committees and Sub-Committees;
- (iii) Decide the allocation of seats for all Committees and Sub-Committees to political groups in accordance with the political balance rules; and
- (iv) Appoint Members to each Committee and Sub-Committee and the Chairman and Vice-Chairman of each Committee and Sub-Committee as appropriate.

2. BUDGET AND COUNCIL TAX SETTING

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

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

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- (vi) Approve and set the Council's Budget and Council Tax;
 - (vii) Deal with any business remaining from the last Council meeting; and
 - (viii) Consider any Urgent Matters for Debate

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

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

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

3. ORDINARY MEETING

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

- (i) To receive apologies for absence:
- (ii) To elect a person to preside if the Chairman and Vice Chairman are not present;
- (iii) To deal with any business required by Statute to be dealt with before any other business;
- (iv) To approve the minutes of the last meeting (or in the case of the first ordinary meeting of the municipal year, to approve the minutes of the Annual meeting and the preceding meeting);

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- (v) To receive any announcements from the Chairman and the Chief Executive and any statements from the Leader and Members of the Cabinet;
 - (vi) To deal with any Petitions;
 - (vii) In accordance with Rule 10, to receive questions from, and provide answers to the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
 - (viii) To receive a report from the Leader on any Cabinet decisions taken as a matter of urgency in accordance with Access to Information Procedure Rule 16.2, Budget and Policy Framework Procedure Rule 6(b) and Overview and Scrutiny Procedure Rule 18(i);
 - (ix) To deal with any business from the last Council meeting;
 - (x) To receive the minutes of Committees (with the exception of the Licensing and Registration and Planning Committees) and to receive questions and answers from Councillors on any of those items;
 - (xi) To receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
 - (xii) To consider motions (in the order in which notice has been received);
 - (xiii) To consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework, other reports from the Cabinet, reports of the Overview and Scrutiny Committees, or other Committees for debate and reports from Officers for consideration;
 - (xiv) To receive questions from Members in accordance with Rule 11.2; and
 - (xv) Urgent matters for Debate

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

With the exception of items (i) (ii) (iii) and (iv), the order of items may be varied at the discretion of the Chairman or by a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be put without discussion. At the last ordinary meeting of the Council in the municipal year, following item (v) the meeting will receive the annual State of Tending Statement from the Leader.

4. EXTRAORDINARY MEETINGS

4.1 Calling Extraordinary Meetings

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

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

4.2 Holding Extraordinary Meetings in the corresponding circumstances set out above

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

4.3 Order of Business

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

5. TIME AND PLACE OF MEETINGS

(Yellow)

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

Meetings will normally be held at 7.30 p.m. in the Princes Theatre, Town Hall, Clacton-on-Sea and the Council may, from time to time, vary the place, date or hour of a meeting or meetings. Where it is not practicable for the Council to meet to agree a variation, such variation shall be determined by the Chairman (or failing him the Vice-Chairman) of the Council.

In accordance with the approved Protocol for such matters, the Council will make audio and/or audio-visual live stream and recording of meetings of the Full Council, which will be made available on the Council's website for a period of at least one year from the date of the relevant meeting.

6. NOTICE OF AND SUMMONS TO MEETING

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

7. CHAIRING OF MEETINGS

The person presiding may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of Committees and Sub-Committees.

8. QUORUM

The quorum of a meeting will be one quarter of the whole number of Members, subject always to a minimum of three Members.

If, at the scheduled commencement time of the meeting, there is not a quorum present, the Chairman will be permitted to delay the start of proceedings for up to a maximum period of 15 minutes. This will be in order to allow time for Members, who may have been delayed for some reason, to arrive. If, at the end of that 15 minute period, the Chairman counts the number of Members present and again declares there is not a quorum present the Chairman will declare the meeting to be null and void and cancelled for administrative purposes. The business will stand to be considered at a new time and date to be fixed by the Chairman. If the Chairman does not fix such a date, the business will be considered at the next ordinary meeting.

During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. **The Chairman will decide at that point the duration of that adjournment. If it is not possible to resume the meeting on that date any** remaining business will be considered at a time and date to be fixed by the Chairman. **If he the Chairman** does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. DURATION OF MEETING

9.1 The business of ordinary meetings of the Council shall cease at 10.30 p.m. (or after a duration of three hours, whichever is the earliest) on the day on which the meeting commenced, or such earlier, or later, time as the Chairman shall consider appropriate. In the event that the Chairman wishes to extend the meeting beyond 10.30 p.m. (or beyond three hours) they will be expected to give an indication of the length of that extension and secure the consent of the Council in doing so.

9.2 When the business of a meeting is terminated in accordance with 9.1 above any remaining business shall stand adjourned until a date and time to be fixed by the Chairman.

9.3 Where 9.2 applies, given that the agenda and associated reports and papers for the original meeting have been published, the adjourned meeting can be called as soon as practicable and without necessary delay, having regard to the remaining business and venue availability. In the case of Committees and Sub-Committees, where Substitutes have been appointed the same Members should attend (the Substituted Members must not take their seats).

9.4 Notice of the adjourned meeting will be published on the Council's website, unless the adjourned meeting is held within 24 hours.

10. QUESTIONS BY THE PUBLIC

10.1 Scope of Questions and Time Allocated in the Meeting

Members of the public may ask questions of the relevant Members of the Cabinet or the Leader or Committee Chairmen on any matter in relation to which the Council has powers or duties or which affects the Tendring District. The time limit for the asking of each question is two minutes and for the reply, five minutes. 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.

Questions shall not be submitted to the Annual Meeting of the Council or to an Extraordinary Meeting of the Council or to the Budget and Council Tax setting meeting of the Council.

10.2 Order of Questions

Questions will be asked in the order in which notice of them was received, except that the Chairman may group together similar questions.

10.3 Notice of Questions

(Yellow)

A question may only be asked if notice has been given by delivering it in writing or by personal e-mail to the Committee Services Manager no later than midday 8 working days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

10.4 Number of Questions

At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation.

10.5 Reasons for Rejection of Questions

The Committee Services Manager and/or Monitoring Officer may reject a question if in their judgement it:

- (a) is not about a matter for which the local authority has a responsibility or which affects the District;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question already received to be put to the ordinary meeting of the Council in question;
- (d) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (e) requires the disclosure of confidential or exempt information; or
- (f) the question is about a matter that is subject to call in or ongoing legal proceedings.

10.6 Record of Questions

The Committee Services Manager will keep a copy of each question for six years after the meeting at which the question was put and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

10.7 Asking the Question at the Meeting

All questions will be set out in the agenda and the Chairman will invite the questioner to put the question to the Member named in the notice. There will be no further questions or debate. If the questioner is not present, the Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

10.8 Written Answers

Any question that cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member, to whom it was to be put, will be dealt with by a written answer, with a copy circulated to all Members.

10.9 Reference of Question to the Cabinet or a Committee

No discussion will take place on any question, but any Member may formally, without discussion, move that a matter raised by a question be referred to the Cabinet or the appropriate Committee. Once seconded, such a motion will be voted on without discussion.

10.10 Withdrawal of Question

A member of the public may withdraw their question by giving notice of their wish to do so to the Committee Services Manager prior to the commencement of the meeting at which their question is to be put.

11. QUESTIONS BY MEMBERS

11.1 On Statements made by the Leader or a Member of the Cabinet to the Council, Reports or References from the Cabinet or Minutes of Committees

A Member of the Council may ask the Leader or a Member of the Cabinet any question without notice about any statement made by the Leader or a Member of the Cabinet to the Council when that item is being received.

A Member of the Council may ask the Leader or a Member of the Cabinet or the Chairman of a Committee any question without notice upon a report or recommendation of the Cabinet or the minutes or reference from a Committee when that item is being received by the Council.

Supplementary Questions will not be permitted under this rule.

11.2 Scope of Questions on Notice at Full Council and Time Allocated in the Meeting

Subject to Rules 11.3, 11.4 and 11.5 a Member of the Council may ask:-

- the Chairman;
- a Member of the Cabinet; and
- the Chairman of any Committee;

a question on any matter, which is within their area of responsibilities as set out in Part 3 of the Constitution, in relation to which the Council has powers or duties or which affects the Tendring District.

~~Questions from Members will be set out in the agenda in the order in which they were received.~~

Only the text of the Questions will be included within the full Council Agenda and in the order in which the questions from Members were received. None of the accompanying

preamble or explanatory statements (if any) submitted by the Questioner(s) will be so included.

The time allocated for receiving and disposing of questions shall be a maximum 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.

Questions shall not be submitted to the Annual Meeting of the Council or to an Extraordinary Meeting of the Council or to the Budget and Council Tax setting meeting of the Council.

11.3 Notice of Questions

A Member may only ask a question under Rule 11.2 if either:

- (a) notice has been given by delivering it in writing (or by personal e-mail) to the Committee Services Manager no later than midday 8 (eight) working days before the day of the meeting; or
- (b) the question relates to urgent matters, he has the consent of the person to whom the question is to be put and the content of the question is given to the Committee Services Manager by noon on the day of the meeting.

11.4 Number of Questions

At any one meeting no Councillor may submit more than two questions.

11.5 Reasons for rejection of Questions

- (a) the question is not about a matter for which the local authority has responsibility or which affects the District;
- (b) The Monitoring Officer will reject a question if in their judgement it could be considered to be defamatory or offensive or requires the disclosure of confidential or exempt information (as defined in the Access to Information Procedure Rules);
- (c) the Monitoring Officer will reject a question if in their judgment it is substantially the same as a question already received to be put to the ordinary meeting of the Council in question;
- (d) The Monitoring Officer will reject a question if in their judgement it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (e) The Monitoring Officer will reject a question if in their judgement it is likely to lead to a breach of the Members' Code of Conductor; or
- (f) the question is about a matter that is subject to call in or ongoing legal proceedings.

11.6 Response

An answer may take the form of:

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

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

11.7 Recording of Questions and Responses and Questions of Clarification

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

The minutes of the meeting will record **the text of the question plus any preamble or supporting statement (if any) together with the response given thereto and that, if appropriate,** a question of clarification and a response was asked and given, without detailing the content.

11.8 Time Limits for Asking/Answering Questions

The time limit for asking each question **(including any preamble or statements in support)** is two minutes and the time limit for each reply is three minutes.

11.9 Withdrawal of Question

A Member may withdraw their question by giving notice of their wish to do so to the Committee Services Manager prior to the commencement of the meeting at which their question is to be put.

Once the meeting has commenced a Member may withdraw their question with the consent of the Chairman.

12. MOTIONS ON NOTICE

~~12.1~~ Scope

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

~~12.2 Notices of Motion~~

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

~~Manager will decide whether to accept the motion as a valid motion having had regard to the provisions of Rule 14.~~

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

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

~~12.3 Motion set out in Agenda~~

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

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

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

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

~~12.4 Consideration of Motions~~

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

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

~~The Leader of the Council or the relevant Portfolio Holder or the relevant Chairman of a Committee will then be permitted to respond and they will either agree with the motion being dealt with at the meeting or they will put forward reasons why it would be more appropriate for~~

~~the motion to stand referred to the appropriate body for further consideration. They will have a maximum of three minutes to do so.~~

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

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

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

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

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

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

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

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

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

12.5 Referral of Motions

~~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).~~

~~12.6 Referred Motions – Right of Mover to Attend Meeting~~

~~If a motion has, in accordance with the provisions of Rule 12.4, been formally referred to the Cabinet or relevant Committee(s), the mover (or some other Member on their behalf) shall attend the first practicable meeting of the Cabinet or relevant Committee(s) immediately following the Council meeting at which the motion was moved to answer any questions and/or points of clarification, if requested.~~

NEW WORDING FOR PROCEDURE RULE 12

12.1 Scope of the Motion

Any Motion to Council submitted in accordance with this Rule must be about a matter(s) for which the Council has a responsibility, or which affects the District of Tendring, or is about a matter(s) of regional, national or international importance which could be reasonably considered to affect the residents of the District and upon which a Member wishes the Council to undertake an action or to make its views and opinions publicly known.

12.2 Notice of the Motion

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

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

Except for a motion which can be moved without notice under Rule 13 (Motions without Notice), written and signed notice (or notice by personal e-mail) of the motion by the Member or Members submitting it, must be delivered to the Committee Services Manager

by no later than the initial deadline of midday ten working days before the day of the ordinary meeting of the Council. This initial deadline is to allow a period of time for Officers to consider the wording of the motion and to offer appropriate guidance, if necessary, and as detailed below. If submitted by email the motion should be sent to democraticservices@tendringdc.gov.uk.

The Monitoring Officer and/or the Committee Services Manager (or in their absence the Head of Democratic Services & Elections) are authorised and permitted under this Rule to offer guidance and assistance to the Member(s) as to the wording of their Motion (in order to make it clear and obvious [as also referenced in Rule 12.7 below] what the Council's powers are should the Motion relate to an Executive function and/or to generally to make the motion acceptable as a valid motion). The Member(s) submitting the Motion will be informed of the Officers' guidance as soon as possible and they will have until the final deadline of midday eight working days before the day of the ordinary meeting of the Council to notify the Officers whether they accept the Officers' advice.

The Monitoring Officer and/or the Committee Services Manager (or in their absence the Head of Democratic Services & Elections) will then formally decide whether to accept the motion as a valid motion having had regard to the provisions of Rule 14 (Motions not Permitted).

12.3 Motion set out in the Agenda

Valid motions for which notice has been given will be listed on the agenda in the order in which the notice was received, unless the Member(s) in giving that notice states, in writing, that they wish it to be included on the Agenda for a future ordinary meeting of the Council.

12.4 Withdrawal of the Motion

Prior to the publication of the Agenda for the ordinary meeting of the Council in question (which will be at least five clear, working days before the meeting) the Member or Members may withdraw their Motion by notifying the Committee Services Manager of their wish to do so. This notification must be submitted to the Committee Services Manager by a written and signed notice (or notice by e-mail to democraticservices@tendringdc.gov.uk).

Once the Agenda for the ordinary meeting of the Council in question has been published the Motion can only be withdrawn at the Council meeting itself in accordance with the provisions of Council Procedure Rule 16.7 (Withdrawal of Motion).

12.5 Professional Advice of the Council's Statutory Officers on the Motion

Once the Motion has been accepted as being valid by the Monitoring Officer and/or the Committee Services Manager a formal Advisory Note detailing any necessary initial professional advice in relation to the implications for the Council of that Motion will be prepared by the Council's Statutory Officers, with the Monitoring Officer acting as the lead officer in the compilation of that Advisory Note.

In that regard:-

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- (i) the Head of Paid Service (i.e. the Chief Executive) will give any necessary professional advice on implications for the Council in respect of his responsibilities in relation to staffing matters;
 - (ii) the Monitoring Officer will give any necessary professional advice on implications for the Council in respect of budgetary, constitutional or legislative requirements; and
 - (iii) the Section 151 Officer will give any necessary professional advice on implications for the Council relating to budgetary, constitutional or legislative requirements.

That Advisory Note will be circulated, if possible, to all Members of the Council as part of the Council Agenda Document Pack. If this is not possible, then the Advisory Note will be circulated to Members as soon as possible thereafter but in any case no later than Noon on the working day before the date of the Council meeting.

The Advisory Note will also be published on the Council's website (unless of course the Exempt Information provisions apply).

At the meeting itself, Council must have regard to the contents of the Advisory Note in making its decision on the Motion, as set out in Section 3.7 of the Members' Code of Conduct.

12.6 Consideration of the Motion at an Ordinary Meeting of the Council

At the meeting itself the Chairman will invite the Member who submitted the motion to formally move it and then to proceed to read out the text of the Motion (for the benefit of the public who are either watching proceedings from the public gallery or via the livestream). The Member who moved the motion will not be required to explain its purpose at this stage of the proceedings.

The Chairman will then ask for a seconder for the motion. If there is no seconder then the motion will be declared by the Chairman as having failed and the Chairman will immediately move onto the next business on the agenda.

In the event that the Motion is not moved at this time by the Member who gave notice thereof, due to their absence, it will be treated as withdrawn and cannot be moved without a fresh notice given under this Rule, unless the Chairman is aware of mitigating circumstances for that Member's absence and Council, having been made aware of such circumstances, decides, with the consent of the simple majority of Members present (which will have been demonstrated, without any debate, by a show of hands) to defer the Motion to the next ordinary meeting of the Council. If the Member who gave notice of the Motion considers it a matter of urgency they can nominate another Member to move the Motion at the Council Meeting by notifying the Committee Services Manager of that arrangement by no later than Noon on the day of the meeting. That nominated Member will, from that point, take "ownership" of the Motion as far as these Council Procedure Rules are concerned.

At this point in the proceedings, and in the circumstances in which one or more of the Council's Statutory Officers has stated in their Advisory Note that the Motion should not be dealt with at the meeting, the Chairman can declare that, on the advice of the statutory

officers, the Motion is either deferred until the next ordinary meeting of the Council or is referred to the relevant body or bodies, as appropriate. The Motion will thereupon stand so deferred/referred without discussion or debate. Council Procedure Rules 12.8, 12.9 and 12.10 will apply, as appropriate in the circumstances.

Otherwise, if the motion is seconded then it will be proceed to be debated in accordance with the maximum 60 minute time limit normally allocated for a Motion submitted under this Rule. This 60 minute period will commence at the point the Chairman calls on the Mover of the Motion to speak to the motion and explain its purpose and this 60 minute period will also cover any amendments to the Motion that are accepted and debated upon by Members.

In debating the Motion the provisions, as applicable, of Council Procedure Rules 16, 19, 23, 24, 25, 28 and 29 will apply, together with the principles of decision making as set out in Article 13.02 of the Council's Constitution.

12.7 Powers available in respect of the Council making a decision on the Motion at an Ordinary Meeting of the Council

- 1. If the Motion relates to a matter under the purview of the Executive, as detailed within The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, then the Council legally can only make a recommendation to the Executive, or give its advice/opinion to the Executive, in relation to the Motion.**
- 2. If the Motion relates to a non-executive function that is delegated to a Committee then the Council can either make a definite conclusive and binding decision, or make a recommendation to the Committee or give its advice/opinion to the Committee, in relation to the Motion.**
- 3. The Council, through its debate, can also through the amendment provisions set out in Rule 16.5 (Amendments to Motions) delay making a decision on the Motion until a future ordinary meeting of the Council if it so wishes, as long as it makes clear its reason for doing so. Reasons for such a delay could include:-**
 - (a) a requirement for further information on the implications of the potential decision to be researched and submitted;**
 - (b) the lateness of the hour;**
 - (c) the need to hold a site visit;**
 - (d) a requirement for the attendance of an Officer and/or representative of an external organisation et cetera;**
 - (e) to enable a consultation exercise to be carried out either internally within the Council or externally;**
 - (f) to enable Political Group Leaders to informally discuss the matter;**
 - (g) to enable a public meeting or inquiry to be held; and**
 - (h) to enable the calling of a referendum (subject to the necessary financial provision being approved).**

12.8 Referred Motions – Consideration of the Motion by the Cabinet or a Committee

(Yellow)

If the Motion is, in accordance with the provisions of Rule 12.7(3) above, formally referred to the Cabinet or a Committee for consultation, the Head of Democratic Services & Elections will ensure that the Motion is included on the agenda of the earliest practical meeting of the Cabinet/Committee. That body shall be required solely 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 as to whether such motion should be supported or not supported. That body will not be required to propose an alternative motion or an amended motion.

Prior to making its response the Cabinet/Committee may, following consultation with the relevant Officers, require further information to be presented to it for consideration on the implications of the proposed motion. Such a report must be considered by that body in a timely manner.

Once the Cabinet/Committee has considered the Motion it will be sent back to Council with that body's response.

12.9 Deferred Motions – Rights of Member submitting/Mover of the Motion

If the Motion has, in accordance with the provisions of Rule 12.6 above, been formally deferred until the next ordinary meeting of the Council (i.e. due to the “mitigating circumstances” provision or by the Chairman acting on the advice of the statutory officers) the Member who submitted the Motion will be made aware of this, as soon as possible, by the Committee Services Manager and also of the date of the next ordinary Council meeting.

The right of the Member submitting/mover of the Motion to speak to the motion and explain its purpose will be automatically reserved until that meeting.

12.10 Referred Motions – Rights of Mover of the Motion

If the Motion has, in accordance with the provisions of Rule 12.6 above, been formally referred to a relevant body or bodies (i.e. due to the Chairman acting on the advice of the statutory officers) the Mover of the Motion (or another Member nominated by them) will be, as a matter of courtesy, made aware by the Committee Services Manager of the date(s) of the meeting(s) of such body or bodies at which their Motion will be considered. The Mover of the Motion (or other Member nominated by them) will have the right to attend such meeting(s) to speak to the motion and explain its purpose. That Member will also be permitted to answer questions and/or provide clarification, if requested to do so by the Chairman of the meeting.

If the Motion has, in accordance with the provisions of Rule 12.7(3) above (i.e. following a debate at Council) been formally referred to the Cabinet or a Committee for consultation, the Mover of the Motion (or another Member nominated by them) will be, as a matter of courtesy, made aware by the Committee Services Manager of the date of the Cabinet/Committee meeting at which their Motion will be considered so that they can attend if they so wish.

As the purpose of the motion will have already been explained at the full Council meeting the Mover of the Motion (or another Member nominated by them) will not have any

automatic right to speak at that meeting though they will be permitted to answer questions and/or provide clarification, if requested to do so by the Chairman of the meeting.

12.11 Notification of the decision of the Council to the relevant Body

Once the Council has made its final decision on the Motion and if it is relevant and necessary to do so, the Head of Democratic Services & Elections will, at the earliest practical meeting of the Cabinet/Committee, as appropriate, formally report that decision of the Council in order that that body can note the Council's decision and consider what action, if any, that it now needs to take.

12.12 Consideration of a Motion at an Extraordinary Meeting of the Council

At an Extraordinary Meeting of the Council any Motion listed on the Agenda will be dealt with at that meeting in accordance with the provisions, as applicable, of this Rule 12 and Rules 16, 19, 23, 24, 25, 28 and 29 together with the principles of decision making as set out in Article 13.02 of the Council's Constitution.

13. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) To appoint a Chairman of the meeting at which the motion is moved;
- (b) In relation to the accuracy of the minutes;
- (c) To change the order of business in the agenda;
- (d) To refer something to, or back to, Cabinet or relevant Committee;
- (e) To receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- (f) To withdraw a motion;
- (g) To amend a motion;
- (h) To proceed to the next business;
- (i) That the question be now put;
- (j) To adjourn a debate;
- (k) To adjourn a meeting;
- (l) To exclude the public and press in accordance with the Access to Information Procedure Rules;

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- (m) That a Member named under Rule 23.3 Disorderly Conduct not to be heard further or to exclude them from the meeting under Rule 23.4;
 - (n) To give the consent of the Council where its consent is required by this Constitution;
 - (o) To extend the time limit for a speech; and
 - (p) In the case of urgency, notice of motion may be given, in writing, signed by the Member, or Members, giving the notice and the reason for its urgency and delivered by noon on the morning of the day of the meeting at the office of the Chief Executive who will immediately advise the Chairman of its receipt. If in the opinion of the Chairman, the matter is not urgent, the Chairman may direct that it be disallowed.

14. **MOTIONS NOT PERMITTED**

No motion shall be submitted on a matter that relates to an item which;

- (a) is not about a matter for which the local authority has a responsibility or which **affects does not affect** the District **or is about a matter of regional, national or international importance that could not be reasonably considered to affect the residents of the District;**
- (b) is to be considered on the same Council agenda;
- (c) is substantially the same as a motion already received to be put to the ordinary meeting of the Council in question;
- (d) is substantially the same as a motion which has been put at a meeting of the Council in the past six months;
- (e) has been the subject of a Key Decision in the previous six months;
- (f) is included within the work programme of an Overview and Scrutiny Committee;
- (g) is, at the time of submission, subject to call-in or on-going legal proceedings or requires the disclosure of confidential or exempt information (as defined in the Access to Information Procedure Rules);
- (h) the Monitoring Officer will reject a motion if in their judgment it is likely to lead to a breach of the Members' Code of Conduct.

15. **MOTIONS OR QUESTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL**

If any question arises at a meeting of the Council or of a Committee or Sub-Committee as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council, Committee or Sub-Committee has decided whether or not the power of exclusion of the public shall be exercised.

16. RULES OF DEBATE**16.1 No Speeches until Motion Seconded**

No speeches may be made after a motion has been proposed and explained until it has been seconded. However, a motion that the recommendations from Cabinet or references from the relevant Committee shall be adopted need not be seconded.

A Member when seconding a motion or amendment may, if he then declares his intention to do so, reserve his speech until a later period of debate, subject to Rule 16.10 – Closure Motions.

16.2 Right to Require Motion or Amendment in Writing

Unless notice of the motion or amendment has already been given, the Chairman may require it to be written down and handed to him before it is discussed.

16.3 Content and Length of Speeches

Speeches must be directed to the motion under discussion or to a personal explanation or point of procedure. No speech (including those to move motions) shall exceed three minutes except with the consent of the Council. This does not apply to the statement by the Leader on the State of the District and the Leader's presentation of the budget.

16.4 When a Member May Speak Again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;
- (b) to move or second a further amendment if the motion has been amended since he last spoke;
- (c) if his first speech was on an amendment moved by another Member, to speak on the main issue (provided the amendment has not been carried);
- (d) in exercise of a right of reply;
- (e) on a point of procedure; and/or
- (f) by way of personal explanation.

16.5 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and either be:
- (i) to refer the matter to the Cabinet or relevant Committee **consultation, further information on the implications of the potential decision to be researched and submitted**, for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words

as long as the effect of (ii), (iii) or (iv) is not to negate the motion or introduce a new subject matter into the motion before the Council. In addition, any amendment proposed to be made that may have budgetary implications must have been submitted to the Council's Section 151 Officer at least two working days before the Full Council meeting to enable them to consider the implications for the Council's Finances.

Furthermore, no amendment will be accepted that could bind or fetter the Executive or a Committee in relation to matters that are within the responsibility of the Executive or a Committee of the Council.

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

(Yellow)

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

16.6 Alteration of Motion

- (a) A Member may alter a motion of which he has given notice with the consent of the seconder.
- (b) A Member may alter a motion that he has moved without notice with the consent of the seconder.
- (c) Only alterations that could be made as an amendment may be made.

16.7 Withdrawal of Motion

A Member may withdraw a motion that he has moved with the consent of the seconder unless it is the subject of an amendment. No Member may speak on the motion after the mover has withdrawn it.

16.8 Right of Reply

- (a) The seconder of a motion (including the seconder of a motion on which an amendment has been moved), the mover of a motion (including the mover of a motion on which an amendment has been moved) and the seconder and the mover of an amendment have a right of reply at the end of the debate on the motion or amendment. Following this, the appropriate Portfolio Holder or the Chairman of the relevant Committee shall have the right to speak on the motion or amendment immediately before it is put to the vote. Where the mover of the motion or amendment was the Leader of the Council, he shall have the final right to speak.
- (b) A Member exercising a right of reply shall confine his remarks to answering the arguments employed or observations made during the debate and shall not introduce any new matter.
- (c) The right of reply of the seconder of a motion or amendment (as referenced in (a) above) will only apply if the seconder has not already spoken during the debate on the motion or amendment in question.

16.9 Motions Which May be Moved During Debate

When a motion is under debate, no other motion may be moved except the following procedural motion:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to extend the time for speeches;
- (h) to give any consent required by these procedure rules;
- (i) to suspend one or more of the procedure rules;
- (j) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (k) that a Member named under Rule 23.3 below (Disorderly Conduct), not to be heard further or to exclude them from the meeting under Rule 23.4.

16.10 Closure Motion

- (a) A Member may move, without comment, the following motions at the conclusion of a speech of another Member;
 - (i) That the Council proceed to the next business;
 - (ii) That the question now be put;
 - (iii) That the debate now be adjourned; or
 - (iv) That the Council does now adjourn; or
 - (v) That the matter be referred to the Cabinet or a Committee(s) in accordance with the responsibility of functions and the defined terms of reference.
- (b) On the seconding of which the Chairman shall, unless in their opinion the matter before the meeting has been insufficiently discussed, proceed as follows:
 - (i) On a motion to proceed to the next business or to refer the matter to the Cabinet or a Committee(s): they shall first give the seconder and the mover of the original motion their right of reply, under Rule 16.8 above, and then put to the vote the motion to proceed to the next business or to refer the matter;

-
- (ii) On a motion that the question now be put: they shall put to the vote the motion that the question now be put, and if it is passed then the Chairman will give the seconder and the mover of the original motion their right of reply under Rule 16.8 above before putting their motion to the vote;
 - (iii) On a motion to adjourn the debate or the meeting: they shall put the adjournment motion to the vote without giving the seconder and the mover of the original motion their right of reply on that occasion.

16.11 Point of Procedure

A Member may raise a point of procedure at any time. The Chairman will hear him immediately. A point of procedure may only relate to an alleged breach of these Council Procedure Rules or the law. The Member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Chairman on the matter will be final.

16.12 Personal Explanation

A Member has the right to make a personal explanation when directly related to some material part of an earlier speech by the Member if it appears to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

17. STATE OF TENDRING STATEMENT

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

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

18. PREVIOUS DECISIONS AND MOTIONS

18.1 Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 12 Members.

18.2 Motion Similar to One Previously Rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed

by at least 12 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

This procedure rule does not apply to motions moved to adopt a recommendation to the Council from the Cabinet or a Committee.

19. VOTING

19.1 Voting

A Member cannot vote on a matter if they have not been present for the whole of the consideration of that matter.

19.2 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members present in the room, **eligible to vote** and voting at the time the question was put to the vote.

19.3 Chairman's Casting Vote

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how or whether the Chairman chooses to exercise a casting vote. In the case of an equality of votes for the election of the Chairman of the Council, the retiring Chairman or the person presiding at the meeting must exercise a casting vote.

19.4 Show of Hands

Unless a recorded vote is demanded under Rule ~~19.4~~ **19.5**, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

19.5 Recorded Vote

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

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

19.6 Right to Require Individual Vote to be Recorded

Where any Member requests it immediately after the vote is taken, his vote will be so recorded in the minutes to show whether he voted for, or against, the motion, or abstained from voting.

19.7 Voting on Appointments

Where there is more than one person nominated and seconded for any position to be filled by the Council then unless the Council decides otherwise at the time, the person receiving most votes shall be appointed. Where there is only one person nominated and seconded, Members

will cast their votes either for or against that person. The person nominated will be appointed if the votes for are more than the votes against.

20. MINUTES

20.1 Signing the Minutes

The Chairman will sign the minutes of the proceedings at the next suitable ordinary meeting. The Chairman will move that the minutes of any previous meeting be signed as a correct record. The only issue in relation to the minutes that can be discussed is their accuracy.

20.2 Form of Minutes

Minutes of any Council, Committee or Sub-Committee meeting shall comprise a brief summary of the proceedings of, and business transacted at, the meeting. Minutes will not record details of the debate or the views or comments of individual Members. **The exceptions to this are committees and sub-committees when considering applications, hearings and appeals or receiving evidence. The Minutes of such meetings will give summarised details of the issues covered in the debate.**

No Minutes of any meeting will be produced as a verbatim record of those proceedings.

Minutes will contain all motions and amendments in the exact form and order the Chairman accepted them as being proper motions/amendments and put them to the vote.

Minutes will also record those instances when a Member has submitted their apologies for absence. If so requested by the Member concerned the Minutes will also record the reason for their absence.

21. RECORD OF ATTENDANCE

All Members present during the whole, or part, of any meeting must sign their names on the attendance sheets before the end of that meeting to assist with the record of attendance.

22. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 24 (Disturbance by Public).

23. MEMBERS' CONDUCT

23.1 Standing to Speak

When a Member speaks at full Council he must stand (if possible) and address the meeting through the Chairman. If more than one Member stand, the Chairman will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of procedure or a point of personal explanation.

23.2 Chairman Standing

(Yellow)

When the Chairman stands during a debate, any Member speaking at that time must stop and sit down. The meeting must be silent.

23.3 Member Not to be Heard Further

If a Member persistently disregards the ruling of the Chairman by behaving improperly, or offensively, or deliberately obstructs business, the Chairman or any other Member may move that the Member not be heard further. If seconded, the motion will be voted on without discussion.

23.4 Member to Leave the Meeting

If the Member continues to behave improperly after a motion in Rule 23.3 is carried, the Chairman may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

23.5 General Disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he thinks necessary.

24. DISTURBANCE BY PUBLIC

24.1 Removal of a Member of the Public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If he continues to interrupt, the Chairman will order his removal from the meeting room.

24.2 Clearance of Part of Meeting Room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

25. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

25.1 Suspension

All of these Council Procedure Rules except Rules ~~19.5~~ **19.6** and 20.1 may be suspended by motion on notice, or without notice, if at least 36 Members of the Council are present and 25 Members vote in favour of suspension. Suspension can only be for the duration of the meeting.

25.2 Amendment

Any motion by a Member to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, will stand adjourned without discussion to the next ordinary meeting of the Council.

26. RESIGNATION OF CHAIRMANSHIP ETC

(Yellow)

The Chairman or Vice-Chairman of the Council may at any time, by notice in writing delivered to the Chief Executive, resign their position and such resignation shall take immediate effect on delivery of the notice.

27. CASUAL VACANCIES ETC

On a casual vacancy occurring in the office of Chairman or Vice-Chairman of the Council an election to fill the vacancy shall be held not later than the next ordinary meeting of the Council after the date on which the vacancy occurs, or if that meeting is held within fourteen days after that date, then not later than the next ordinary meeting of the Council, and shall be conducted in the same manner as an ordinary election.

28. STATUTORY OFFICERS' ADVICE

The Chief Executive, Monitoring Officer and Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to the Chairman and, if requested, to all Councillors present.

29. INTERPRETATION OF PROCEDURE RULES

At any meeting the ruling of the Chairman as to the construction or application of any of the Council Procedure Rules, or as to any proceedings of the Council, shall not be challenged.

Any advice provided by the Statutory Officers in assisting the Chair for the application of the Rules can be shared with all Councillors.

30. PETITIONS

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

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

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

31. MINOR AMENDMENTS OF GUIDANCE

Any minor amendment of these rules as a consequence of any written advice or guidance to Officers and Members is delegated to the Monitoring Officer.

32. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Procedure Rules apply to meetings of the Council.

None of these rules apply to meetings of the Cabinet.

Rules 6-9, 11.3-11.5, 11.7 – 11.9, **15**, 16 (excluding 16.4), 19 (excluding 19.5 and 19.7 **but including 19A**), 20 – 24 (excluding 23.1), 26, 28, 29 and 31 including those in Part 2 below

apply with any necessary modification to meetings of Committees and Sub-Committees. Rule 40 applies only to the Planning Policy & Local Plan Committee and the Planning Committee.

A.2 APPENDIX B

COUNCIL PROCEDURE RULES

SECTION 2 – COMMITTEE MEETINGS

33. APPOINTMENT OF MEMBERS OF COMMITTEES AND SUB-COMMITTEES/VACANCIES IN CHAIRMANSHIP

33.1 General

Subject to the rules of political proportionality, as provided in the Local Government and Housing Act 1985 (Section 15) and the Local Government (Committees and Political Groups) Regulations 1990, and Rule 33.2 below, Full Council (usually at its Annual Meeting) will appoint Committees and Sub-Committees in accordance with the Local Government Act 1972 (Section 102).

33.2 Eligibility

Subject to the provisions of Rule 33.3 below the eligibility requirements with regard to membership of Committees and Sub-Committees are as follows:-

Overview and Scrutiny Committees

All Councillors except Cabinet members may be members of the Overview and Scrutiny Committees.

Audit Committee, Human Resources and Council Tax Committee, Licensing and Registration Committee, Planning Policy & Local Plan Committee, Planning Committee and Miscellaneous Licensing Sub-Committee

All Councillors may be members of these Committees.

The members of the Miscellaneous Licensing Sub-Committee must also be members of the parent Licensing and Registration Committee.

CIPFA Guidance recommends that the membership of the Audit Committee should not cross-over with either the Executive or Scrutiny functions. However, Officers' advice is that if Members feel that cross membership is necessary then this should be limited to one member from each of the Executive or Scrutiny functions. The Chairman of the Audit Committee should not be a member of the Cabinet.

Standards Committee

All Councillors may be members of this Committee except that no more than one member of the Committee shall be a member of the Cabinet (and that member cannot be the Leader of the Council). In addition, no Leaders of Political Groups can be members of that Committee.

Premises/Personal Licences Sub-Committee

The membership of this Sub-Committee is appointed on an ad hoc basis from the membership of the Licensing and Registration Committee.

33.3 Training Members of the Audit, Licensing and Registration, Planning and Standards Committees

In addition to specific training required as and when necessary, training shall be provided to all Members appointed to the Audit, Licensing and Registration, Planning and Standards Committees on an annual basis at an appropriate date and time after each annual meeting of the Council and such training shall be mandatory. The Monitoring Officer shall define what is meant by the word “mandatory” and they will also decide whether the training offered/provided is/was sufficient and “fit for purpose”.

A Member cannot sit as a member of the Planning Committee unless they have received specific training with regard to the determination of planning applications.

A Member cannot sit as a member of the Licensing and Registration Committee unless they have received specific training with regard to the determination of applications for personal or premises licences submitted under the Licensing Act 2003.

A Member cannot sit as a member of the Audit Committee unless they have received specific training with regard to the determination of the Council's Statement of Accounts and comprehension of Auditor reports.

A Member cannot sit as a member of the Standards Committee unless they have received specific training with regard to the Hearings Procedure and participation in Hearings.

No Member can continue to sit as a member of the above committees if they have gone more than two years without attending any of the relevant training events.

33.4 Resignation of Chairmanship Etc.

Any Chairman, Vice-Chairman or Member of a Committee, Sub-Committee or Working Party may at any time, by notice in writing or personal email delivered to the Chief Executive, resign his position and such resignation shall take immediate effect on delivery of the notice.

33.5 Casual Vacancies

In the case of a casual vacancy in the office of a Chairmanship or Vice-Chairmanship of a Committee, Sub-Committee or Working Party an item shall be placed on the agenda of the next meeting of the relevant body which shall, before proceeding to any other business, elect from its Members a Chairman or Vice-Chairman as the case may be for the remainder of the year.

34. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES, SUB-COMMITTEES AND WORKING PARTIES

34.1 General

Substitute members may attend, speak and vote at meetings of Committees and Sub-Committees of the Council, subject to Rules 33.3 and 33.4. In the case of the Overview and Scrutiny Committees, such Substitute Members may not be Members of the Cabinet. Substitute Members may not be appointed to any Working Parties unless that working party has been established in full accordance with the Widdicombe Rules.

34.2 Eligibility and Effect

A Substitute shall belong to the same political group (as defined in the Local Government and Housing Act 1989) as the Member for whom he is a Substitute. Substitution by, or of, Members not in a political group is not permitted.

Only the Member being substituted or their Group Leader (or Deputy) can appoint substitute members. Notification of a substitute from the Member being substituted or their Group Leader (or Deputy) must be given to Committee Services prior to the commencement of the meeting at which the substitution is to apply. Where more than one notification is received, the Group Leader (or Deputy's) request will take precedence.

The substitution will be in effect for the whole of the meeting (including any part thereof that is adjourned to, and subsequently considered at, a later date). The Substituted Member must not take their seat.

34.3 Training Substitute Members of the Audit, Licensing & Registration, Planning and Standards Committees

In addition to specific training required as and when necessary, training shall be provided to all named Substitute Members appointed to the Audit, Licensing and Registration, Planning and Standards Committees on an annual basis at an appropriate date and time after each annual meeting of the Council.

34.4 Substitute Members of the Audit, Licensing & Registration, Planning and Standards Committees

Group Leaders shall, provide named Substitute Members (in accordance with proportionality rules) and all substitutions will only be permitted from this list. Any member of a political group shall be eligible to act as a named Substitute Member providing that they have received training in relation to all relevant Audit, Licensing & Registration, Standards-related or Planning matters under a continuing programme arranged by the Council. When naming a designated substitute, Group Leaders shall, as far as reasonably practicable, satisfy

themselves that the named Member is as conversant with all relevant Audit, Licensing and Registration, Standards-related and Planning matters as the appointed members of those Committees.

34.5 Substitute Members of the Premises/Personal Licences Sub-Committees

(Yellow)

Substitutes for Members of the Premises/Personal Licences Sub-Committee shall be made from the appointed membership of the Licensing & Registration Committee. Such substitute need not be a Member of the same political group and the provisions of Rule 34.2 shall not apply.

The Committee Services Manager will, at the request of the Group Leader of a member of the Premises/Personal Licences Sub-Committee or at the request of the Member concerned, appoint a Substitute from amongst the appointed Membership of the Licensing & Registration Committee who should have received training in relation to licensing under a continuing programme arranged by the Council. Such request need not be in writing.

The Committee Services Manager will ensure that a fourth or standby Member, drawn from amongst the appointed membership of the Licensing & Registration Committee, is present at every meeting of the Premises/Personal Licence Sub-Committee. Such Member shall act as a member of the Sub-Committee in the event that one of the three Sub-Committee members becomes unable to act due to e.g. illness, conflict of interest.

35. MEETINGS OF COMMITTEES

35.1 Ordinary Meetings

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

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

For the avoidance of any doubt the above requirement does not extend to a meeting of any committee or sub-committee which is conducting a Hearing into licensing or standards/conduct or other regulatory matters. On such occasions the Chairman will be

expected to call regular adjournments of the Hearing in order for participants to have comfort and/or refreshment breaks.

35.2 Special Meetings

1. The Chairman of a Committee can call a Special Meeting of a Committee at any time.
2. A Special Meeting shall also be called on the requisition of a not less than a quarter of the whole number of Members of the Committee, delivered in writing, or by email to the Chief Executive but in no case shall less than three Members requisition a Special Meeting.

No business except that set out in the Summons and Agenda shall be carried out at a Special Meeting of a Committee.

35.3 Recording and Streaming of Committee Meetings

In accordance with the approved Protocol for such matters, the Council will make an audio and/or visual live stream and recordings of its Committees, which will be made available on the Council's website for a period of at least one year from the date of the relevant meeting.

36. ATTENDANCE AT MEETINGS

Except as otherwise provided in this Constitution and in particular having regard to the provisions of the Access to Information Procedure Rules:-

- 36.1** Every Member of the Council shall be entitled to attend all meetings of Committees and Sub-Committees. This does not include attendance at Portfolio Holder Working Parties. A Member of the Council shall not take part in any discussion at a meeting of a Committee or Sub-Committee of which he is not a Member, unless specifically invited to do so by the Chairman of that meeting, or unless he is attending the meeting of the Committee under the provisions of Rule 12.6, and he shall in no case be entitled to vote. The Member shall obtain the permission of the appropriate Chairman prior to the relevant meeting if he wishes to speak at that meeting. Exceptions to this include that the **Portfolio Holder with the responsibility for Planning and the Chairman of the Planning Committee has each have** a standing invitation to attend meetings of the Planning Policy & Local Plan Committee. **and The Portfolio Holder with the responsibility for Planning will be permitted to express the views of the Executive on strategic planning issues and the Chairman of the Planning Committee will be permitted to** express the Planning Committee's views and comments on the Report items that are being considered by the Planning Policy & Local Plan Committee. ~~Additionally, where a Member has, pursuant to notice duly given under Rule 12.2, moved a motion which has been referred to a Committee under Rule 12.5, he shall have the right, in accordance with Rule 12.6 to attend the Committee meeting in order to answer any questions and/or points of clarification, if so requested.~~

Additionally, where a Member has submitted a Motion to Council under Rule 12.2 and that motion has been referred to a Committee under Rule 12.6 or Rule 12.7 that Member will have the right to attend the relevant meeting of that Committee and present their Motion, as appropriately permitted under Rule 12.10.

Where the public speaking scheme (Rule 40) applies to a particular application or matter before the Planning Committee, no Member shall be entitled to address or speak to the Planning Committee under this Rule. This does not detract from any rights the Member has under the public speaking scheme.

At such times as the Standards Committee (in respect of Hearings on standards/conduct related matters) or the Premises/Personal Licences Sub-Committee (in respect of Hearings on licensing related matters) exclude the press and public and retire to deliberate and reach their decision

(Yellow)

“in camera”, only the duly appointed members of the decision making body will be allowed to remain in the meeting. All other Councillors will be treated as members of the public and will be excluded from the meeting at that time.

- 36.2** The Chief Executive, Chief Financial Officer and Monitoring Officer have the right to attend, speak on an item of business, provide representations and present a report to discharge their statutory and constitutional duties whenever necessary. In such instances, the Committee or Sub-Committee in question will give due regard of the relevant advice provided. The decision and minutes of the meeting will record the advice, how it was taken into account and reasons for any departure.

37. SUB-COMMITTEES AND WORKING PARTIES

The Council will decide the establishment, terms of reference, delegated powers, number of Members and the allocation of seats to political groups for all new Sub-Committees.

The Council, (normally at its Annual Meeting) will also appoint individual Members to standing Sub-Committees and will appoint the Chairman and Vice-Chairman of those Sub-Committees.

Every non-overview and scrutiny Committee of the Council may appoint working parties for specified purposes in accordance with Part 3 of this Constitution. The Committee may amend the constitution of the working parties or dissolve them at any time.

The Chairman and Vice-Chairman of any working parties appointed by a Committee will be determined at the first meeting of the working party. Meetings of working parties will normally be convened, either at an earlier meeting of the working party or by the Committee Services Manager in consultation with their Chairman.

38. QUESTIONS ON NOTICE AT COMMITTEES AND SUB-COMMITTEES

Subject to Rules 11.4 and 11.5 and upon providing two working days' notice, a Member of a Committee may, at a meeting thereof, ask the Chairman of it a question on any matter in relation to which the Council has powers or duties of which affect the Tendring District and which falls within the terms of reference of that Committee.

39. SITE VISITS, SPECIFIC BRIEFING OR TRAINING

- 39.1** Where a site visit, specific briefing or training is called by Officers in relation to a planning or licensing application received by the Council, any Member or Substitute Member of that Committee who does not attend the site visit, specific training or briefing, shall not be eligible to take part at the meeting at which the application to which the site visit, specific training or briefing related is to be considered.

- 39.2** Notification of site visits arranged by any Committee or Sub-Committee shall be given to the Members for the ward in which the site is situated. Such Members shall have the right to attend

the site visit but shall not take part in any discussion unless specifically invited to do so by the Chairman of the body that has arranged the site visit. The body arranging the site visit shall not exercise any delegated powers nor take any decisions in the course of the visit.

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

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

A.2 APPENDIX C

ARTICLE 4 – THE FULL COUNCIL

4.01 Meanings

(a) Policy Framework

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

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

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

- ~~IT Strategy and Information Governance~~
- Procurement Strategy (including the Social Value Policy)
- Climate Change Action Plan

A.2 APPENDIX D

ARTICLE 6 – OVERVIEW & SCRUTINY COMMITTEES

6.02 Terms of Reference:

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

(i) Community Leadership Overview and Scrutiny Committee

Meetings of the Committee will be held in accordance with the programme of meetings approved at the Annual Meeting of the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chairman of the Committee, or by the Head of Democratic Services & Elections. If considered necessary or appropriate. Meetings of Task and Finish Groups can be called as required, following the terms of reference being agreed by the Committee.

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

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

The Community Leadership Overview & Scrutiny Committee will also act as the Council’s designated “crime and disorder committee” for the purposes of Section 19 of the Police and Justice Act 2006 and will have the power -

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities[*] of their crime and disorder functions;***
- (b) to make reports or recommendations to the local authority with respect to the discharge of those functions.***

** “The responsible authorities” means the bodies and persons who are responsible authorities within the meaning given by [section 5 of the Crime and Disorder Act 1998 \(c. 37\)](#) (authorities responsible for crime and disorder strategies) in relation to the local authority's area.*

In fulfilling that function the Community Leadership Overview & Scrutiny Committee will have the power (whether by virtue of [section 9F\(2\)](#) or [21\(2\)](#) of the [Local Government Act 2000](#) or regulations made under [section 9JA\(2\)](#) or [32\(3\)](#) of that Act or otherwise) to make a report or recommendations to the local authority with respect to any matter which is a local crime and disorder matter in relation to a member of the authority.

The crime and disorder committee shall meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions as the committee considers appropriate but no less than once in every twelve month period.

A.2 APPENDIX E

Article 7 (The Executive/Cabinet)

7.08 Cabinet Procedure Rules

1. MEETINGS

1.1 Cabinet Meetings

The Cabinet will meet at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices (the Town Hall) or another location to be agreed by the Leader.

1.2 Meetings of the Cabinet

Meetings of the Cabinet and their committees must be held in public in accordance with the Access to Information Procedure Rules except where confidential or exempt information is to be discussed.

In accordance with the approved Protocol for such matters, the Council will make an audio and/or audio-visual live stream and recording of meetings of Cabinet and their Committees, which will be made available on the Council's website for a period of at least one year from the date of the relevant meeting.

1.3 Quorum

The quorum for a meeting of the Cabinet shall be three including the Leader or in his absence the Deputy Leader.

1.4 Chairmanship

The Leader (or in his absence the Deputy Leader) will preside at any meeting of the Cabinet at which he is present.

1.5 Who may Attend?

- (i) Subject to the Access to Information Rules and the provisions of the Members' Code of Conduct, any Councillor may attend meetings of the Cabinet. They may not speak without the consent of the Leader, or in any case vote.
- (ii) The Leader or Deputy Leader of any political group may, as of right, attend meetings of the Cabinet and participate fully in the discussion on all agenda items, but cannot vote. If requested by the Leader or Deputy Leader of a group to do so, the minutes of the meeting of Cabinet on a particular matter will record their Group's opposition to all, or part, of a decision.
- (iii) Meetings of the Cabinet shall have in attendance the Chief Executive, the Chief Financial Officer (or their Deputy), the Monitoring Officer (or their

Deputy) and other relevant Corporate Directors or Assistant Directors in the light of items to be discussed, or their nominated representatives, at the discretion of the Chief Executive.

- (iv) The Chief Executive, Chief Financial Officer and Monitoring Officer have the right to attend, speak on an item of business and present a report to discharge their statutory and constitutional duties whenever necessary.
- (v) Where a Member has submitted a Motion to Council under Council Procedure Rule 12.2 and that motion has been referred to Cabinet under Council Procedure Rule 12.6 or Council Procedure Rule 12.7, that Member will have the right to attend the relevant meeting of Cabinet and present their Motion/answer Cabinet's questions, as appropriately permitted under Council Procedure Rule 12.10.**
- (vi)** The Constitution includes no provision for substitute members at meetings of the Executive.

A.2 APPENDIX F – ARTICLE 13 (KEY DECISIONS)

13.03 Key Decisions

A “key decision” means an executive decision that is likely to –

- result in the local authority incurring expenditure which is, or the making of savings which are in excess of, £100,000 or is significant having regard to the local authority’s budget for the service or function to which the decision relates; or
- be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.

The definition of a key decision will be reviewed as part of the compilation and approval of the Council’s Governance Statement by the Audit Committee. That Committee will submit any recommendations as to amending that definition to the Portfolio Holder with responsibility for the Constitution.

A decision-taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Article 7 of this Constitution **and the Access to Information Procedure Rules.**

Where an executive decision has been taken on a matter and that decision was treated as a key decision and made in accordance with the requirements of the Constitution then any further executive decision regarding that matter that purports to enact all or part of the requirements of that original executive decision need not be treated as a key decision.

A.2 APPENDIX G

CURRENT TERMS OF REFERENCE & DELEGATED POWERS OF THE LICENSING & REGISTRATION COMMITTEE, THE MISCELLANEOUS LICENSING SUB-COMMITTEE AND THE PREMISES/PERSONAL LICENCES SUB-COMMITTEE

Committee	Functions and Terms of Reference	Delegated Functions
<p>Licensing and Registration Committee</p>	<p><i>Functions relating to licensing, registration (B), Health and Safety at Work (C) and Smoke-free premises (FA) as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p>Additional roles and functions of the Committee are as set out below:</p> <ul style="list-style-type: none"> • Setting the Hackney Carriage Fare Scale operating within the District. • Deciding whether to make a change to the Hackney Carriage Fare Scale operative within the Tendring District having considered the representations received in response to the Public Notice duly given pursuant to Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976; • Recommending the Licensing and Gambling Policy Statements and Sex Establishment Policy to full Council and the Gambling Statement of Licensing Policy to Cabinet; • Power to consider, consult and consider representations in respect of an Early Morning Restriction Order (EMRO) under Sections 172A to 172E of the Licensing Act 2003 and to recommend implementation or rejection of application for EMRO to Full Council; and • Power to consult and consider representations in respect of Late Night Levy (LNL) Provisions under Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and to recommend implementation or rejection of an application to introduce LNL to Full Council. 	<ol style="list-style-type: none"> 1. All licensing and registration functions are delegated to the Miscellaneous Licensing Sub-Committee or the Premises/Personal Licences Sub-Committee as detailed below and otherwise the Assistant Director (Governance) except determining standard licensing conditions and determining or recommending proposed policies, which remain with the Committee. 2. All functions relating to Health and Safety at Work and Smoke Free Premises are delegated to the Corporate Director (Operations and Delivery). 3. The initial, in principle, consideration of a proposal received for a change to the Hackney Carriage Fare Scale operative within the District and decision to give public notice (pursuant to Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976) of the Council's intention to amend the Fare Scale is delegated to the Assistant Director (Governance) in consultation with the

	<p><i>The discharge of the following Part II – Miscellaneous Functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution:</i></p> <ul style="list-style-type: none"> • Power to make closing order with respect to take away food shops; and • Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption. <p>In addition the following powers and duties:</p> <ul style="list-style-type: none"> • The setting of any fees and/or charges payable to the Council for the issue of any licences (with the exception under the Scrap Metal Act 2013 where the Council has discretion over such fees and/or charges) or otherwise in relation to any of the functions falling within the remit of the Licensing and Registration Committee and its Sub-Committees. 	<p>Chairman of the Committee.</p> <p>4. The final approval and implementation of the amended Hackney Carriage Fare Scale in the circumstances where no representations have been received in response to the public notice referred to in 3 above is delegated to the Assistant Director (Governance) in consultation with the Chairman of the Committee.</p>
Committee	Functions and Terms of Reference	Delegated Functions
<p>Miscellaneous Licensing Sub-Committee</p>	<p>To consider and determine matters relating to all licences, consents, registrations and certificates that fall within the terms of reference of the Licensing and Registration Committee, except where:</p> <ol style="list-style-type: none"> 1. The function relates to the Licensing Act 2003 and/or the Gambling Act 2005; or 2. The function falls within the terms of reference of another Committee or Sub-Committee, board or body; or 2. The function has been delegated to Officers of the Council. <p>In addition the Sub-Committee will exercise the following powers and duties:</p> <ol style="list-style-type: none"> 3. Consideration for recommendations to local Highway Panel and Cabinet on: <ul style="list-style-type: none"> • installation of new taxi ranks and amendments/removals to existing taxi ranks. 4. Consider appeals or objections received against the Council’s Street Trading Policy or refusal of consent by Officers. 	<p>All matters are delegated to the Assistant Director (Governance) except in circumstances where the matter:</p> <ol style="list-style-type: none"> (i) remains with the Committee or Sub-Committee or (ii) does not meet the policy criteria set by the Council (ii) officers are recommending approval contrary to a relevant adopted licensing policy.

	<p>6. Approval for moving Street Collections except where it is for a recognised carnival for charitable purposes which is currently delegated to Officers.</p> <p>5. Consider appeals or objections received against Officers' refusal of Street or House Collection applications.</p>	
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Committee	Functions and Terms of Reference	Delegated Functions
Premises/ Personal Licences Sub- Committee	<p>1. To consider applications for licences where representations have been received and not withdrawn, and applications for the review of licences, covered by the Licensing Act 2003 as follows:</p> <ul style="list-style-type: none"> (i) Application for Premises Licence (ii) Application for Provisional Statement (iii) Application for Variation of Premises Licence (iv) Application to vary Designated Premises Supervisor following police objection (v) Application for transfer of Premises Licence following police objection (vi) Consideration of police objections made to interim Authority Notice (vii) Determination of application for Club Premises Certificate (viii) Determination of application to vary Club Premises Certificate (ix) Decision to give counter notice following police objection or environmental health authority objection to temporary event notice (x) Application for grant of personal licence following police objection (xi) Revocation of Licence where convictions came to light after grant etc. (xii) Application for review of Premises Licence (xiii) Application for review of Club Premises Certificate (xiv) Review following Closure Order 	<p>To the Assistant Director (Governance):</p> <p>1. The approval or refusal of applications where no representations have been received</p> <p>1. All other Council functions, powers and duties in relation to the Licensing Act 2003 and the Gambling Act 2005 which do not remain the specific function of the Committee or Sub-Committee.</p>
	<p>2. To consider applications for licences, where representations have been received and not withdrawn, and applications for the review of licences, covered by the Gambling Act 2005, as follows:</p> <ul style="list-style-type: none"> (i) Application for Premises Licence (ii) Application for variation of Licence (iii) Application for transfer of a Licence (iv) Application for a Provisional Statement (v) Review of a Premises Licence (vi) Application for Club Gaming/Club Machine Permit (vii) Cancellation of a Club Gaming/Club Machine Permit (viii) Decision to give a Counter Notice to a Temporary Use Notice (Section 224) (ix) Matters referred to the Sub-Committee by Officers, notwithstanding the delegations set out opposite. (x) Application for Prize Gaming Permit 	

	(xi) Application for Family Centre Gaming Machine Permit	
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A.2 APPENDIX H

PLANNING COMMITTEE: CURRENT TERMS OF REFERENCE AND DELEGATED POWERS

Committee	Functions and Terms of Reference	Delegated Functions
<p>Planning Committee</p>	<p><i>The discharge of the Town and Country Planning and Conservation functions as specific in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p>Additional roles and functions of the Committee are as set out below:</p> <ol style="list-style-type: none"> Any formal comment or view on applications or proposals to be determined by Essex County Council, any Statutory Body and government departments relating to matters within the remit of the Committee. 	<p>All planning and conservation matters delegated to the Assistant Director (Planning) except in relation to the determination of certain planning applications as detailed below for determination by the Committee:</p> <ol style="list-style-type: none"> Officer recommendations for approval materially contrary to national or local policy. Officer recommendation of approval contrary to a previous refusal by the Planning Committee, where the policies remain substantially unchanged. Office recommendation of approval and the application should be referred to the Secretary of State under a Direction(s) or "call in". The applicant is the Council or someone acting as applicant on the Council's behalf or in respect of Council owned land. The applicant is a Member of the Council, Planning Officer or a Senior Officer and there is an Officer recommendation for approval. Within 28 35 days of the commencement of

		<p>formal consultation, a written request is received from a Tendring District Councillor in accordance with the Member Referral Scheme(*) requesting that the application should be brought before the Planning Committee for determination giving material planning reasons for that request.</p> <p>(*) Scheme to be approved by Full Council</p> <p>(vii) Any application which the Assistant Director (Planning) in their professional opinion, taking into account the written representations received, plans and policies and other material considerations to be referred to the Planning Committee because it raises more than significant local issues.</p>
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	<p><i>The discharge of the Miscellaneous functions – Part 1 – relating to Public Rights of Way, within the District Council’s responsibility as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p><i>The discharge of the following Miscellaneous functions – Part II – relating to hedgerows, trees and hedges as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p>	<p>All public rights of way matters delegated to the Corporate Director} (Operations and Delivery)</p> <p>All hedgerows, trees and hedges matters delegated to the Assistant Director (Planning)</p>
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A.2 APPENDIX I

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. OVERVIEW AND SCRUTINY COMMITTEES

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

2. MEMBERSHIP

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

3. CO-OPTED MEMBERS (WITHOUT VOTING RIGHTS)

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

4. MEETINGS OF THE COMMITTEE

Meetings of the Overview and Scrutiny Committees will be held in accordance with the programme of meetings approved at the Annual Meeting of the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the relevant Committee, or by the Head of Democratic Services & Elections, if considered necessary or appropriate.

Programmed meetings may also be cancelled, following consultation with the Committee's Chairman, where the business to be transacted would not warrant the holding of the meeting as originally envisaged.

5. QUORUM

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

6. CHAIRMEN

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

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The Chairmen of the Overview and Scrutiny Committees will meet with the Head of Democratic Services & Elections and ~~appropriate Heads of Service or~~ relevant officers to co-ordinate the business of the relevant Committees and determine which Committee will assume responsibility for any particular issue. **In consultation with the Chairmen of the two Committees, it may be proposed that a joint Panel or Group be established by the Committees.**

7. WORK PROGRAMME

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

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

- The General Role and Principles of undertaking its functions, as set out in Part 2 Article 6
- the planned work on the preparation of elements of the Budget and Policy Framework; ~~as set out in the Council's Business Plan;~~
- the need for statutory timetables to be met;
- the **expressed** wishes of **all the** members of the committee;
- requests from the Cabinet to carry out reviews **and/or suggestions from the liaison meetings held under the Cabinet-Overview & Scrutiny Protocol;** and
- requests from **Members and/or** Group Leaders in accordance with Rule 8.

8. AGENDA ITEMS

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

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

The Leader of any political group may request that an item be included on the Overview and Scrutiny work programme. The relevant Overview and Scrutiny Committee will consider the

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request on the agenda and determine at its meeting, whether the item is appropriate for inclusion on the work programme.

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

In addition to the above, any member of the Authority who is not a member of the Council's designated crime and disorder committee (i.e. the Community Leadership Overview & Scrutiny Committee) can refer any local crime and disorder matter to that committee for its consideration in accordance with the legislative requirements. Such a reference must be given by delivering it, in writing (or by personal e-mail) to the Head of Democratic Services & Elections no later than midday seven working days before the day of the meeting. On receipt of such a notice the Head of Democratic Services & Elections will ensure that the item is included on the agenda. Any such reference by a Member will be considered at the meeting concerned where the Committee will decide how to proceed with the reference (within the legislative requirements).

9. COUNCILLORS CALL FOR ACTION

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

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

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the Call for Action may be re-submitted, if necessary, once the Councillor concerned has pursued the matter further.

10. PROCEDURE AT COMMITTEE MEETINGS

(a) The Committees shall consider the following business:

~~(i) Minutes of the last meeting;~~

~~(ii) Declarations of Interest;~~

~~(iii) Questions raised on forthcoming executive decisions in accordance with Rule 13;~~

~~(iv) Responses of the Cabinet to reports and/or recommendations (the "recommendations monitoring report") of the Overview and Scrutiny Committee;~~

~~(v) Responses of the Cabinet to called-in decisions referred for reconsideration;~~

~~(vi) Consideration of any matter referred to the Committee for a decision in relation to the call-in of a decision;~~

~~(vii) its Work Programme (having due regard to the General Role and Principles as set out in Article 6 of the Constitution); and~~

~~(viii) The business otherwise set out on the agenda for the meeting.~~

(i) Minutes of the last meeting;

(ii) Declarations of Interest;

(iii) Consideration of any matter referred to the Committee for a decision in relation to the call-in of a decision;

(iv) Any Councillors Call for Action raised in accordance with Overview and Scrutiny Rule 9;

(v) Questions submitted pursuant to Council Procedure Rule 38;

(vi) Work Programming Issues (having due regard to the General Role and Principles as set out in Article 6 of the Constitution) which shall include:

(1) Matters raised by a Member/Group Leader under Overview and Scrutiny Rule 8;

(2) Questions raised on forthcoming executive decisions in accordance with Overview and Scrutiny Procedure Rule 13;

(3) Responses of Council/Cabinet/Partners to reports and/or recommendations of the Overview and Scrutiny Committee;

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(4) Responses of the Cabinet to called-in decisions referred for reconsideration; and

(5) Summary of forthcoming (and completed) enquiries as directed by Council or otherwise approved by the Committee for that year.

(vii) Interim and/or Finalised Reports from Task and Finish Groups on enquiries undertaken by those Groups; and

(viii) The business otherwise set out on the agenda for the meeting.

(b) Where an Overview and Scrutiny Committee undertakes researched and evidence reviews on a specific topic, on a task and finish basis (e.g. with a view to policy development), the relevant Committee may also ask people to attend to give evidence at the Task and Finish Group meetings that are to be conducted in accordance with the following principles:

(i) that the terms and reference of any Task and Finish Group must be agreed by the relevant Overview and Scrutiny Committee prior to its commencement;

(ii) consideration being given to the Council's priorities and resources when making researched and evidenced recommendations and referral decisions as an outcome of the scrutiny;

(iii) that the reviews be conducted fairly and all members of the Task and Finish Group be given the opportunity to ask questions of attendees, and to contribute and speak;

(iv) that those assisting the Task and Finish Group by giving evidence be treated with respect and courtesy; and

(v) that the review by the Task and Finish Group be conducted so as to maximise the efficiency of the investigation or analysis.

(c) Following any Task and Finish review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

11. POLICY REVIEW AND DEVELOPMENT

(a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules within this Constitution.

(b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, each Overview and Scrutiny Committee may make proposals or act as consultee for the Cabinet for developments in so far as they relate to matters within their terms of reference.

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(c) Each Overview and Scrutiny Committee where relevant to their terms of reference, may ~~investigate~~ **undertake enquiries into** the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. **Enquiries may involve Councillors going** ~~They may go~~ on site visits, conducting public surveys, holding public meetings, commissioning research and doing all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so **(subject to the appropriate budget being available).**

(d) **To assist Members of Overview and Scrutiny Committees to develop appropriate approaches to individual enquiries (and support officers in their role for individual enquiries), the Head of Democratic Services & Elections may (from time to time) issue practice guides on such approaches.**

(e) Where resources permit, each Overview and Scrutiny Committee may establish, task and finish groups to undertake the matters in (c) above and to gather the evidence in the ways set out. Likewise, **enquiries may also be conducted through informal meetings of the Members of the Committee, scrutiny days and off agenda briefings.** Joint task and finish groups (which may be styled panels) may be formed, where necessary, by two Overview and Scrutiny Committees in agreement to examine subjects that are, in part, in both of the terms of reference for those Committees.

Membership of task and finish groups will not be limited to members of the relevant Overview and Scrutiny Committee (s). While they are not subject to the political balance rules that apply to formal Committees/Sub-Committees of the Council, from among the nominees for a particular task and finish group regard will be given to the broad overall political balance of the Council when determining the membership of the group.

(f) **All enquiries undertaken away from a formal meeting of the relevant Overview and Scrutiny Committee will conclude with a final report to that Overview and Scrutiny Committee. It will be for that Committee to determine the finalised report and recommendations arising from the enquiry. An enquiry can identify the need for an interim report, ahead of the final report, and this too will be subject to consideration by the relevant Overview and Scrutiny Committee.**

If Full Council has directly requested a report on that matter then the final report will be submitted to Full Council for its determination.

12. REPORTS FROM AN OVERVIEW AND SCRUTINY COMMITTEE

(a) Specific evidence based reports from an Overview and Scrutiny Committee that contain recommendations on proposals for development, will be submitted formally for

consideration by Cabinet **(or to Full Council directly (if appropriate) from the "crime and disorder committee" or otherwise if Full Council has directly requested a report on that matter)**. If the proposals would involve a change to the existing Budget and/or Policy Framework, the Cabinet will consider the matter and make a recommendation to Full Council. The report will be drafted by Officers and agreed by the relevant Chairman in respect of the proposals from the relevant Overview and Scrutiny Committee.

~~(b) — If an Overview and Scrutiny Committee cannot agree on one single final report to the Cabinet or Council, the report may refer to the contrary views of a Member, if the Member concerned specifically requests this.~~

(b) The Cabinet shall consider the report from the relevant Overview and Scrutiny Committee at the next meeting of the Cabinet for which the agenda has not yet been published.

(c) In addition to making recommendations on specific proposals for development, the Overview and Scrutiny Committees may make more general comments/suggestions regarding matters they have considered, which they would like the relevant Cabinet Member to consider and take appropriate action. In such instances, a copy of the relevant minute will be sent to the Cabinet Member.

(d) Where specific evidence-based recommendations on proposals for development from the Overview and Scrutiny Committees relate to matters that are the responsibility of Partner Authorities and organisations, notice in writing by way of a formal report will be provided to the relevant Partner Authority or organisation requiring them to have regard to the recommendations. The Partner or organisation will be requested to respond to the relevant Committee within two calendar months setting out action, if any, that is to be taken in response to the recommendations.

~~(f) — On occasions, matters may be referred to Overview and Scrutiny from Council. On such occasions, the Chairman of the relevant Overview and Scrutiny Committee will respond to the request, be this via an Overview and Scrutiny Committee or a Task and Finish Review Group. Upon concluding the necessary work, the matter and any recommendations made by the Overview and Scrutiny Committee will be referred to the Cabinet for consideration. The matter, along with the recommendations of the Overview and Scrutiny Committee, and any comments or recommendations of the Cabinet shall be referred back to Full Council for consideration.~~

13. **SCRUTINY OF PROPOSED AND RECENT DECISIONS**

The Overview and Scrutiny Committees will, at their ordinary meetings, review the new and/or amended forthcoming decisions relevant to their terms of reference. If they wish to enquire into any forthcoming decisions, such an enquiry might consist of questioning members of the Cabinet and Officers, and seeking the views of local stakeholders and/or other interested parties. The

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Cabinet will take into account any recommendations expressed by the relevant Overview and Scrutiny Committees when determining the final decision and record their response within any report and/or decision.

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

The Overview and Scrutiny Committee shall also be provided with a list of decisions by Cabinet/an individual Portfolio Holder taken since the Committee's last ordinary meeting and which that previous meeting had not itself had notice of in the record of forthcoming decisions. As such, if after preparation of the agenda for an ordinary meeting of an Overview and Scrutiny Committee notice of a proposed decision is given and the decision then is taken prior to the following ordinary meeting of the Committee, that second meeting of the Committee will be advised of the decision. This list is for the purpose of completeness and to inform the work programme discussion of the Committee. Other than informing this process the Committee may only note the list.

14. RIGHTS OF COMMITTEE MEMBERS TO DOCUMENTS

- (a) In addition to their rights as Councillors, members of the Overview and Scrutiny Committees in fulfilling their functions have the right to documents, and as provided for in Access to Information Procedure 20 (Rights of Overview and Scrutiny Members).
- (b) This would not prevent more detailed liaison between the Cabinet and any Overview and Scrutiny Committee as appropriate.

15. MEMBERS AND OFFICERS GIVING ACCOUNT

- (a) It shall be for the relevant Management Team member to determine which Officers attend to provide advice to Overview and Scrutiny Committees, subject to each Committee being able to supplement this as thought necessary through (b), (c) and (d) below: However, the Chief Executive, Chief Financial Officer and Monitoring Officer have the right to attend, speak on an item of business, provide representations and present a report to discharge their statutory and constitutional duties whenever necessary. In such instances, the Overview and Scrutiny Committee will give due regard of the relevant advice provided. The decision and minutes of the meeting will record the advice, how it was taken into account and reasons for any departure.
- (b) Any Overview and Scrutiny Committee may scrutinise and review decisions made or action taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Overview and Scrutiny role, it may require any Cabinet Member, or any Senior Officer to attend before it to explain in relation to matters within their remit:

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- (i) any particular decision or series of decisions (excluding decisions made **as a consequence of a hearing/decision on an application** by the Planning, Licensing and Registration, Audit, Human Resources and Council Tax or Standards Committees or Sub-Committees/Panels of those Committees); and/or
 - (ii) the extent to which the actions taken implement Council policy.
- (c) Where any Cabinet Member or Senior Officer is required to attend a meeting of the relevant Overview and Scrutiny Committee, at least seven working days' notice of the meeting at which they are required to attend shall be given. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the relevant Committee. Where the account to be given to the Committee will require production of a report, then the Member or Officer concerned will be given sufficient notice to allow for the preparation of that document.
 - (d) Where, in exceptional circumstances, the Cabinet Member or Senior Officer is unable to attend on the required date, the Chairman of the relevant Committee, shall, in consultation with the Member or Officer, arrange a substitute or an alternative date for attendance.
 - (e) Participation by any Cabinet Member(s) in the general debate of the Overview and Scrutiny Committees will be at the discretion of the relevant Chairman (this rule does not apply when the Committee is considering a call-in).
 - (f) **In this paragraph, reference to an Overview and Scrutiny Committee includes enquiries undertaken through informal meeting of Members of the Committee, task and finish groups, scrutiny days and off agenda briefings etc.**

16. ATTENDANCE BY OTHERS

Each Overview and Scrutiny Committee may, in so far as it relates to matters within their terms of reference, invite people other than those referred to in paragraph 15 above to address them, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and may invite such people to attend. Attendance by those invited is entirely optional but encouraged in the spirit of partnership working and community engagement.

All such invitations will be made through the Head of Democratic Services & Elections, in his capacity as the Council's designated Scrutiny Officer (Article 12 of the Constitution), so that a consistent and co-ordinated approach to invitations can be maintained. All such requests from individual Members shall be referenced to the Head of Democratic Services & Elections. This approach shall be followed in respect of less formal overview and scrutiny enquiries (such as through task and finish groups).

17. CALL-IN

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When a decision is made by the Cabinet, or an individual member of the Cabinet, the decision is published, normally within five working days of being made. The Chairman of the relevant Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision. Decisions will also be sent to all Members.

That notice will include the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the decision is called-in.

- (a) The rules applying to call-in are:
- (i) All executive decisions taken at Cabinet meetings, or by individual Cabinet Members or by Officers (who are making a Key Decision as defined in Article 13.03), may be called-in, subject to the exceptions outlined in Procedure Rule 18;
 - (ii) Prior to holding a call-in, the callers-in are expected to attempt to resolve the matter through informal mediation, together with the relevant Cabinet Member and/or the Leader of the Council, if appropriate to do so;
 - (iii) The Committee Services Manager, will process call-in notices received from:
 - a. The Chairman of the relevant Overview and Scrutiny Committee; or
 - b. Three Non-Cabinet Members of the Council.All valid call-in notices will be referred to the relevant Overview and Scrutiny Committee for determination and the decision-maker will be notified of the call-in.
 - (iv) A notice of call-in must be made on the appropriate prescribed form or email (so long as the email addresses the relevant information required) and must be received within five working days of the date of publication of the decision. Use of the prescribed form is encouraged, and should be completed in full, with reference to the criteria for submitting call-in requests and stating the reasons why the issue needs to be scrutinised.
 - (v) Individual decisions taken by Non-Executive Committees (Planning, Licensing, Standards and Audit Committees) cannot be the subject of call-in; and
 - (vi) Any decision can only be called-in once.
- (b) Those seeking to call-in a decision shall be required to state their reasons, in accordance with the criteria set, in the call-in notice form based on one or more of the following seven assessment criteria. These seven criteria are as follows:

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- (i) The decision-maker has failed to consult relevant people, or bodies, in contravention of defined Council policies or procedures.
 - (ii) The decision is contrary to the Council's Budget or Policy Framework.
 - (iii) The decision is not consistent with Council policy.
 - (iv) The decision-maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable.
 - (v) The decision is contrary to a previously agreed decision made in Full Council, which has not been superseded by a subsequent decision.
 - (vi) The decision is inconsistent with a previous Overview and Scrutiny recommendation that has been accepted by Cabinet or Council and that recommendation has not been superseded by a subsequent decision.
 - (vii) The decision was not taken in accordance with the principles set out in Article 13 (Decision-Making) of the Constitution.

(c) **Mediation Process**

- (i) Those seeking to call-in a decision shall state, when providing their reasons in the call-in notice, whether they wish to enter into mediation with the relevant Cabinet Member(s) and if so, what element of the decision and/or further information would they wish to discuss as part of the mediation.
- (ii) Once those seeking the call-in have provided this information, the relevant Cabinet Member(s) must respond and confirm whether they wish to engage with the mediation process.
- (iii) Upon confirmation that the parties wish to mediate, Committee Services will set up a mediation, at which Officer(s) with knowledge of the background to the decision can attend to assist with providing or clarifying any information.
- (iv) The mediation meeting must be held no later than three working days before the date of any meeting arranged to allow consideration of the call-in by the relevant Overview and Scrutiny Committee.
- (v) The Council's Monitoring Officer and/or Section 151 Officer (or their appointed deputies) may attend the mediation meeting at their individual discretion.
- (vi) The Officer from Committee Services attending the mediation, will within 24 hours, produce a note for circulation to all parties to the meeting for approval. That note must include any and all assurances given by, or agreements reached with the Cabinet Member(s).
- (vii) Once those assurances or agreements are subsequently confirmed as being acceptable by all parties in writing then the call-in will be treated as having been dealt with and any further required action in relation to the decision will be undertaken in accordance with the Council's Constitution.

The Mediation Process does not preclude the relevant Cabinet Member(s), upon being made aware of the call-in and the reasons for it, making an immediate, unilateral undertaking to amend or rescind their decision or undertake any other appropriate action. Committee Services will inform the callers-in of such unilateral undertaking and ask if they are satisfied by that undertaking. If the callers-in confirm the undertaking as being acceptable to them in writing then the call-in will be treated as having been dealt with and any further required action in relation to the decision will be undertaken in accordance with the Council's Constitution.

- (d) The submission of a call-in notice shall have the effect of suspending the implementation of the decision pending consideration of the matter by the relevant Overview and Scrutiny Committee, who must meet to consider the matter within 15 working days from the date following receipt of the call-in notice.

If the relevant Committee does not meet within this period, the decision shall take effect on the expiry of the 15 working day period. The Chairman of the relevant Overview and Scrutiny Committee is under an obligation to ensure that the meeting is held within 15 days.

If the relevant Overview and Scrutiny Committee has already commented or made recommendations on the specific matter which has been called-in prior to the decision being made then it will be deemed to be pre-determined on the matter and the call-in will be considered by another Overview and Scrutiny Committee.

- (e) At the meeting to consider the call-in notice, the Overview and Scrutiny Committee shall limit its consideration to the reasons stated in the call-in notice.
- (i) The layout of the meeting will provide separate tables for both the callers-in and the relevant Cabinet Member to sit at for the item of the call-in.
- (ii) Stage One of the meeting – the Councillor(s) requesting the call-in shall attend and explain their objections to the decision and the reasons for the call-in against the stated criteria.
- (iii) Stage Two – the decision-maker (relevant Cabinet Member and relevant officer) shall establish the reasons behind the decision and can determine whether it should be referred back to the Cabinet Member for consideration.
- (iv) Stage Three – Questions can be asked by:
- a. The callers-in;
 - b. The relevant Cabinet Member or relevant Officer; and
 - c. The Committee.

All questions will be at the discretion of the Chairman, taking account of relevance to the subject matter.

- (f) It should be noted that, although a decision may be deemed to meet the criteria for call-in, this does not automatically mean the matter should be referred back to the decision-maker. There may be compelling reasons for the decision being made and all evidence should be heard before determining what action should be taken.
- (h) Participation in the general debate will not be permitted but the callers-in and relevant Cabinet Member may answer questions or points of clarification arising through the debate, at the discretion of the relevant Chairman.
- (i) On considering the matter, the Committee will decide whether or not to ask the decision-maker to reconsider its decision.
- (j) If, having had regard to the advice of the Monitoring Officer, which will be summarised within the Report, the Committee considers the executive decision is contrary to the Budget or Policy Framework; the Committee may refer the matter to the next practicable meeting of the Council, subject to the provisions of Council Procedure Rules.
- (k) If the relevant Overview and Scrutiny Committee decides to ask the decision-maker to reconsider their decision, the decision-maker shall be required to do so within 15 working days following the meeting of the relevant Overview and Scrutiny Committee, unless the decision maker was an Officer in which case it will be referred back to the Leader of the Council or relevant Portfolio Holder for consideration. In that circumstance the Leader of the Council or relevant Portfolio Holder shall be required to reconsider the decision within 15 working days.
- (l) If the Overview and Scrutiny Committee decides that it does not wish to refer the matter back to the decision-maker or to Council, the decision shall be confirmed and take effect immediately following the meeting of the Committee.
- (m) If the matter is referred to Council, who do not object to the decision, the subject of call-in, no further action is necessary and the decision will be effective on the date of the Council meeting. If Council does object, it only has authority to make decisions where it is considered contrary to the Budget and Policy Framework. The Council must refer any decision relating to Cabinet Functions, to which it objects, back to the decision-maker, together with the Council's views on the decision. The decision-maker shall, within a further 15 working days, choose whether to amend the decision or not before reaching a final decision and implementing it.
- (n) **Decisions referred back to the Decision Maker**

The comments and views provided by Council or the relevant Overview and Scrutiny Committee when referring a decision back for reconsideration shall be final and no further representations shall be made to the decision-maker.

The decision-maker will send a report to the relevant Overview and Scrutiny Committee, once a decision has been reconsidered, and that report should include the reason why

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the decision-maker has either reconfirmed the original decision or why the decision has changed.

(o) **Withdrawal of a Call-in**

A request to call-in a decision may be withdrawn in writing (or by personal email) at any time by one of the Members making the request.

18. EXCEPTIONS TO CALL-IN

The call-in procedure set out above shall not apply in respect of Cabinet decisions regarding the following:

(i) Urgent Decisions

A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person, or body, the decision is an urgent one and why, and therefore not subject to call-in.

The Chairman of the relevant Overview and Scrutiny Committee must agree that the proposed decision is reasonable in all its circumstances and that it should be treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required.

Decisions taken as a matter of urgency must be reported by the Leader to the next practicable ordinary meeting of the Council, together with the reasons for urgency.

(ii) Other Exceptions

(a) "Provisional" or "in principle" decisions where the issue is to be referred to an Overview and Scrutiny Committee for comment.

(b) Recommendations from Cabinet to Council.

(c) Decisions by the Cabinet where the issue has been referred to them by the Council or an Overview and Scrutiny Committee for their view or comment shall not be subject to call-in.

(d) Unless the decision has taken into account new material considerations arising since the original consultation with the Council or an Overview and Scrutiny Committee a decision by the Cabinet in response to such consultation shall not be subject to call-in.

(e) Where Full Council has delegated to the Cabinet the ability to approve additional information in respect of the Corporate Plan to ensure that statutory publishing deadlines are met, such decisions shall be construed as urgent for the purposes of Rule 18(i) above. In such circumstances the Chairman of the

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relevant Committee, or other Chairman or Vice-Chairman so authorised to act in his absence, will only be required to agree that the proposed decision is reasonable in all the circumstances.

- (iii) The operation of the provisions relating to call-in and urgency shall be monitored in accordance with Article 15 of this Constitution and a report submitted to Council with proposals for review if necessary.

A.2 APPENDIX J – FINANCIAL PROCEDURE RULES

6.3 Virements

6.3.1 A virement, unlike a supplementary estimate, will not increase the Council's overall net expenditure. However to ensure that the budget, functions and service levels approved by Council are not compromised virements can only be undertaken under the following conditions.

6.3.2 Virement rules do not need to be followed in the following circumstances but a scheme will still need to be approved including agreement of what is to be delivered:-

- (a) Where expenditure is being funded entirely by income received under section 106 agreements and that income has been received and accounted for in the current financial year and where that expenditure is in accordance with the terms of the section 106 agreement. In these circumstances the Chief Financial Officer must agree the expenditure, and the financing.
- (b) For expenditure where the Council receives full funding from an external source for a specified project and there are no additional revenue costs to the Council in either the current financial year or future financial years. In these circumstances the Chief Financial Officer must agree the expenditure and the financing.

If there are additional costs to the Council then that expenditure must be financed in accordance with these Financial Procedure Rules.

- (c) Subject to agreement of the Chief Financial Officer:
 - (i) Where a decision requires an amendment to the budgetary analysis within the Council's financial information system in order that the Council's accounts can properly reflect the financial transactions of that decision.
 - (ii) Where the budgetary analysis within the Council's financial information system need to be amended in order to comply with required accounting standards or to properly reflect the costs of an activity or function.
 - (iii) If not subject to any separate delegation, where a budget has been established via an earlier decision of Cabinet / Full Council, any subsequent itemised expenditure from that budget (rather than a transfer between budget headings which would require a virement), in such circumstances, an Officer decision will be required following consultation with the relevant Portfolio Holder.**

A.2 APPENDIX K

PROPERTY DEALING PROCEDURE

1. NEGOTIATION OF PROPERTY DEALS

- 1.1** Property Deal means the acquisition or disposal by the Council of any interest in land, including freehold, leasehold, by way of tenancy, any rent review, lease variation, lease renewal or any other dealing or proposed dealing with an interest in land or licence to use land.
- 1.2** Members must not engage in negotiations of any kind relating to any Property Deal or proposed Property Deal.
- 1.3** Every request to the Council from any party for a deal within this procedure shall be referred to the Assistant Director (Building & Public Realm), or, by the Chief Executive, to a Corporate Director.
- 1.4** Every Property Deal shall be conducted in accordance with the Property Dealing Procedure, excluding the sale of dwellings under right-to-buy legislation, the sale and purchase of Shared Equity and DIYSO properties, and arrangements for utilities to be provided on Council owned land.
- 1.5** Any Property Deal will be dealt with by appropriate officers in accordance with the Property Office Procedures to be agreed from time to time by the Assistant Director (Building & Public Realm) with the Council's Section 151 and Monitoring Officers. The Property Office Procedures set out the practice to be followed by any Officer acting under delegated powers.

2. PROPERTY OFFICE PROCEDURE

- 2.1** "Property Office Procedure" means all applicable steps of the Property Office Procedure at the time being.
- 2.2** The Assistant Director (Building & Public Realm) will ensure that adequate office procedures are agreed with the Section 151 and Monitoring Officers and maintained. The Property Office Procedures must include appropriate controls on the conduct of Property Deals. The Property Office Procedure should contain other procedures and guidance on the management of property by other parts of the Council.

- 2.3** **In relation to those instances where a Portfolio Holder is the decision maker, the Assistant Director (Building & Public Realm), in consultation with the Monitoring Officer, the Section 151 Officer and the Head of Internal Audit, will ensure that there is an adequate set of formal principles for decision making in place and maintained. This set of principles should be set out in:-**

the Property Strategy; or

the Housing Strategy; or

the Housing Acquisitions Policy; or

the Commercial Investment Property Policy.

It should also enable the Portfolio Holder to demonstrate that they have assessed the deal against the principles. Where the deal is not in accord with the Property Strategy or the Housing Strategy or the Housing Acquisitions Policy or the Commercial Investment Property Policy, as appropriate, it will be referred to the Cabinet for determination.

3. VALUATIONS

3.1 In relation to Property Deals and to any appropriation of land the Assistant Director (Building & Public Realm) will carry out or obtain appropriate valuations proportionate to the open market value or rental:

<u>Type of Deal</u>	<u>Valuation(s) Required</u>
Licences and Tenancies at Will	Officer valuation to be prepared and retained
Leases, interests and freeholds up to £100,000 £300,000	One full external professional valuation to be obtained
Leases, interests and freeholds over £100,000 at £300,000 or over	Two A full external professional valuation to be obtained, plus a further valuation at the Property & Projects Manager's discretion, if deemed necessary in their professional opinion.
As above but in any ransom or other circumstances where the seeking of two valuations would be impractical in the opinion of the Assistant Director (Building & Public Realm)	One full external professional valuation to be obtained. Assistant Director (Building & Public Realm) to include reasoning in the report for decision.

3.2 The decision to initiate the Property Dealing Procedure will be taken by the Corporate Director (Operations and Delivery). In those instances where the decision involves a Freehold Acquisition or Disposal that decision to initiate the Property Dealing Procedure will be taken by the Corporate Director in consultation with the relevant Portfolio Holder.

APPENDIX A
Levels of Decision Making

Right or interest to be granted/acquired	Officer who is Head of Department or Corporate Director	Officer who is Corporate Director (Operations & Delivery)	Relevant Portfolio Holder (See Note below)	Cabinet
Reporting	Formal Record of Officer Decision to be completed and published*		Formal Report and Record of Decision required to be completed and published	
1. A licence or access agreement for 12 months or less				
2. a licence or access agreement for more than 12 months or any tenancy at will				
3. Tenancies for less than seven years excluding security of tenure				
4. Renewal, assignment or surrender of tenancies as 3 above				
5. Tenancies for seven years or more or tenancies not excluding security of tenure				
6. Renewal, assignment or surrender of tenancies as 5 above				
7. Grant, acquisition or release of Rights of Way, Easements or other permanent rights				
8. Freehold property interest less than £100,000				
9. Freehold property interest is £100,000 or over but less than £300,000				
10. Freehold property interest is £300,000 or over				
11. Decision whether to continue to pursue a transaction as an appropriate course of action, including under the General Disposal Consent Order, and in				

situations where the agreed price differs substantially from the valuation advice received				
12. Any disposal of open space where objections have been received				
13. Any disposal at less than the Best Consideration Reasonably Obtainable				
14. New Lease to residential tenant under Chapter II of Part I of the Leasehold Reform, Housing and Urban Development Act 1993 (commonly referred to as a lease extension)				
15 Extensions to Shared Equity Leases (Leasehold Reform Act 1967 – Deed of Variation to alter rent to a modern rent with no premium paid)				

*Subject to access to information rules.

Note: The relevant Portfolio Holder will be determined by whether the property sites, or will sit, within the General Fund or the Housing Revenue Account. Greyed box indicates level of decision making.

A.2 APPENDIX L**SECTION 1 – SECTION SUMMARY****1.0 Procurement rules are set out across the following sections:**

- SECTION 1 - General Requirements
- SECTION 2 – Exemptions from Procedure Rules
- SECTION 3 – The Procurement Framework and Central Purchasing
- SECTION 4 – Quotation and Tenders

- 4.1 General Requirements
- 4.2 Quotations (*Procurement up to £50,000*)
- 4.3 Tenders (*Procurement over £50,000*)
 - 4.3.1 Selecting Suppliers
 - 4.3.2 Open Competitive Tenders
 - 4.3.3 Selective Tenders
 - 4.3.4 The number of suppliers invited to tender
 - 4.3.5 Going out to Tender
 - 4.3.6 Receipt of Tenders
 - 4.3.7 Opening of Tenders
 - 4.3.8 Acceptance of Tenders
 - 4.3.9 Tender Evaluation Panel

- SECTION 5 – Other Procurement Rules
- SECTION 6 – Official Order Rules

SECTION 1 – GENERAL REQUIREMENTS**1.1 Before undertaking any procurement, Departments should satisfy themselves that:**

- The works, goods or services are required and a need can be demonstrated
- There are no reasonable alternatives e.g. sharing or utilising spare capacity/inventories elsewhere within the Council
- **They are aware of the current statutory contract value thresholds in accordance with the Public Contract Regulations 2015 (as amended) as shown on PING**
- Where relevant, they have considered the requirements of the Public Services (Social Value) Act 2012 and have recorded/evidenced the outcomes against the associated requirements:-
 - ❖ *how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area*
 - ❖ *how, in conducting the process of procurement, it might act with a view to securing that improvement.*

Procurement Procedure Rules apply to the procurement of ALL goods, works or services. The Council's approved computerised ordering system will be used for all procurement, except where otherwise detailed within these Procurement Procedure Rules.

Procurement can only take place where budgetary provision is available to fund the goods, works or services required (see Financial Procedure Rules).

Where the Council contracts with a third party (who is not an officer of this Council) to supervise a contract on its behalf, the Corporate Director/Head of Department entering into that contract will be required to ensure that the third party complies with the requirements of these Procurement Procedure Rules.

Where the Council enters into or administers a contract either as an agent, or on behalf of another public body the Council's Procurement Procedure Rules will apply unless written instructions have been received by the Council to the contrary.

These Procurement Procedure Rules will not apply where statute or subordinate legislation prescribes otherwise.

Delegation relating to the engagement of consultancy services is set out separately within the "Common to all Portfolio Holders" section of the Constitution. However, for completeness, the Corporate Directors/Heads of Department only have delegated authority for the engagement of consultancy services or specialist professional advice up to the value of £15,000 and procurement rules must be followed. For schemes where fees are expected to exceed £15,000 consultation with the Portfolio Holder or Committee Chairman is required.

Procurement within the Council is co-ordinated by ~~Finance, Benefits and Revenue~~ **Governance Services** and in all cases where catalogues or other pre-negotiated approaches are not used, then consultation with the ~~Finance, Benefits and Revenue~~ **Governance Services** should be undertaken to identify potential alternative options or additional procurement opportunities.

Where building works form part of the procurement, then it is expected that Departments will discuss their requirements with the internal surveyor as appropriate.

1.2 Use of Local Suppliers

All Procurement should be in line with the Council's Procurement Strategy which includes the recognition of the use of local suppliers and providing a fair basis for them to compete for the provision of goods, works and services required by the Council.

SECTION 2 – EXEMPTION FROM PROCUREMENT RULES

- 2.1 The Corporate Directors/Heads of Department shall be exempt from the need to obtain competitive quotations/prices where any of the following circumstances apply:-
- (a) The goods or services are procured from an in-house service
 - (b) The goods are proprietary items of which there is only one supplier, or are sold by all suppliers at a fixed price

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- (c) The matter is one of urgency as determined by the appropriate Corporate Director/Head of Department following consultation with the responsible Portfolio Holder or the Leader of the Council.
 - (d) The contractor or supplier is specified for works to this Council for which an external client is making payment.
 - (e) Where the work is of a specialist nature and the Corporate Director/Head of Department can demonstrate that it is not possible to obtain more than one quotation or tender.
 - (f) For the engagement of Counsel by the Assistant Director (Governance).
 - (g) Where a partnership arrangement has been entered into with a contractor or a supplier as a result of competitive tendering, and the proposed procurement is within or related to the documented scope of that partnership arrangement. In such cases the Corporate Director/Head of Department must be able to demonstrate that the proposed procurement through such a partnership arrangement is advantageous to the Council (e.g. continuity of service or product supply, or extension of existing arrangements). The documentation will be issued will take the form of a contract variation as determined in the partnership contract and/or via the Official Ordering rules or if appropriate the documentation to be issued will be as required by the Procurement Procedure Rules for the value of the procurement. *(EU limits must be observed to ensure no thresholds are exceeded)*.
 - (h) For purchases from petty cash.

In all cases where an exemption is applied the Corporate Director/Head of Department shall maintain a record to evidence this.

2.2 Further exemption from Procurement Procedure Rules may be sought where a Head of Department can demonstrate that exemption is justified by special circumstances.

- (a) Where no specific exemption is provided above:
 - Where the value of the contract or procurement is estimated to be less than £50,000 exemption may be granted by the Chief Financial Officer in consultation with the Corporate Finance & Governance Portfolio Holder. **The procuring service must publish an Officer Decision to record this.**
 - Where the total value of the contract, or procurement, is estimated to be between £50,000 and £250,000 the Corporate Finance & Governance Portfolio Holder may, on the recommendation of the Chief Financial Officer, grant exemption. In such cases a formal Portfolio Holder decision must be made.
 - Where the total contract, or procurement, is estimated to exceed £250,000, the Cabinet, or a Committee may, on the recommendation of the Chief Financial Officer, grant exemption.

In such cases a record of the exemption must be made in the minutes of the Cabinet, or Committee.

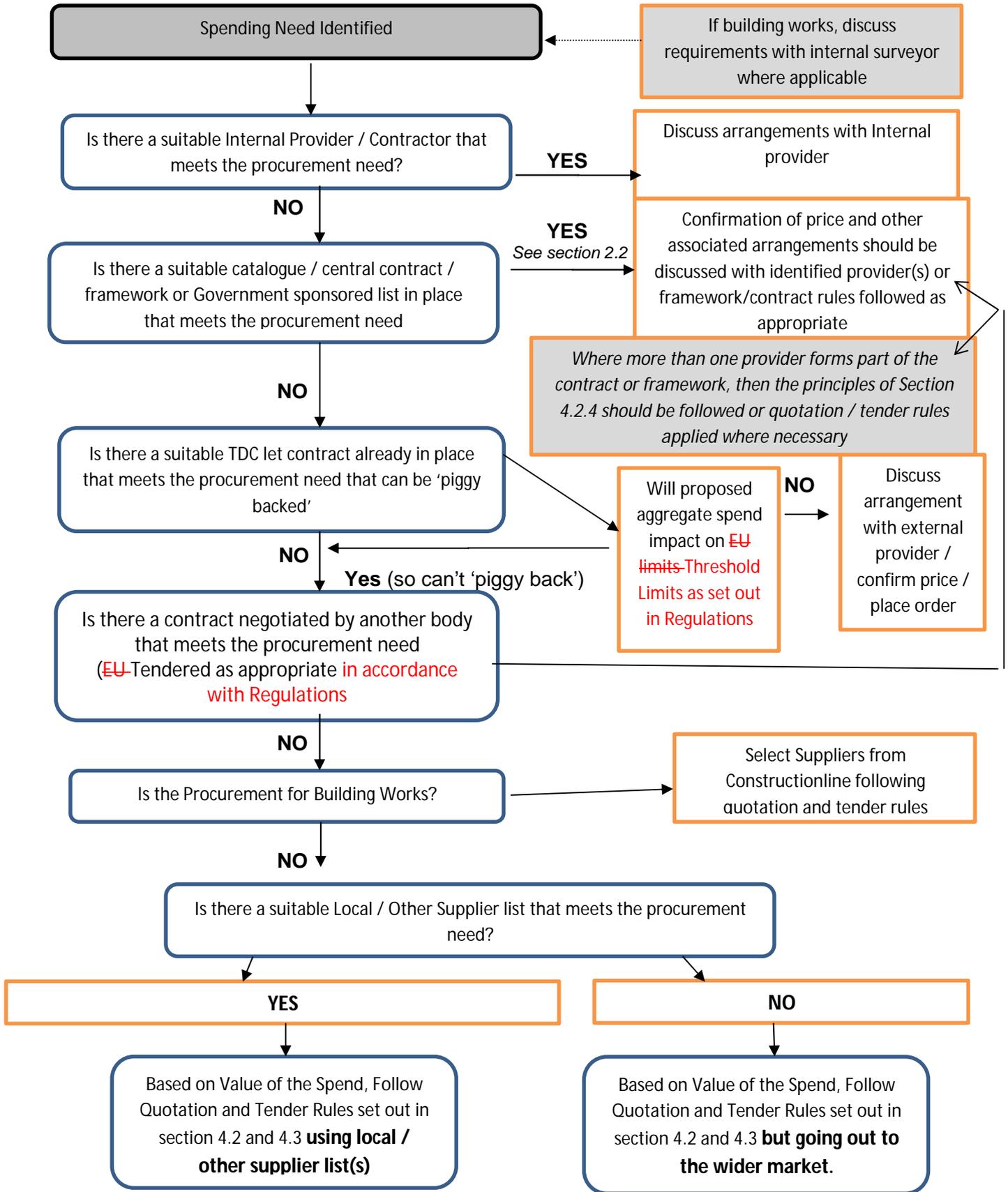
2.3 Alternative/Indirect Service Delivery

Where the Council seeks to implement alternative delivery options, for whole or parts of services, those procurements will be achieved in accordance with the Council's Procurement Strategy. Such procurements may not necessarily be able to be undertaken within Procurement Procedure Rules given the number and combination of different procurement routes and processes that may be applicable, but must:-

- (i) Comply with all relevant statutory provisions including European Procurement Directives.
- (ii) Follow a documented process determined by the responsible Corporate Director/Head of Department, the Chief Financial Officer and the Assistant Director (Governance), and agreed by Management Team and the Cabinet, in advance of the process. The process must demonstrate compliance with the principals of openness and accountability.
- (iii) Be capable of providing clear probity trails, particularly in respect of the opening and evaluation of any associated bids or tenders.
- (iv) Comply with any Procurement Procedure Rules that remain applicable, or offer alternatives that meet the requirements of ~~the Chief Financial Officer and~~ the Assistant Director (Governance).

SECTION 3 – THE PROCUREMENT FRAMEWORK

- 3.1 All procurement is expected to following the following process/framework taking each step in sequence noting that the overall value of procurement is not the initial consideration. ~~Finance, Benefits and Revenue Governance~~ Services should be consulted at the relevant stage of the process as necessary.



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3.2 Central Purchasing

This includes:

- Central Contracts – Where the Council has taken advantage of negotiating with an external provider for the supply of goods, works or services.
- Partnership Agreements – Where the Council has decided to enter into partnership agreements either directly with other public bodies, or as part of a consortium of public bodies, for the procurement of goods, works or services.

Procurement Procedure Rules will be followed to select the supplier/contractor to be used for central contracts or if this Council is undertaking the tendering process to select the supplier/contractor under a partnership approach.

- Specialist call-off contracts - Where contracts have been tendered/negotiated by other public bodies and include the option for other Public Bodies to participate.

If the use of any such contract is not considered to offer Value for Money, then the relevant Corporate Director/Head of Department should consult with ~~Finance, Benefits and Revenue Services~~ **the Chief Financial Officer and the Assistant Director (Governance)** in order to identify the most appropriate/advantageous procurement route.

SECTION 4 – QUOTATIONS AND TENDERS

4.1 General Requirements

- (a) Disaggregation of any procurement, in order to apply a lower level to each of the parts is not permitted.
- (b) Where any procurement spans a number of periods, or years, the total estimated cost will be the cumulative total of all periods, or years covered.
- (c) The use of electronic “portals” or other electronic means must be used to widely advertise goods, works or services required by the Council where appropriate, to ensure equal opportunity between local and non-local suppliers.
- (d) Procurement **up to £50,000** (excluding VAT) – **Quotation Rules Apply (Section 4.2).**
- (e) Procurement **over £50,000** (excluding VAT) – **Tender Rules Apply (Section 4.3).**

4.2 **QUOTATIONS** (Procurement up to £50,000 excluding VAT)

After the appropriate procurement route has been identified by following the framework set out in 3.1 above and if appropriate:

4.2.1 Procurement up to £10,000 (excluding VAT)

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Where procurement is less than £2,500 then value for money should be demonstrated by obtaining two prices where possible.

Where procurement is in excess of £2,500, the seeking of two prices would be expected, with evidence retained by the department.

4.2.2 Procurement over £10,000, but not expected to exceed £50,000 (excluding VAT)

A minimum of three quotations should be sought by the department in addition to the production of a documented specification to include:

- (i) Identification of the procurement of goods, works or services required.
- (ii) Identification of any periods over which the goods, works or services are to be provided. In appropriate cases, provide for the payment of liquidated damages by a contractor where there is a failure to complete the contract within the period(s) specified.
- (iii) Provision for the retention of stated sums/percentages and the retention period to be applied where appropriate.
- (iv) Provision for the contractor to provide a performance bond, or parent company guarantee where appropriate.
- (v) Unless an exemption is obtained from ~~the Assistant Director (Finance & IT)~~ or the Assistant Director (Governance), the Council Standard Contract for Services must be used when seeking quotations for £25,000 and above. When seeking an exemption, the relevant department will identify why any additional or replacement terms and conditions are necessary for the service being sought.
- (vi) All contractors or suppliers asked to provide a quotation must be advised that the quotation must be sent to a specified e-mail address, and that quotations e-mailed to any other Council e-mail address will be disqualified.

4.2.3 All quotations shall be sought electronically:

The responsible Corporate Director/Head of Department shall arrange for a secure e-mail address to be set up on the Council's e-mail system. Access to this e-mail address must not be available until the time of quotation opening. Access to the secure e-mail address shall be controlled by an independent senior member of staff not involved with the project or tender process or a member of the Procurement Service.

Where the lowest quotation received exceeds £50,000 (excluding VAT), Tender Rules shall be followed from that stage as if tenders had been sought.

If the value of the lowest quotation received exceeds the limit of the quotation category applied, then the Corporate Director/Head of Department must seek sufficient further quotations applicable to the level of the value of that lowest quotation.

4.2.4 The Corporate Director/Head of Department is under no obligation to accept any of the quotations. However where they are prepared to accept a quotation, the most financially advantageous quotation should be accepted unless other factors such as quality, local supply, performance and deliverability are also considered as part of the selection process, **in accordance with the Council's overall requirements to demonstrate Value for Money**. Evidence is expected to be retained **and recorded in an Officer Decision**, to support such decisions where procurement exceeds £10,000.

4.3 **TENDERS** (*Procurement greater than £50,000 excluding VAT*)

After the appropriate procurement route has been identified by following the framework set out in 3.1 above and if appropriate:

4.3.1 **Selection of Suppliers**

Tenders Over ~~European Procurement Regulation~~ Statutory Thresholds

(a) Where the total estimated value of a proposed contract over its term is expected to exceed the appropriate current ~~European Procurement regulation~~ **Public Contract Regulations 2015 (as amended)** thresholds, such regulations will take precedence over these tender procedures.

Tenders Under ~~European Procurement Regulation~~ Statutory Thresholds

The appropriate Corporate Director/Head of Department will determine whether to use **Open Competitive Tendering** or **Selective Tendering** as set out separately below.

4.3.2 **Open Competitive Tenders**

A notice inviting tenders shall be prepared which should:-

- (i) Set out the nature and purpose of the contract and specify that expressions of interest are sought and set out details of where further information/tender documents can be obtained.
- (ii) Be advertised via the Council's electronic "portal" that is open to all potential suppliers or alternatively in at least one newspaper or journal circulating among suppliers/contractors who undertake such contracts. The notice period to be allowed for potential suppliers to request additional tender documentation should be determined by the Corporate Director/Head of Department.

Following the expiry of the notice period, Tender documentation will be sent to interested parties in accordance with **SECTION 4.3.5**.

4.3.3 **Selective Tendering**

Where the Council can access a central/framework arrangement, government sponsored list or a contract negotiated by another public body as set out in **SECTION 3.2** above, more than one supplier may be eligible under such arrangements. If this is the case, tender documentation

should be sent to the relevant parties in accordance with **SECTION 4.3.5**. In all other cases the following process should be undertaken:

A public notice shall:-

1. Specify details of the goods, works or services to be tendered.
2. Specify a time limit determined by the Corporate Director/Head of Department during which time potential suppliers can request that they be considered for inclusion in the associated tender process.
3. After expiry of the period specified in the public notice, the responsible Corporate Director/Head of Department will undertake an evaluation of the suppliers. This evaluation may be subject to Tender Evaluation Panel review.
4. The responsible Corporate Director/Head of Department, and where appropriate the Tender Evaluation Panel, will in consultation with the appropriate Portfolio Holder or Chairman of the relevant Committee select those contractors suitable and capable to tender for the proposed contract.

Following the conclusion of the evaluation process, Tender documentation will be sent to interested parties in accordance with **SECTION 4.3.5** below:

4.3.4 The Number of Suppliers Invited to Tender

Invitations to tender shall ensure fair competition and where possible include a mix of local and non-local suppliers and shall be sent to:-

Not less than 4 contractors, with the maximum number as determined by the relevant Corporate Director/Head of Department. (Where less than 4 suitable contractors have been identified from the selection process, then all shall be invited to tender).

4.3.5 Going out to Tender

General Rules

Tenders must:

- (i) Specify the goods, works or services to be supplied, contract value, any discounts or other deductions that may apply, the period(s) during which the contract is to be performed and any other relevant terms and conditions that the responsible Corporate Director/Head of Department considers necessary.
- (ii) In appropriate cases, provide for the retention of stated sums/percentages and the retention period to be applied.
- (iii) In appropriate cases, provided for the payment of liquidated damages by a contractor where there is a failure to complete the contract within the period(s) specified.

-
- (iv) In appropriate cases, and at the discretion of the responsible Corporate Director/Head of Department, make provision requiring the contractor to provide a performance bond and/or a parent company guarantee.
 - (v) Identify the basis on which the submitted tenders will be evaluated. (Where the evaluation is other than a straightforward financial evaluation based upon lowest submitted price, the proposed evaluation process must be submitted to the Tender Evaluation Panel for agreement before tenders are sought).
 - (vi) Tenders are required to be submitted on a form of tender prepared by, or agreed by, the Council which shall include a statement that the Council will not be bound to consider or accept any tender.
 - (vii) Specify the closing date and time by which tenders must be received.
 - (viii) Where the Corporate Director/Head of Department considers that the Council may benefit from the use of post tender negotiation, that officer shall ensure that such intention is included in the documentation submitted to tenderers and before seeking tenders agree a suitable procedure with the Tender Evaluation Panel.
 - (ix) Specify social value considerations as appropriate.
 - (x) Unless an exemption is obtained from ~~the Assistant Director (Finance & IT)~~ or the Assistant Director (Governance), the Council's Standard Contract for Services must be used. The draft contract must be supplied as part of the tender exercise. When seeking an exemption, the relevant department will identify why an alternative model contract is required or any additional or replacement terms and conditions are necessary for the service being sought.

4.3.6 **Receipt of Tenders**

Unless determined otherwise by the responsible Corporate Director/Head of Department in consultation with ~~Finance, Benefits and Revenues~~ **Governance Services**, all tenders should be requested to be returned electronically by e-mail. However, whatever form of tender response is implemented, all tenders must be submitted in the same manner.

The responsible Corporate Director/Head of Department shall arrange for a secure e-mail address to be set up on the Council's e-mail system. Access to this e-mail system must not be available until the time of tender opening. Access to the secure e-mail address shall be controlled by an independent senior member of staff not involved with the project or tender process or a member of the Procurement Service.

Tender documentation sent to potential providers must state that tenders must only be sent to the specified e-mail address and that tenders e-mailed to any other Council e-mail address or after the closing date and time will be disqualified.

As soon as practical after the closing date and time, ~~tenders must be submitted to the Assistant Director (Finance & IT) or their~~ a designated **Governance Services** Officer ~~who~~ will arrange for the formal recording of the tenders **submitted**.

In exceptional circumstances where hard copy tenders are requested, then the email requirement above is replaced by the tender returns being addressed to the Head of Democratic Services & Elections or their designated Officer. Prospective tenderers must be instructed to clearly mark envelopes with the fact that it is a tender submission and that it is not to be opened until after the relevant closing date and time.

4.3.7 **Opening of Tenders**

~~The following rules apply to both electronic and hard copy submission of tenders:~~

- ~~(a) All tenders shall be opened at the same time in the presence of:-~~
 - ~~(i) The Head of Democratic Services & Elections or other officer to whom they have delegated responsibility~~
 - ~~(ii) The responsible Corporate Director/Head of Department or other officer to whom they have delegated responsibility.~~
 - ~~(iii) The Chief Financial Officer, or other officer to whom they have delegated responsibility.~~

(a)(1) Electronic Submission of Tenders

Having obtained the necessary password from IT Services, the Head of Democratic Services & Elections (or other officer to whom they have delegated the responsibility) will access the appropriate electronic tenderbox and open, in turn, the Form of Tender document from the Tenderers contained therein. That Officer will also check the “Spam” email box to ensure that no Tendered documents have been misidentified.

That Officer will check that the Tenderer’s email was received before the deadline for receipt of tenders and will record the name of the tenderer and the amount of the tender. The Officer will then forward, by email, the Tenderer’s email to the relevant Officer who is overseeing the tender process. The Officer will then repeat the process for all of the Tenderers. The Officer will then closedown the electronic tenderbox and will then email the password to the relevant Officer who is overseeing the tender process so that they can conduct their own checks et cetera.

The Officer will also complete the Record of Tenders Received (containing the information set out in (b) below) and they will also email that document to the relevant Officer who is overseeing the tender process for their records et cetera.

(a)(2) Hard Copy Submission of Tenders

As soon as possible after the relevant closing date and time the hard copy tenders received will be opened in the presence of:-

- (i) The Head of Democratic Services & Elections or his nominated representative;
- (ii) The responsible Corporate Director/Head of Department or their nominated representative; and
- (ii) At their sole discretion as to the necessity of their attendance, the Council's Head of Internal Audit, or their nominated representative.

The Officer referred to (i) above will open the tender envelope, locate the Form of Tender, record the name of the tenderer and the amount of the tender and initial against the amount on the Form of Tender. The Officer referred to in (ii) above will also similarly append their initials. That process will then be repeated for all of the Tender Envelopes.

The Officer referred to in (i) above will also complete the Record of Tenders Received (containing the information set out in (b) below) and they will produce two copies. One will be kept by that Officer and the second will be handed to the Officer referred to in (ii) above for their records et cetera.

- (b) The Head of Democratic Services & Elections, or other officer to whom they have delegated **that** responsibility, shall prepare and maintain a register of tenders received and shall record in that register the following particulars:-
 - (i) The **title and** closing date and time for receipt of tenders
 - (ii) The date upon which the tender was received (**if it was a hard copy tender**)
 - (iii) Where a tender is received after the closing time on the closing date and is considered or accepted, the reason(s) why it was considered or accepted
 - (iv) The name of the tenderer and the amount of the tender
 - (v) The date upon which the tenders received were opened
 - (vi) All officers present at the opening of **hard copy** tenders shall immediately sign against the relevant ~~particulars in the register~~ **Record of Tenders Received document** as evidence of such tenders having been opened in their presence.
 - (vii) The signature of the officer to whom the **hard copy** tenders were handed after opening.
- (c) Any tender received after the closing time and date shall, unless Procurement Procedure Rule 4.3.7 (b)(iii) applies thereto, be returned by the Head of Democratic Services & Elections, **or their delegated Officer** promptly to the tenderer. The tender may be opened to ascertain the name and **postal or email** address of the tenderer, but no details of the tender shall be disclosed **to any other party whether internal or external.**

4.3.8 Acceptance of Tenders

- (a) Unless the requirements of Procurement Procedure Rules 4.3.5 (v) have been applied, the most financially advantageous tender to the Council shall be accepted by the Corporate Director/Head of Department (in consultation with the relevant Portfolio Holder or Committee Chairman).
- (b) Where Procurement Procedure Rule 4.3.5 (v) applies, the tenders must be evaluated in accordance with the agreed evaluation process/criteria, and evidence retained to demonstrate this. The tender identified as most advantageous to the Council shall be accepted by the Corporate Director/Head of Department (in consultation with the relevant Portfolio Holder or Committee Chairman).
- (c) In those instances when only one Tender has been submitted but it is deemed advantageous to the Council following the evaluation process, that tender shall be accepted by the Corporate Director/Head of Department, in consultation with the Corporate Finance & Governance Portfolio Holder and the relevant Portfolio Holder or Committee Chairman.

The Corporate Director/Head of Department will produce a detailed report explaining why this course of action has been pursued and the said report will be circulated, alongside the Officer decision, to all members of the Council.

4.3.9 Tender Evaluation Consultation

The Council will undertake a Tender Evaluation Consultation of all tenders, estimated at over £50,000 (excluding VAT) being sought. This should include, where appropriate, any proposed method of evaluation of expressions of interest from prospective contractors. The Consultation will be led by the relevant Corporate Director or their designated officer and will include officers determined by them along with a senior officer from the department letting the contract.

The Tender Evaluation Consultation shall also have the right to include technical assistance/expertise from other departments as considered necessary.

Officer decisions recording the award of contract should include reference to the views/comments identified by the consultees.

An external representation can be accepted into any Tender Evaluation Consultation. In all cases where an external representative is included, they must be asked to declare any potential interests.

SECTION 5 – OTHER PROCUREMENT RULES

5.1 **Contract Clauses**

Unless an exemption is obtained from ~~the Assistant Director (Finance & IT) or~~ the Assistant Director (Governance), the Council's Standard Contract for Services must be used. The draft Contract must be supplied as part of the tender exercise. When seeking an exemption, the relevant department will identify why an alternative model contract is required or any additional or replacement terms and conditions are necessary for the service being sought. In all cases, contracts must follow any guidance issued by the ~~Section 151 Officer and~~ Monitoring Officers in this regard.

5.2 **Authorised Officers**

(Cream)

-
- (a) Each Corporate Director/Head of Department is responsible for advising the Chief Financial Officer, in writing, of those officers who are empowered to enter into contracts, or procurement, on behalf of the Council, and any maximum limits on the values concerned.
 - (b) Each Corporate Director/Head of Department shall advise the Chief Financial Officer in writing, immediately of any changes to those officers so empowered, or their limits.
 - (c) Only officers so empowered will be provided with a level of access to any computerised procurement system operated by, or on behalf of, the Council, that enables them to authorise official orders within the limits set.

5.3 Nominated Sub-Contractors and Suppliers

- (a) Competitive quotations/tenders shall be sought for the execution of works or for the supply of goods or materials by a nominated subcontractor in accordance with these Procurement Procedure Rules, unless it is considered impractical to do so.
- (b) Where the estimated value of the subcontract does not exceed £50,000 the responsible Corporate Director/Head of Department shall determine whether it is practical to obtain quotations.
- (c) Where the estimated value of the subcontract exceeds £50,000 and the responsible Corporate Director/Head of Department considers the obtaining of tenders to be impractical the approval of the Leader of the Council, relevant Portfolio Holder or Committee Chairman for the proposed course of action shall be sought.
- (d) The invitation to a subcontractor to quote/tender shall include an undertaking that, if selected, the subcontractor will enter into a contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main contract in respect of goods, works or services included in their subcontract.

SECTION 6 – OFFICIAL ORDER RULES

6.1 General Requirements

ALL goods, works or services must be subject to an official order unless an exemption is provided in Section 6.2 below.

- (a) All orders shall be placed using the Council's approved ordering system, unless exempted elsewhere in these Procurement Procedure Rules.
- (b) The format of the Council's approved standard official purchase orders (either hard copy or electronic) and any standard terms and conditions to be applied to each order shall be determined by the Assistant Director (Finance & IT) **and the Assistant Director (Governance)**.
- (c) In the event of the need to issue a variation to an order, this will be by issue of a further order and must clearly identify the order number of the order to be varied.
- (d) All orders must:-

(Cream)

(i)	Bear the name and logo of Tendring District Council
(ii)	Clearly identify goods, works, or services to be procured, and all other detail as is mandatory on the Council's approved ordering computer system.
(iii)	Contain any other detail, terms and conditions that are applicable to that order. For the engagement of consultancy services or specialist professional advice this must include a condition relating to professional indemnity insurance.
(iv)	Have a value or an accurate estimate of the value of the goods, works, or services entered into on the Council's electronic ordering system.
(v)	Must be authorised by an officer duly authorised by the responsible Corporate Director/Head of Department.

6.2 Exemptions from Official Order Rules

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

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

A Corporate Director/Head of Department shall be exempt from the need to raise an official order in the following circumstances:-

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

A.2 APPENDIX M

SCHEME FOR DEALING WITH PETITIONS

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

What Constitutes a Petition

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

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

Signatory Eligibility

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

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

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

Information to be included

Any petition submitted must contain the following:

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

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

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

1. How to Submit a Petition to the Council

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

- E-petition – The petition must be ~~emailed to democraticservices@tendringdc.gov.uk~~ **submitted via the Petitions function on the Council's website (www.tendringdc.gov.uk)**. Where no end date to an e-petition is specified, the Council shall set this at ~~three months~~ **93 days** from the date of receipt of the petition.
- Paper petitions must be sent to The Committee Services Manager, Tendring District Council, Democratic Services & Elections, Town Hall, Station Road, Clacton-on-Sea, Essex CO15 1SE.

2. What happens when a Petition is submitted?

- Receipt of a petition will be formally acknowledged to the lead petitioner in writing or by email as appropriate, within five working days of its receipt. **In relation to an E-petition the lead petitioner will be informed that the Council will deem the petition to be held 'in abeyance' until such time as the end date has passed. At which time the Council will count up and, if felt necessary, verify the signatures etc. The Council will then action the petition in accordance with the provisions of this Scheme.**
- The Council will accept any petition on face value but reserves the right to verify the signatures or investigate further, if deemed necessary. The petition must not be vexatious or frivolous or defamatory or offensive. It must not be substantially the same as a Petition previously received and dealt with by the Council within the past 12 months.

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

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

Petitions received in respect of planning or licensing applications shall not be treated as petitions for the purposes of this scheme but will be sent to the appropriate department and will be considered as representations received in relation to that particular application or planning matter.

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

Community Governance Petitions

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

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

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

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

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

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

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

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

- When a petition is being **initially** considered by **a committee or the** Cabinet (or Council, following investigation and a report being brought back), the lead petitioner will be invited to address the **committee**, Cabinet or Council **as the case maybe**, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead petitioner, present the petition to **the committee**, Cabinet or Council, **as the case maybe**, on **their** behalf ~~of the relevant petitioners.~~ **and will have a time limit of three minutes for their speech.**
- **Where the lead petitioner requests a representative or a Ward Councillor to speak on their behalf, the lead petitioner must inform the Head of Democratic Services & Elections (or Committee Services Manager) in writing or by email in advance of the relevant meeting of the name of that representative / Ward Councillor.**
- Should two petitions be received on the same issue (including if one is in support and one opposing a course of action) then both lead petitioners will be invited to address Cabinet or Council at the same time.
- The relevant Ward Member(s), Cabinet Member(s) and officers will be informed when a valid petition covering their Wards and/or areas of responsibility is received and when and how the petition will be considered.
- The lead petitioner will be informed, in writing, of the **committee's**, Cabinet's or Council's decision **as the case maybe** and this information will also be published on the Council's website via the Minutes of the relevant meeting at which the petition was dealt with. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and will also be given the opportunity to attend and, **if so requested by the chairman**, address that meeting and ~~/or if appropriate~~, answer any questions posed at the meeting.
- Relevant Officers will be required to attend any meeting to assist in the scrutiny and investigation of issues raised in the petition. As a general principle, the relevant Officers should be at a Head of Service level or above.
- Where possible, the consideration of a petition will be held in public but, in exceptional circumstances, it may be necessary for an issue to be considered as a "exempt" item under the Local Government Act 1972, the Access to Information Act 1985 and other relevant legislation. In such circumstances, the lead petitioner, public and press will be excluded from the meeting (or part of it) but the reasons for their exclusion will be clearly communicated to them and will also be included in the Minutes of that meeting.

(Cream)

3. What happens after a Petition has been considered?

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

- No action (with reasons as to why no action is proposed)
- Taking the action requested in the petition
- **Taking an alternative or amended course of action to that requested in the petition (with reasons as to why such action is being taken)**
- Undertaking research into the matters raised (this could include referring the matter to the relevant Portfolio Holder, or officer of the Council) and holding a meeting with the petitioners.
- Referring the petition to a Committee or Cabinet **or an external person/body (such as the County Council or Government body or Public Services or the Ombudsman or Member(s) of Parliament)**
- Holding a public meeting
- Holding an inquiry
- Providing a written response to the lead petitioner setting out the Council's views on the request in the petition
- ~~Considering the petition at~~ **Deferring consideration of the petition to** a future **committee**, Cabinet or Council meeting
- Calling for a referendum (**if permitted under legislation and** subject to costs)

A.2 APPENDIX N

Members' Referral Scheme for Planning Applications - Guidance Note January 2019~~22~~

The Terms of Reference of the Planning Committee as set out in the Constitution (~~Green Part 3.14~~) delegates all planning and conservation matters to ~~the Assistant Director (Planning) Officers~~ except in relation to certain planning applications, which are for determination by the Committee. One of the exceptions listed is where **Members** request that an application should be referred to the Planning Committee. The wording (~~Part 3.15~~) is as follows:

- (vi) *Within ~~28~~ **35** days of the commencement of formal consultation, a written request is received from a Tending District Councillor in accordance with the Member Referral Scheme requesting that the application should be brought before the Planning Committee for determination giving material planning reasons for that request.*

The MEMBER REFERRAL SCHEME is based on the following principles:

- Elected Members represent their communities and the interests of their ward or of individual residents (in accordance with Article 2 of the Constitution);
- Planning Committee Members are involved in decision-making for the people of the district as a whole (in accordance with Article 2 of the Constitution – 2.03 (a) (v));
-
- The interests of a ward or individual residents can extend to consideration of planning applications submitted in adjacent wards and those where applications have been made which have a direct impact on other wards;
- A member of the Council's Cabinet may also be permitted to make representations and speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee and requesting the matter to be determined at Committee;
- If an elected Member requests an application to be referred to the Planning Committee for determination, they will be required to personally attend the meeting of the Committee to speak on the item. Planning Services will ensure that the Member is notified when the application is scheduled for determination;
- The Members' Referral Scheme does not apply to a householder application, which is defined as follows:

“A ‘householder’ application is an application to enlarge, expand, improve or alter an existing dwelling, to put up a boundary wall of fence for an existing dwelling or carry out an operation in the curtilage of an existing dwelling that is ancillary to the dwelling-house”.

- Members are requested to use the attached letter when referring an application to the Planning Committee to be determined, for ease of reference;

Date: **24th** January 2019 **22** - Chairman of the Planning Committee

LETTER TO THE ASSISTANT DIRECTOR (PLANNING)

Date:

Dear Assistant Director (Planning),

MEMBER REFERRAL SCHEME: PLANNING APPLICATION REF:

(*) I am the Ward Councillor for [insert the Ward] and in representing the community*/the interests of the ward* or of individual residents* request the above-mentioned application is referred to the Planning Committee for determination. The planning application is located within:

- (a) the Ward to which I am elected to(*); or
- (b) is adjacent to the Ward to which I am elected to(*); or
- (c) directly impacts the Ward to which I am elected to because (*)

.....

in respect of (b) and (c), I can confirm that I have notified the relevant Ward Councillor(s) of my intention to refer this application to the Committee for determination.

(*) I am the Cabinet Member for [insert responsibility] and the proposed development has a direct impact on the portfolio for which I am responsible. The Leader of the Council has approved representations being made to the Planning Committee.

(*) I am a current serving member of the Planning Committee and the proposed development could be considered of significant importance to the wider district or policy because The Planning Committee Chairman has been consulted and approves this matter being determined by the Planning Committee. By making this request I confirm that I am not predetermined and will approach the decision making with an open mind and therefore have not highlighted any relevant material considerations below.

The referral is because of the following material planning considerations **(and for the reasons set out hereunder):-**

- In line with/potentially contrary to* the development plan (Local Plan/LDF) or Government Guidance (please state relevant policies if known)**
- Negative/Positive* impact on urban design/street scene**
- Highways impact and/or other traffic issues**
- Good/Poor* layout and/or density issues**
- Flood Risk**

Positive/Negative* Impact on neighbours



Other material considerations as follows.....

.....
.....
.....

My reasons for the referral are as follows:-

If officers are minded to approve/refuse* then there is no need for this application to be referred.

Please ensure that I am notified of the date of the committee meeting at which this application will be considered so that I am able to attend and speak on the item.

Yours faithfully,

Councillor

* Delete as appropriate.

CABINET

16 DECEMBER 2022

REPORT OF THE PORTFOLIO HOLDER FOR CORPORATE FINANCE AND GOVERNANCE

A.3 UPDATED GENERAL FUND FINANCIAL FORECAST INCLUDING PROPOSED BUDGET CHANGES IN 2022/23 ALONG WITH BUDGET PROPOSALS FOR 2023/24

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable Cabinet to consider the updated financial forecast, including budget changes in 2022/23 and budget proposals for 2023/24 for consultation with the Resources and Services Overview and Scrutiny Committee.

EXECUTIVE SUMMARY

- A 'live' 10-year forecast is maintained and reported to Members throughout the year. The most up to date position in December each year is translated into the detailed budget for the following year for consultation with the Resources and Services Overview and Scrutiny Committee.
- As part of maintaining a 'live' forecast, this report 'builds' on the last position that was presented to Cabinet on 4 November 2022. With this in mind, further adjustments have been identified for 2022/23 and 2023/24 as set out in **Appendix A**.
- As set out in the earlier reports to Cabinet, this year has seen a number of emerging issues both nationally and globally that will have a significant impact on the Council's own financial position e.g. inflation, supply chain disruption, energy cost increases, commodity price increases along with associated secondary impacts.
- However, the Council has maintained a prudent and sustainable approach to its long term plan, which provides the 'platform' against which it can consider its financial position in response to the very challenging economic position it now faces.
- Further changes to the long-term forecast have been made since 4 November 2022, with a revised position set out in **Appendix B**.
- In comparison with the position reported to Cabinet on 4 November 2022, the net overall position has improved by **£68,100** and **£646,530** for 2022/23 and 2023/24 respectively. However, it is not proposed to make corresponding adjustments to the funding identified to balance the budget as set out in **Section 3 of Appendix A** at the present time, as more changes are expected before final budget proposals are presented to Cabinet in January.
- A review of reserves has also been undertaken, which highlights the need to continue to maintain a number of reserves to support key actions / activities as part of the Council's overall prudent and sustainable approach to managing its finances.

- At the time of finalising this report, the Local Government Finance Settlement for 2023/24 had yet to be announced. It is understood that the announcement will not be made until after the date of this meeting. Therefore, any changes emerging from the settlement will be reflected in the forecast that will be reported to Cabinet in January when it considers its final budget proposals for recommending to Full Council in February.
- The budget includes a Council Tax levy increase of 3%, with this level of increase expected to be confirmed as part of the wider finance settlement announcements. No revenue support grant has been included in the budget for 2023/24 at this stage.
- Once the final position for 2023/24 is determined, the remaining years of the 10-year forecast will be revised, set against the budget position for 2023/24 and will be reported to members later in the budget setting process.
- In addition to the above, the recommendations below include acceptance of Tendring District Council's allocation of the Shared Prosperity Fund (including the Rural England Prosperity element) upon receiving Government sign-off of the submitted investment plan, along with a delegation to the Portfolio Holder for Business and Economic Growth to agree expenditure from this overall funding allocation.

RECOMMENDATION(S)

That Cabinet:

- approves the updated Financial Forecast including a revised position for 2022/23 and proposed position for 2023/24, as set out in this report and its Appendices;**
- requests the Resources and Services Overview and Scrutiny Committee's comments on this latest financial forecast and proposed position for 2023/24; and**
- accepts the funding made available to the Council as part of the Shared Prosperity Fund (including the Rural England Prosperity Fund element) and approves a delegation to the Portfolio Holder for Business and Economic Growth to agree any associated expenditure.**

REASON(S) FOR THE RECOMMENDATION(S)

To set out the latest financial position for the Council and to respond to emerging issues in 2022/23 and to develop the budget and long term forecast from 2023/24.

ALTERNATIVE OPTIONS CONSIDERED

This is broadly covered in the main body of this report.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES			
<p>Effective budgetary control is an important tool in ensuring the financial stability of the authority by drawing attention to issues of concern at an early stage so that appropriate action can be taken. Financial stability and awareness plays a key role in delivering the Council's corporate and community aims and priorities.</p> <p>The forecasting and budget setting process will have direct implications for the Council's ability to deliver on its objectives and priorities. The current 10-year approach to the forecast seeks to establish a sound and sustainable budget year on year through maximising income whilst limiting reductions in services provided to residents, business and visitors. The approach set out in this report continues to be set against this wider context.</p>			
OUTCOME OF CONSULTATION AND ENGAGEMENT			
<p>Internal consultation is carried out via the Council's approach to developing the budget as set out within the Constitution. External consultation also forms part of developing the budget, and is carried out early in the year as part of finalising the position for reporting to Full Council in February.</p>			
LEGAL REQUIREMENTS (including legislation & constitutional powers)			
<p>Is the recommendation a Key Decision (see the criteria stated here)</p>	<p>Yes</p>	<p>If Yes, indicate which by which criteria it is a Key Decision</p>	<p><input type="checkbox"/> Significant effect on two or more wards <input checked="" type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget</p>
		<p>And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)</p>	<p>This item has been included within the Forward Plan for a period in excess of 28 days.</p>
<p>The arrangements for setting and agreeing a budget and for the setting and collection of council tax are defined in the Local Government Finance Act 1992. The previous legislation defining the arrangements for charging, collecting and pooling of Business Rates was contained within the Local Government Finance Act 1988. These have both been amended as appropriate to reflect the introduction of the Local Government Finance Act 2012.</p> <p>The Local Government Finance Act 2012 provided the legislative framework for the introduction of the Rates Retention Scheme and the Localisation of Council Tax Support.</p> <p>The Calculation of Council Tax Base Regulations 2012 set out arrangements for calculation of the council tax base following implementation of the Local Council Tax Support Scheme. These arrangements mean that there are lower tax bases for the district council, major preceptors and town and parish councils.</p>			

The Localism Act 2012 introduced legislation providing the right of veto for residents on excessive council tax increases.

Under Section 25 of the Local Government Act 2003, the Chief Finance Officer (S151 Officer) must report to Council, as part of the budget process, on the robustness of estimates and adequacy of reserves. The proposed approach can deliver this requirement if actively managed and will be an issue that remains 'live' over the course of the forecast period and will be revisited in future reports to members as the budget develops.

In respect of special expenses that form part of the budget setting process, expenditure is classed as a Special Expense if it satisfies the requirements of the Local Government Finance Act 1992, Section 35. The only category relevant to this Council is contained within Section 35(2)(d) relating to concurrent functions with Parish and Town Councils. Under the Local Government Finance Act 1992, the Council must identify as its Special Expense, proposed expenditure on those functions, which the Council performs in part of the district but which Parish or Town Councils perform elsewhere in the District. If, in the Council's view, a special expense should properly be charged over the whole of the district's area, the Council may pass an express resolution to this effect (known as a **contrary resolution**).

In order for expenditure to be a Special Expense, there are two conditions that must be fulfilled:

1. Expenditure is estimated to be incurred by the District Council in the whole or part of its area on the provision of a function;
2. Expenditure on the provision of the same function is to be incurred by at least one parish/town council elsewhere in the district.

The proposals set out in this report are in accordance with the Council's budget and policy framework.

Yes	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:
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Although there are no additional comments above those set out in this report, it is important to highlight that further decisions may be necessary to take a number of actions forward, such as those associated with the items set out in **Appendix A**.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The financial implications are set out in the body of the report.

Although the availability of financial resources is a key component in the delivery of services there will also need to be appropriate input of other resources such as staffing, assets and IT.

The general approach set out in this report has been discussed with the Council's External Auditor, albeit informally. There were no major concerns raised and they will undertake a more detailed review as part of their usual commentary on the Council's use of resources.

Yes	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
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The Section 151 Officer is the author of this report.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	This is addressed in the body of the report.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	

MILESTONES AND DELIVERY

This reports forms part of the Council's wider budget setting processes. A further update report will therefore be presented to Cabinet in January as part of developing the detailed estimates that will be presented to Full Council in February 2023.

ASSOCIATED RISKS AND MITIGATION

There are significant risks associated with forecasting such as cost pressures, inflation and changes to other assumptions that form part of the financial planning process. Wider economic risks have also increased in 2022/23, which are likely to continue into 2023/24. These could have an impact on income streams such as from Council Tax and Business Rates along with the 'cost' of the Local Council tax Support Scheme. The Council's initial / short-term response is set out in the body of this report and will continue to be addressed as part of the future financial reports highlighted earlier.

Further cost pressures may emerge over the remainder of the year, which may need to be considered for inclusion in the budget. The approach of refocusing existing budgets and reserves also adds additional risks as it reduces the ability of the Council to access such funding to underwrite further risks etc. going forward.

As set out in **Appendix B**, the Forecast Risk Fund may be depleted over the next two years, which adds further financial risk to later years of the forecast.

However, it is important to note that the Council still prudently maintains reserves to respond to significant / specific risks in the forecast such as **£1.758m** (NDR Resilience Reserve) and **£1.000m** (Benefits Reserve), which can be taken into account during the period of the forecast if necessary. The Council also holds **£4.000m** in uncommitted reserves, which reflects a best practice / risk based approach to support its core financial position.

As highlighted later in this report, money has been set aside to mitigate cost pressures associated with the repair and maintenance of Council assets. When they arise, they are usually significant and the approach taken aims to 'protect' the underlying revenue budget from such items. An Asset Refurbishment Reserve of **£1.269m** has therefore been maintained for this purpose and the use of this fund can be considered outside of the annual budget setting cycle via a separate decision making process and/or as part of the Corporate Investment Plan process.

As highlighted within earlier reports, the Chief Executive continues to chair the regular Budget, Performance and Delivery meeting of Senior Managers where any emerging issues are discussed.

EQUALITY IMPLICATIONS

There are no direct implications that significantly impact on the financial forecast at this stage. However, the ability of the Council to appropriately address such issues will be strongly linked to its ability to fund relevant schemes and projects and determination of the breadth and standard of service delivery to enable a balanced budget to be agreed.

An impact assessment will be undertaken as part of any separate budget decisions such as those that will be required to deliver savings.

Special expenses are based on the principle of ensuring there is equality across the district in levying Council Tax to residents based on services and facilities provided by Town and Parish Councils in specific areas that are also provided by the District Council.

SOCIAL VALUE CONSIDERATIONS

There are no direct implications that significantly impact on the financial forecast at this stage.

However, such issue will be considered as part of separate elements of developing the budget as necessary.

IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2030

There are no direct implications that significantly impact on the financial forecast at this stage.

However, such issue will be considered as part of separate elements of developing the budget as necessary.

OTHER RELEVANT CONSIDERATIONS OR 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	Please see comments above
Health Inequalities	
Area or Ward affected	

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The long-term forecast is updated on an on-going basis, which is reported to Members quarterly, with the most recent position (at the end of September 2022) being reported to Cabinet at its 4 November 2022 meeting.

In respect of the forecast and budget proposals for 2023/24, the above report included the following two key appendices:

- 1) Cost Increases / Corporate Investment Plan Items 2022/23 and 2023/24
- 2) Updated Long Term Financial Forecast

This report therefore provides a further update on the above two items (set out within Sections 1 and 2 respectively below), to enable consultation with the Resources and Services Overview and Scrutiny Committee in-line with the Council's budget setting processes.

SECTION 1 - COST INCREASES / CORPORATE INVESTMENT PLAN ITEMS 2022/23 AND 2023/24

Appendix A attached replicates the appendix considered by Cabinet at its 4 November 2022 meeting with any changes since that report highlighted in 'green'.

A summary of the changes are set out in the table below:

Section of Appendix	2022/23 Change	2023/24 Change	Comments
Section 1 – Corporate Items	No change – remains at £1,193,400.	Reduced from £2,844,000 to £2,136,000	This reflects the update to the financial forecast, which is set out in Section 2 of the report below.
Section 2 – General Operational Items	Reduced from £2,195,670 to £2,127,570	Increased from £1,234,700 to £1,296,170	Additional comments are set out within Appendix A . The most significant change relates to the Careline Service where they continue to work towards a breakeven position in the medium to longer term but now expect an overall net cost in 2023/24.
Section 3 – Proposed Funding Approach	No Change – remains at £3,389,070	No Change – remains at £4,078,700	Although the cost pressures have increased as highlighted in Sections 1 and 2 above, no changes to use of the identified funding are proposed at this stage of the budget setting cycle. Further comments are set out immediately below this table.
Section 4 – Items that can be funded from associated / specific budgets and/or fees and charges	n/a	No Change	No further changes have been made at the present time

As set out in **Appendix A** and summarised in Sections 1 and 2 in the table above, the total level of net cost pressures has reduced by **£68,100** and **£646,530** in 2022/23 and 2023/24 respectively. However, it is not proposed to 'unwind' the funding position set out within **Section 3 of Appendix A** at this stage, even though the level of net cost pressures has reduced. The forecast remains subject to a number of further adjustments before proposals are finalised for

reporting to Full Council in February. Therefore it is proposed to take the pragmatic approach of ‘holding’ the total identified level of ‘surplus’ funding until the budget is finalised early in 2023 as further budgets adjustments may be necessary.

SECTION 2 - UPDATED LONG TERM FINANCIAL FORECAST

Appendix B sets out the latest financial forecast from 2023/24 that reflects changes since Cabinet considered the earlier position at its 4 November 2022 meeting.

The changes required reflect an improved position – a reduction of **£0.647m** in the annual forecast deficit (from **£4.079m** to **£3.433m**).

Work remains on-going as part of the continuing development of the budget, which will need to react to a number of issues such as any announcements from the Government as part of the annual local government financial settlement process. Any changes will be reported to Members as they arise throughout the remainder of the budget setting process and will be included in the final budget proposals to be considered by Cabinet in January before recommendations are made to Full Council.

The following table provides commentary on the changes to the initial forecast set out in **Appendix B** (excludes items where there has been no significant change to the relevant line of the forecast considered by Cabinet on 4 November 2022):

Item in the Forecast	Change since forecast was considered on 4 November 2022	Comments
<i>Underlying Funding Growth in the Budget</i>		
Line 2a – Council Tax Increase 3% <i>(This is a new line of the forecast)</i>	Income Increased by £0.024m	Following recent Government announcements, the usual referendum threshold for Council Tax increases has been changed from 2% to 3% (subject to confirmation). Given the ‘telescopic’ impact from changes in the level of Council Tax charged, it is proposed to increase the Council Tax amount to this revised maximum amount permitted by the Government. (from 2.7% as included in the forecast considered by Cabinet on 4 November 2022)
Lines 6 and 7 - Collection Fund Surpluses (Council Tax and Business Rates)	Income increased by £0.684m	Following a further review and based on the latest figures for the year, these changes reflect a more advantageous estimated position on the Collection Fund at the end of 2022/23.

Net Cost of Services and Other Adjustments

Line 19	–	Net Expenditure increased by £0.061m	This reflects the net change for 2023/24 as set out in Section 2 of Appendix A.
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The above position excludes changes to indirect costs such as internal recharges within the General Fund and technical accounting adjustments that do not have an overall net impact on the budget. However, the full detailed budget, reflecting the above changes, will be presented to Cabinet at its January 2023 meeting.

Sensitivity Testing

Work remains in progress to update the usual sensitivity testing approach, with the outcome planned to be presented in reports later in the year as part of the on-going development of the budget for consideration by Full Council in February 2023.

Corporate Investment Plan

As highlighted in earlier financial performance reports, the Corporate Investment Plan will continue to play an important role in supporting the response to the financial challenges ahead. Given the scale of the on-going financial challenge faced by the Council the Corporate Investment Plan remains under review, but it is planned to be presented to Cabinet in 2023 once the Council's underlying financial position has become clearer before further investment opportunities can be considered.

Reserves

As part of the budget setting process, it is also timely to review the appropriateness of the level of reserves at this stage in the budget cycle, which reflects a previous recommendation of the Council's External Auditor.

Following the associated review this year, a summary of the reserves held and their purpose is set out in the following table:

Reserve	Purpose of the Reserve	Estimated Balance	Status
Revenue Reserve	Commitments This is earmarked for revenue items of committed expenditure for which financial provision was made in the previous or current year.	£0.305m	Continue to retain this reserve
Capital Reserve	Commitments This is earmarked for capital items of committed expenditure for which financial provision was made in the previous or current year.	Nil	Continue to retain this reserve
Forecast Risk Fund	This reserve has been established to support planned annual budget deficits as part of the Long Term Financial Sustainability Plan.	£3.524m	Continue to retain this reserve (use of this reserve will

			continue to be considered as part of the development of the long term plan)
Asset Refurbishment/Replacement Reserve	To meet the cost of the maintenance of the Council's assets, including those associated with the Council's commitment to carbon neutrality. This reserve 'protects' the underlying revenue budget from significant one-off expenditure items with expenditure against this reserve continued to be considered as part of the Corporate Investment Plan.	£1.269m	Review as part of the Corporate Investment Plan
Benefit Reserve	To meet any potential costs arising from the obligation to pay benefits and to support future changes to the Welfare Regime. The future remains uncertain given the on-going extension to the roll-out of universal credit.	£1.000m	Continue to retain this reserve (but will remain under review as part of future welfare reforms)
Business Rates Resilience Reserve	To support the Council in reacting to potential future changes in Business Rate appeals and income, especially in light of the potential for changes to the business rate reforms and associated 'resets'.	£1.758m	Continue to retain this reserve (use of this reserve will continue to be considered as part of the development of the long term plan)

Commuted Sums Reserve	Established from commuted sums paid to the Council to cover such items as maintenance costs of Open Spaces and CCTV, in line with the associated agreements.	£0.493m	Continue to retain this reserve
Election Reserve	To finance future costs associated with holding District Elections on a four yearly cycle.	£0.090m	Continue to retain this reserve
Haven Gateway Partnership Reserve	To support the costs associated with the Haven Gateway Partnership e.g. costs that may be incurred on termination / withdrawal from the current arrangements.	£0.075m	Subject to review against associated risk as this reserve may be able to be removed.
Leisure Capital Projects Reserve	This reserve has been established to fund ongoing investment in Leisure Facilities and will form an important element of supporting the delivery of the upcoming Leisure Strategy.	£0.100m	Continue to retain this reserve
Planning Inquiries and Enforcement Reserve	To meet associated costs relating to planning services.	£0.039m	Continue to retain this reserve
Section 106 Agreements Reserve	This reserve holds income received from developers under Section 106 of the Town and Country Planning Act 1990 to be spent on specific projects over a number of years in accordance with the terms of the agreements.	£2.400m	Continue to retain this reserve (this is released as part of separate decisions made during the year in consultation with the relevant Portfolio Holder)

Uncommitted Reserve	General Reserve held to respond to key financial risks such as inflation, income loss, additional burdens etc. which is subject to a risk based assessment on a regular basis.	£4.000m	Continue to retain this reserve
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Although a more detailed statement will be made by the Section 151 Officer that will be included in the report to Full Council in February, the current level of reserves based on the review above remains adequate, although this position will be subject to on-going review given the risks to the financial forecast highlighted earlier in this report.

Local Government Finance Settlement and Government's Spending Review

At the time of finalising this report, the Local Government Finance Settlement announcements were still awaited.

No revenue support grant is currently included in the forecast at this stage, but an updated position will be reported to Cabinet in January.

The budget also excludes income from the New Homes Bonus grant. If this grant funding scheme continues in 2023, it is expected to be announced as part of the Local Government Financial Settlement mentioned above.

ADDITIONAL INFORMATION

Council Tax Levy 2023/24

Based on a proposed 3% increase, the Council Tax for a band D property will be **£188.11** in 2023/24. The updated property base is **51,050**, an increase of **1,157.8** over the 2022/23 figure of **49,892.2**

The ability to increase Council Tax by 3% remains subject to confirmation from the Government. This is expected to be confirmed within the Local Government Financial Settlement, which is anticipated to be announced shortly.

As set out in the Financial Report to Cabinet on 7 October 2022, the Council continues to opt-in to the Council Tax Sharing Agreement with ECC. This scheme has continued to provide a financial benefit to the Council over recent years. Although the 2023/24 scheme is subject to changes proposed by ECC, which are currently being discussed with all other Local Authorities within Essex, it is proposed to continue to opt-in to the amended scheme in 2023/24 if it continues to remain financially advantageous to do so.

Locally Retained Business Rates

As recently announced by the Government, the property rating revaluation planned for 2023 will still go ahead and will be supported by transitional relief alongside wider relief schemes. The Government have also indicated that the rating multipliers will be 'frozen' for 2023/24. The impact of these on the Council's own financial position is subject to on-going review, with the estimated position to be included in the January report to Cabinet.

In-line with previous years, the benefit from remaining a member of the Essex Business Rates Pool has not been reflected in the forecast at this stage. The Council is committed to remaining a member of the Essex Business Rates Pool in 2023/24 if it remains financial advantageous to do so. Although no income generated from being a pool member is currently included in the forecast, it is proposed to continue to treat this income on a one-off basis during the year to support the Councils overall financial position, which will continue to evolve during 2023.

There has been no changes associated with the creation of Freeports at the present time. These remain subject to on-going review and will include an associated business rates relief policy in-line with Government guidance. It is expected that within future reports that will be presented to Members as part of the current budget cycle, the necessary changes associated with the creation of Freeports will be set out.

Fees and Charges

Fees and charges are agreed separately by the relevant Portfolio Holder and are reviewed within the framework of the financial forecast and therefore they will be considered against the following key principles:

- general inflationary increases where possible or lower where appropriate / justified
- amounts rounded for ease of application, which may result in a slightly above inflation increase.
- on a cost recovery basis as necessary
- reflect statutory requirements.
- increases where market conditions allow
- to meet specific priorities or service delivery aims / objectives

Given the significant Financial challenges faced by the Council, a key underlying principle is to consider inflationary increases wherever possible to support corresponding increases in the Council's own costs in delivering the associated service(s). The current rate of inflation (RPI) is in excess of 12%, with predictions of further increases going into 2023. With such a high rate of inflation it may not necessarily be practical / possible to 'translate' such an increase into the actual fee increase proposed. Therefore, set against this inflationary context, any proposed increases in fees and charges must be balanced against other considerations / market conditions, whilst also recognising the restrictions placed on local authorities in terms of setting fees and charges on a cost recovery basis.

Any changes to income will be considered alongside the financial forecast. No changes to the budget are proposed at the present time.

Although agreed separately, a full schedule of fees and charges will be provided to Members ahead of the Full Council budget meeting in February 2023.

GENERAL FUND CAPITAL PROGRAMME 2023/24

As has been the case in prior years, only a very limited number of schemes are included 'automatically' in the base budget on a recurring basis and these relate to the on-going cost of replacing the Council's core IT infrastructure along with disabled facilities grants. Estimates of **£0.070m** and **£0.757m** will therefore be included within the 2023/24 Capital Programme respectively, although the latter item is likely to change once confirmation of the actual level of external grant support is received next year.

The investment in IT core infrastructure is funded by a direct revenue contribution, with disabled facilities grants funded by the Government via ECC.

The full multi-year Capital Programme incorporating the above will be included within the final budget proposals that will be considered by Cabinet in January before being presented to Full Council in February.

SPECIAL EXPENSES 2023/24

Special expenses amounts cannot be finalised until the budget for the year has been completed and the associated technical adjustments reflected in the budget. Therefore, at this stage of the budget process it is more practical to review the principles against which the special expenses will be calculated rather than the specific amounts themselves, which are subject to change as the budget develops.

It is not proposed to make any changes to the principles behind the calculation of special expenses with the key principles remaining the same as in 2022/23 as set out below:

- A de minimus amount of **£0.025m** is applied to determine which expenses are excluded from the special expenses calculations;
- Any allocation to specific areas less than **£0.001m** is excluded for the purposes of determining special expenses.

Although subject to the final budget calculations, expenses to be allocated as special expenses are likely to remain as in 2022/23 and apply to open space and recreation area costs.

For completeness, the underlying technical background to the calculation of special expenses is set out below:

Certain expenditure referred to as 'Special Expenses' is regarded as being chargeable to only certain parts of the district. The rest of the Council's expenditure is regarded as being chargeable over the whole district and is referred to as 'General Expenses'. Local authorities have the power to pass a resolution in respect of any particular Special Expense to the effect that the amount of that expense should be charged across the whole district. This is referred to as the contrary resolution.

In exercising this power, the Council also has to consider how the burden of Special Expenses will be charged to the taxpayers of the district.

Information from parish/town councils

Each year parish councils complete a return to identify changes to the services they undertake

Consideration of Determining the Contrary Resolution

In judging whether the contrary resolution should be passed in respect of any special expenses, the following matters are relevant:

- Whether in respect of this Council's expenditure the function is to be provided generally for the whole district or is to be restricted to a part or parts of the district?*

ii) *To what extent, if any, are restrictions placed on any part of the district as to the accessibility of the function?*

iii) *The use of the facility/activity to which the Special Expense relates.*

These matters must each be considered and a view taken as to whether it would be appropriate to pass the contrary resolution in respect of some of the budgeted expenditure on Special Expenses.

In determining how the burden of special items should be charged to the taxpayer of the district, the following matters need to be considered.

i) *Where is the facility situated?*

ii) *Who uses it?*

iii) *How much expenditure is to be spent in the various parts of the district?*

Wherever possible the Council aims to charge the cost incurred in performing a function in a part of the district, to the taxpayers of that part. In assessing the area of benefit to which a function identified as a special expense relates, parish boundaries have been treated as the appropriate areas.

The tax base for apportioning Special Expenses to each parish and the unparished area is that used to determine the Council's overall Council Tax base.

OTHER CONSIDERATIONS

UK Shared Prosperity Fund (UKSPF) Update

As previously reported to Cabinet on 15 July 2022, Tendring has been allocated a total of **£1,188,232** via a funding formula designed to be a real terms match for previous EU structural funds, to be spent over a three year period to 2025.

Tendring District Council is the lead local authority for UKSPF in Tendring. Lead local authorities will receive the area's allocation of funding to manage, including assessing and approving applications, processing payments and day-to day monitoring, following Government approval of an investment plan.

TDC were required to produce an Investment Proposal for Government signoff, which demonstrated engagement with partners, prioritised interventions and detailed the measurable outcomes of project delivery. Cabinet approved on 15 July 2022 the approach to the development of the UK Shared Prosperity Investment Plan for Tendring District utilising the full conditional allocation of **£1,188,232**, along with a delegation to the Portfolio Holder for Business and Economic Growth to approve the final plan for submission to the Government ahead of the associated deadline of 1 August 2022.

The Investment Plan was submitted to Government in line with the above deadline and the Government's approval of the plan was received on 6 December 2022.

The Government set out a spend profile for the individual allocations, which TDC were expected to match in their investment plan. The allocation and spend profile was set out in the 15 July 2022 Cabinet report, which is summarised as follows:

2022/23 - £144,203

2023/24 - £288,406

2024/25 - £755,623

Total - £1,188,232

Upon approval of the plan, the Government also set out a revenue/capital split for the current financial year's funding allocation, which was as follows:

Capital: £58,000

Revenue: £86,203

A £20,000 one-off capacity payment was also awarded, to assist Councils with the administration associated with the fund.

Given the limited UKSPF funding in year 1, and the short time frame to allocate funds, it is proposed that the Council co-ordinates a small number of local projects, as follows:

- sports and activities small grants (£10,000)
- capital funding contribution to ongoing Starlings scheme (£48,000)
- interventions to offer residents support with the cost of living (£10,323 with further funding allocated for future years)
- recruitment and training of an Operations Manager and a package of business support for the planned Jaywick Market site (£41,000)
- capital funding allocation to extend repairs to an existing beach access slope (£10,000 with further funding allocated for future years)
- green skills feasibility study (£25,000)

The Council anticipates starting an open call for projects in years 2 and 3 in the new year, which will include detailed criteria of the interventions which have been approved, for projects that can start from 1 April 2023. This will allow for a diverse range of project ideas to be brought forward, fostering partnership working.

To enable the Council to respond in a timely manner, given the deadlines highlighted above, a recommendation is included to approve the necessary delegation to the Portfolio Holder for Business and Economic Growth.

In addition to the above, the Council has also recently been awarded grant funded under the Government's Rural England Prosperity Fund (REPF). This is a Government initiative, which allocates funding as an 'add-on' to the existing UK Shared Prosperity Fund (UKSPF).

Tendring has been allocated **£659,335**, to be spent across years 2023/24 (25%) and 2025/26 (75%). The REPF is a capital funding opportunity with no allocation made within it for resourcing or administration costs. As an add-on to the UKSPF, Government anticipates that any resourcing costs will be met through the 4% allocation made through that scheme. This allocation is designed to replace the previous schemes, which focussed on rural areas, and projects should address one or both of the following themes:

- Support for Rural Businesses

- Investment in Rural Communities, which in the criteria, is defined as a village of less than 10,000 people, or a market town with significant supply to surrounding rural areas, of no more than 30,000 people.

In order to access Tendring's allocation, the Council submitted an addendum to the original UKSPF Investment Plan to outline further identified REPF projects by the deadline of 30 November 2022. As is the case with new activity, the Council could have considered not accepting the allocation, but this was discounted as the benefits to the residents of the district of the funding far outweigh the delivery risks and officer time associated with developing the Investment Plan. This is a guaranteed funding allocation with no competitive element.

The initial planned breakdown of the REPF funding submitted to the Government included a Rural Grants Scheme (£450,000), EV Charging Points (£150,000) and other activities such as a districtwide witch trail (£49,335).

Based on the specified spend profile highlighted above, the Council would have **£164,833.75** to establish a first round of the rural grants scheme in 2023/24, and the remaining grant funding / schemes would be considered in 2024/25.

Similarly to the UKSPF scheme above, a recommendation is included above to delegate approval of the expenditure from the REPF to the Portfolio Holder for Business and Economic Growth.

ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT

Where relevant, figures included in the 2023/24 budget are based on the following policy statement that was agreed by Full Council on 29 November 2022.

In accordance with the Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2008, the Council's policy for the calculation of MRP for 2023/24 shall be the Capital Financing Requirement Method for supported borrowing and the Asset Life (equal instalment) Method for prudential borrowing.

PREVIOUS RELEVANT DECISIONS

Finance Update Report – General Update 2022/23 and 2023/24 – Item A.2 Cabinet 7 October 2022

Financial Performance Report 2022/23 and 2023/24 – General Update at the end of Q2 – Item A.5 Cabinet 4 November 2022

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

Appendix A – Cost Increases / Corporate Investment Plan Items 2022/23 and 2023/24

Appendix B – Updated Long Term Financial Forecast

REPORT CONTACT OFFICER(S)	
Name	Richard Barrett
Job Title	Assistant Director (Finance and IT)
Email/Telephone	rbarrett@tendringdc.gov.uk (01255) 686521

Cost Increases / Corporate Investment Plan Items - 2022/23 and 2023/24

Description	Reported to Cabinet 4 Nov 2022 2022/23 £	Updated Position December 2022/23 £	Reported to Cabinet 4 Nov 2022 2023/24 £	Updated Position December 2023/24 £	Comments
	(1)	(2)	(3)	(4)	
1. GENERAL / CORPORATE ITEMS					
Employee Cost Inflation	863,900	863,900	2,031,000	2,031,000	This adjustment reflects the pay award agreed for 2022/23 and a further inflationary increase of 4% in 2023/24. Work remains ongoing to finalise the overall salary budgets which could result in changes over the remainder of the current budget cycle. If further changes are required then they will be included in the report to Cabinet in January 2023.
Waste & Street Cleaning Contract Inflation	329,500	329,500	881,000	881,000	Increases in contract costs are linked to inflation, which could be as high as 13% to 14% when the next annual uplift is applied (January / February 2023). These figures will be subject to change as inflation forecasts will be updated in December / January.
Business Rates payable on the Council's Own Properties	0	0	22,000	22,000	Increases are linked to the prevailing CPI rate. The current increase applied is 3% in 2023/24, which reflects a similar Government intervention in previous years where they effectively 'cap' the percentage increase, especially given the current CPI rate. A number of business rate changes were announced in the Government's Autumn Statement with further details still awaited. This figure therefore remains subject to change with amended figures expected to be included in the report to Cabinet in January 2023.
General Underlying changes in the Forecast	0	0	(90,000)	(798,000)	This reflects the sum of other lines within the forecast. The revised figure for 2023/24 reflects a number of changes within the forecast that are set out in Appendix B and the main body of the report.
Total General / Corporate Items	1,193,400	1,193,400	2,844,000	2,136,000	

Description	Reported to Cabinet 4 Nov 2022 2022/23 £	Updated Position December 2022/23 £	Reported to Cabinet 4 Nov 2022 2023/24 £	Updated Position December 2023/24 £	Comments
2. GENERAL OPERATIONAL ITEMS					
Crematorium - Loss of Income	740,000	740,000	0	0	This reflects the estimated net position following the crematorium remaining non-operational for the first half of 2022/23. The Crematoriums are now operational with income expected to return to previous levels over time.
Weeley Council Offices	60,000	60,000	50,000	50,000	A number of costs remain payable until the property is disposed off and liability for costs of ownership cease.
Skyguard Subscriptions - Lone worker safety devices	25,000	25,000	0	0	A number of additional devices have been required to reflect current working practices. No costs have been included in 2023/24 at the present time as a review will be undertaken to see if there are any alternative options
Print Unit - Net Costs	35,000	0	0	0	This reflects the on-going impact identified as part of the outturn for 2021/22. Following a further review, the Service have now confirmed that this cost can be met from within existing budgets so this item can now be removed from the forecast.
Street Cleansing	96,000	96,000	0	0	This reflects increased beach / town centre cleaning. The position for 2023/24 is under review to identify alternative options.
Office Transformation Project	130,000	130,000	0	0	Additional costs are expected in 2022/23 to finalise this major project.
Careline - VAT Payable	100,000	74,540	0	0	An additional payment of VAT is due to be paid to HMRC following the incorrect VAT indicator being applied to associated fees and charges. A final figure has now been agreed with HMRC and the Council has managed to avoid an additional penalty payment.
Career Track - Net Costs	45,000	45,000	0	25,000	Although the Service remains committed to progressing towards a break even position, there is likely to be a higher net cost than currently budgeted for in the short term. An adjustment has now been included in 2023/24 to reflect the expected on-going net cost of the service whilst the work continues towards a breakeven position, which may also be challenging in the longer term.
Carnarvon House	60,000	60,000	0	0	Costs continue to be incurred until such time as the property is demolished.
Air Show	47,970	47,970	0	0	Additional costs were incurred that reflect the use of the in-house Engineering Team to support the delivery of the annual show in 2022. The position is under review for the 2023 event.
Insurance Premiums	55,000	22,610	110,000	45,220	Lower than expected increases in premium cost have now been confirmed. The figure for 2023/24 reflects the full year impact from the current renewal prices, with any further potential increases not known until the renewal terms are received from the insurers in the Autumn of 2023.

Description	Reported to Cabinet 4 Nov 2022 2022/23 £	Updated Position December 2022/23 £	Reported to Cabinet 4 Nov 2022 2023/24 £	Updated Position December 2023/24 £	Comments
Waste and Recycling Bins and Boxes	0	0	20,000	20,000	Additional costs for 2022/23 were agreed by Cabinet at its 7 October meeting. The figure included for 2023/24 reflects the underlying need to supply bins / boxes to new properties within the District - this amount will therefore be an on-going item in the base budget.
Leisure Centre - Net Costs	150,000	150,000	150,000	150,000	Over recent years the net costs across the various Leisure Centres have been in excess of the base budget. As part of the emerging Leisure Strategy, opportunities to increase income will be explored but it is likely that it will take time to improve the net position when compared to the underlying base budget. The figures included therefore reflect the estimated impact in the shorter term.
Transport - Diesel Costs	27,700	27,700	27,700	27,700	The Government have restricted the use of red diesel, with this cost reflecting the necessary move across to 'regular' diesel, which is more expensive.
Transport - General Fuel Costs	20,000	20,000	20,000	20,000	In addition to the item above, the figures included reflect the general increase in fuel costs currently being experienced. Although the adjustment will be on an on-going basis, the position will be kept under review as part of future financial performance / budget reports.
External Audit Fees	25,000	25,000	25,000	25,000	This reflects expected increases from 2022/23. Following a retender of the External Auditor Contract by PSAA Ltd, it has been suggested that Council's should expect to see increases close to 150% from 2024/25 - this will therefore be kept under review as part of developing the forecast in future years.
Homelessness Costs	450,000	450,000	150,000	150,000	This reflects the current demand for temporary accommodation. The Service is committed to exploring options to reduce costs along with the use of any available Government Funding going forward. The position for 2023/24 remains under review as it may be necessary to consider increasing the amount above £150,000 if forecast demand remains high.
Legal Costs - Benefit Fraud Case	35,000	35,000	0	0	This reflects the additional one-off costs incurred in pursuing fraud cases.
Replacement HR / Payroll System	55,000	80,000	9,500	24,500	The systems referred to 'expire' shortly with replacement systems therefore required. Updated costs have been included to reflect potentially increased set up and on-going annual costs that will become clearer via the associated procurement processes that will commence in 2023.
Credit / Debit Card Payments System	26,000	24,250	19,500	4,250	This project was included within the potential phase 3 IT projects presented to Cabinet in March 2022. A replacement system is required to keep pace with Payment Card Industry Data Security Standards (PCI/DSS). A preferred option has now been agreed, which enables the Council to be compliant with the relevant industry standards but at a lower cost than originally estimated.

Description	Reported to Cabinet 4 Nov 2022 2022/23 £	Updated Position December 2022/23 £	Reported to Cabinet 4 Nov 2022 2023/24 £	Updated Position December 2023/24 £	Comments
Contact Centre IT System - Increased Lines / Licences	13,000	14,500	13,000	14,500	This forms part of the project included within the potential phase 3 IT projects presented to Cabinet in March 2022, and will enable the Council to maintain adequate 'front line' capacity within the Contact Centre. These have been subject to minor changes to reflect revised actual costs.
Northgate IT System Replacement	0	0	40,000	40,000	The current contract for the primary IT system used by Revenues and Benefits and Housing 'expires' at the end of 2022/23. A replacement system / new contract is therefore necessary from 1 April 2023 and Officers are currently working with the current supplier to identify the options available. The amount included is over and above the existing annual base budget of £195,000.
Increase in Energy Costs	0	0	600,000	600,000	To reflect the potential on-going impact of energy price increases.
EW - Careline Net Costs	0	0	0	100,000	Although the service continues to work towards a break even position via a mix of increased demand and reviewing future fees and charges in the medium to longer term, there is likely to be additional net costs in the interim period, which is expected to extend into 2023/24 and potentially longer.
Total General Operational Items	2,195,670	2,127,570	1,234,700	1,296,170	
TOTAL OF SECTIONS 1 AND 2 ABOVE	3,389,070	3,320,970	4,078,700	3,432,170	

Description	Reported to Cabinet 4 Nov 2022 2022/23 £	Updated Position December 2022/23 £	Reported to Cabinet 4 Nov 2022 2023/24 £	Updated Position December 2023/24 £	Comments
3. Proposed Approach to Funding the items in Section 1 and 2 Above (on a one-off basis in 2022/23 and 2023/24)					
Carry Forwards 2021/22 Withdrawn / Not Approved	(336,980)	(336,980)	0	0	Following a review by the Portfolio Holder for Corporate Finance and Governance, in consultation with Services, a number of items originally requested by Services have not been agreed or have been withdrawn.
Draw down remaining balance on the Crematorium Reserve	(154,252)	(154,252)	0	0	This reflects the use of the remaining amount held in this reserve which helps offset the net loss of income highlighted above.
Savings - (for 2023/24 this is the amount over and above the £450k 'allowance' already included in the Forecast)	(609,000)	(609,000)	(201,598)	(201,598)	This adjustment primarily reflects increased investment income in both years, following recent / projected increases in interest rates.
Council Tax Sharing Agreement - income recovery	(222,230)	(222,230)	0	0	This largely reflects deferred income during COVID, with income now recovering back. However no changes are included for 2023/24 at this stage as the agreement remains under review by ECC.
Increased Parking Income	(40,000)	(40,000)	(40,000)	(40,000)	This reflects achievable income over and above the adjustment in section 4 below.
Increased Recycling Credit income	(25,000)	(25,000)	(25,000)	(25,000)	This reflects the annual increase in the 'poundage' rate rather than an increase in recycle at the present time.
Vacancy Provision	(100,000)	(100,000)	0	0	This reflects accrued vacancies including the on-going difficulties in recruiting to a number of posts across the Council.
Balance of Back 2 Business 'Reserve'	(217,608)	(217,608)	(39,392)	(39,392)	This is the remaining / uncommitted balance held within this reserve
Reduce the Garden Communities Budget	(500,000)	(500,000)	0	0	The current budget supporting this project is £1.3m. Based on the current project delivery approach, it is felt reasonable to reduce this by £500k to £800k
Balance of Corporate Investment Plan 'Reserve'	0	0	(1,433,000)	(1,433,000)	This is the remaining / uncommitted balance held within this reserve. There would be no money remaining in this reserve to support further projects at the present time.
Remove Rural and Urban Infrastructure Fund Budget	(1,184,000)	(1,184,000)	0	0	Its proposed to 'redirect' this budget to support to wider financial challenge faced by the Council.
Draw down money held in the Building for the Future Reserve	0	0	(2,339,710)	(2,339,710)	This reserve has historically been used to fund upfront pension fund deficit payments that generate on-going revenue savings. It is currently expected that following the latest triennial review, no deficit payments will be required for 2023/24, 2024/25 and 2025/26. This reserve therefore becomes available to support the overall financial position in 2022/23 and 2023/24, but in the knowledge that it will therefore not be available if pension deficit payments arise in the future, which would have to be met from within the underlying budget.
Total Funding Identified	(3,389,070)	(3,389,070)	(4,078,700)	(4,078,700)	
NET TOTAL of SECTIONS 1,2 and 3 Above	0	(68,100)	0	(646,530)	

Description	Reported to Cabinet 4 Nov 2022 2022/23 £	Updated Position December 2022/23 £	Reported to Cabinet 4 Nov 2022 2023/24 £	Updated Position December 2023/24 £	Comments
4. Additional Items that can be Funded From Specific Existing Budgets / Fees and Charges					
Council tax court costs income reduced			100,000	100,000	This primary reflects deferred income as recovery action continues to recover from the COVID 19 period.
Use of COVID 19 New Burdens Grant to fund above			(100,000)	(100,000)	It is proposed to use the money made available by the Government to support the two items above, which fall within the scope of recovering from the COVID 19 pandemic.
Increase in Parking Merchant Acquirer Fees			36,000	36,000	This reflects the cost of taking card payments as an alternative to cash payments, which can be met from increased income.
Increased parking income being achieved			(36,000)	(36,000)	
Total of Additional Items in Section 4 Above	0	0	0	0	

Line	Budget 2022/23	Estimate 2023/24	Estimate 2023/24	Estimate 2023/24	Estimate 2024/25	Estimate 2025/26	Estimate 2026/27
		Reported to Cabinet 4th November	Revised Position December 2022	Change Between November and December			
	£	£	£	£	£	£	£
Underlying Funding Growth in the Budget							
1 Council Tax Increase 1.99%	(0.176)	(0.181)	(0.181)	0.000	(0.185)	(0.189)	(0.192)
2 Ctax increase by £5 (amounts set out are over and above 1.99% above)	(0.073)	(0.068)	(0.068)	0.000	(0.065)	(0.061)	(0.057)
2a Council Tax Increase 3% (Revised referendum threshold announced in Autumn Statement)	0.000	0.000	(0.024)	(0.024)	0.000	0.000	0.000
3 Growth in Business rates - Inflation	(0.139)	(0.134)	(0.134)	0.000	(0.138)	(0.071)	(0.096)
4 Growth in Council Tax - general property / tax base growth	(0.259)	(0.217)	(0.217)	0.000	(0.106)	(0.109)	(0.111)
5 Growth in Business Rates - general property / tax base growth	(0.362)	(0.031)	(0.031)	0.000	(0.036)	(0.041)	(0.046)
6 Collection Fund Surpluses b/fwd - Ctax	(0.324)	(0.100)	(0.477)	(0.377)	(0.100)	(0.100)	(0.100)
7 Collection Fund Surpluses b/fwd - BR	3.516	0.000	(0.307)	(0.307)	0.000	0.000	0.000
	2.183	(0.731)	(1.439)	(0.708)	(0.629)	(0.571)	(0.602)
Net Cost of Services and Other Adjustments							
8 Reduction in RSG (including other financial settlement funding)	(0.589)	1.020	1.020	0.000	0.000	0.000	0.000
9 Remove one-off items from prior year	0.000	(0.352)	(0.352)	0.000	0.000	0.000	0.000
10 Remove one-off items from prior year - Collection Fund Surplus	(6.018)	(3.192)	(3.192)	0.000	0.784	0.100	0.100
11 Profit / Second / Third year impact of PFH WP Savings	(0.045)	0.000	0.000	0.000	0.000	0.000	0.000
12 LCTS Grant To Parish Council's	0.001	(0.037)	(0.037)	0.000	0.000	0.000	0.000
13 Revenue Contrib. to Capital Programme	0.008	(0.012)	(0.012)	0.000	0.000	0.000	0.000
14 Specific change in Use of Reserves	2.622	3.233	3.233	0.000	0.073	0.000	0.000
15 On-going savings required	(0.223)	(0.450)	(0.450)	0.000	(1.150)	(4.250)	(0.450)
16 Other Adjustments	0.023	0.000	0.000	0.000	0.000	0.000	0.000
	(4.221)	0.210	0.210	0.000	(0.293)	(4.150)	(0.350)
Cost Increases / Corporate Investment Plan Items							
17 Inflation - Employee / Members Allowance Costs (including annual review adjustments)	0.605	2.031	2.031	0.000	0.744	0.548	0.557
18 Inflation - Other	0.198	0.903	0.903	0.000	0.267	0.202	0.212
19 Unavoidable Cost Pressures / CIP Items	0.618	1.235	1.296	0.061	0.250	0.250	0.250
	1.421	4.169	4.230	0.061	1.261	1.000	1.019
Add back Use of Forecast Risk Fund in Prior Year	1.048	0.431	0.431		0.000	3.772	0.051
Removal of Previous Years Use of Existing Reserves / Budgets	0.000	0.000	0.000		3.433	0.000	0.000
Net Budget Position before Use of Existing Reserves / One Off Budgets	0.431	4.079	3.433	(0.647)	3.772	0.051	0.118
<i>Use of Existing Reserves / Budgets to achieve a balanced position</i>	<i>0.000</i>	<i>(4.079)</i>	<i>(3.433)</i>	<i>0.646</i>	<i>0.000</i>	<i>0.000</i>	<i>0.000</i>
Net Total	0.431	0.000	(0.000)	(0.001)	3.772	0.051	0.118
Use of Forecast Risk Fund to support the Net Budget Position	(0.431)	0.000	0.000		(3.772)	(0.051)	(0.118)

Use of Forecast Risk Fund to Support the Net Budget Position Above

Outturn b/fwd from prior years	(3.205)	(3.274)	(3.274)		(3.524)	(0.002)	(0.201)
Applied in year as set out in the forecast above	0.431	0.000	0.000		3.772	0.051	0.118
Additional contributions generated / required in year	(0.500)	(0.250)	(0.250)		(0.250)	(0.250)	(0.250)
Balance to Carry Forward	(3.274)	(3.524)	(3.524)		(0.002)	(0.201)	(0.333)

CABINET

REPORT OF THE PORTFOLIO HOLDER FOR HOUSING

16 DECEMBER 2022

A.4 Update on Spendells House and Review of Budget

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To update Cabinet on progress with Spendells House following the decision taken on 26 June 2020 and to seek continued support for the site being retained and reconfigured for the provision of temporary housing accommodation, subject to the business case being revisited.

EXECUTIVE SUMMARY

- Cabinet decided on 26 June 2020 to bring Spendells House back into use as temporary accommodation.
- Officers have undertaken further work on this proposal and the building has now been stripped internally of all asbestos.
- A specification for the temporary accommodation scheme has been drawn up and tenders invited for the building conversion works, through a formal procurement process. Tender submissions have now been received, evaluated and an award letter issued.
- The successful tender is priced at £1.25M. This combined with the already completed asbestos removal works is higher than the original £600k budget estimate for the overall project.
- In light of the above, it is proposed that Cabinet continues to support the Spendells house site being retained and reconfigured for the provision of temporary housing accommodation in principle, subject to the original financial appraisal / business case and funding proposals being revisited for approval by the Portfolio Holders for Corporate Finance and Governance and Housing.

RECOMMENDATION(S)

It is recommended that Cabinet:

- a) notes the update on progress and continues to support, in principle, the Spendells house site being retained and reconfigured for the provision of temporary housing accommodation;**
- b) requests that Officers revisit and update the original financial appraisal / business case; and,**
- c) delegates the decision to proceed or otherwise to the Portfolio Holder for Corporate Finance and Governance and the Portfolio Holder for Housing subject to:-**

i) the updated financial appraisal / business case remaining financially advantageous and provides value for money to the Council in terms of the overall provision of temporary accommodation; and

ii) the identification and approval by Full Council of the necessary funding as part the separate HRA budget setting process.

REASON(S) FOR THE RECOMMENDATION(S)

To progress the provision of council owned and managed temporary housing accommodation.

ALTERNATIVE OPTIONS CONSIDERED

The only alternative option considered is to not continue with the project. Due to the rising cost of providing external accommodation this option has been discounted.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Corporate Plan priorities include building sustainable communities for the future - Building and managing our own homes and also to use assets to support priorities.

The Council’s Housing Strategy adopted in October 2020 has delivering homes to meet the needs of local people as one of its key strategic priorities.

Managing public money effectively meaning value for money principles are embedded in the delivery of all our services.

OUTCOME OF CONSULTATION AND ENGAGEMENT

Internal consultation with relevant Officers has been undertaken.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	YES/NO	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input checked="" type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	23 September 2022

The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:

The decision delegated to Portfolio Holders will require a report setting out all of the considerations and implications to be produced and to be published in the normal manner.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Finance and other resources

The successful tender for the building conversion works has come in at £1.25m. In addition to the urgent works already undertaken the total cost of the project is £1.40m. This is significantly more than the original estimate of £0.600m currently included in HRA capital programme for 2022/23.

The increase can be attributed to inflationary pressures seen across the construction industry and is broadly consistent with higher than expected costs experienced with other high value construction projects the Council is involved with.

In light of this increase in costs, it is proposed to revisit the financial appraisal / business case that was set out within the original report to Cabinet in June 2020 to determine if value for money can still be reasonably demonstrated. The recommendations above also propose a delegation to the Portfolio Holder for Corporate Finance and Governance and the Portfolio for Housing to agree that the project can proceed or otherwise based on the outcome of the review of the original business case.

In parallel with this, it is also proposed to include the additional funding required within the HRA budget reports that will be presented to Cabinet / Full Council early in 2023. In the event that the updated business case cannot demonstrate value for money, then this can be removed from the HRA budget before it is presented to Cabinet / Full Council next year.

Risk

Financial risks will be considered in detail as part of the delegated decision report to the Portfolio Holders.

There is a risk associated with increasing homelessness costs. Further delaying the development of this project also delays the opportunity to reduce spending on temporary accommodation.

The tender submission price is not time limited and an award letter has been issued to the contractor. However, there is the possibility that the contractor may ask to increase some costs due to time elapsed from award of contract to works commencing on site.

The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:

There are no additional comments over and above those set out elsewhere in the report.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Refer to finance and other resource implications
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Refer to legal requirements
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Refer to finance and other resource implications
MILESTONES AND DELIVERY	
Subject to Cabinet approval and further Portfolio Holder decision, anticipated opening for the scheme is Autumn 2023.	
ASSOCIATED RISKS AND MITIGATION	
Risks will be set out in the Portfolio Holders' decision report.	
EQUALITY IMPLICATIONS	
The proposal does not impact on the protected characteristics of any individuals.	
SOCIAL VALUE CONSIDERATIONS	
None identified	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030	
The proposals do not impact on the Council's aim to be net zero by 2030.	
OTHER RELEVANT CONSIDERATIONS OR 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	None noted
Health Inequalities	None noted
Area or Ward affected	Walton

PART 3 – SUPPORTING INFORMATION

BACKGROUND
<p>On 26 June 2020 Cabinet took the decision to bring Spendells House in Walton back into use as temporary accommodation.</p> <p>Since that decision was taken Officers have secured planning consent for the change in use and completed the removal of all asbestos from within the building using appropriately licensed contractors.</p> <p>A tender exercise has now been undertaken for the remaining conversion works with the lowest and successful tender coming in at £1.25m.</p>

This figure is somewhat higher than the original 2020 estimated cost of £0.6M, £0.149M of which has already been spent on the asbestos removal works. Furnishing the scheme is now estimated to cost in the region of £0.06M based on recently obtained prices. This brings the total estimated expenditure to set the scheme up ready to use to **£1.4M**.

Given ongoing rises in inflation it is now prudent to consider a total estimated budget of **£1.4m**

These increases in cost must be set against continued high levels of homelessness presentations and consequent temporary accommodation use and therefore the original principals of the June 2020 decision remain.

A detailed financial business case will be produced and provided in a future report to the Portfolio Holder for Housing and the Portfolio Holder for Corporate Finance and Governance to consider in accordance with the delegation recommended in this report.

PREVIOUS RELEVANT DECISIONS

Cabinet June 2020 minute no. 25 - Report of the Housing Portfolio Holder - A.5 - Future Use of Spendells House, Walton-on-the-Naze

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

None

REPORT CONTACT OFFICER(S)

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CABINET

16 DECEMBER 2022

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

A.5 PURCHASE OF THE LEASEHOLD INTEREST IN A RESIDENTIAL PROPERTY IN DOVERCOURT

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek approval, in principle, from Cabinet for the purchase of the leasehold interest in a two bedroom house in Dovercourt.

EXECUTIVE SUMMARY

The Council is committed to increasing its housing stock in order to meet rising demands for high quality, affordable housing in the district. These homes will be acquired or built via a range of approaches.

This proposal is to purchase the leasehold interest in a two bedroom property in Dovercourt. The property is currently leased under the Council's Do It Yourself Shared Ownership scheme and the Council already has a 25% share of the lease and is the freeholder.

The Council has Section 106 affordable housing contribution capital receipts that will be used for this purchase. On completion the Council will have 100% ownership of the property.

The property has scored highly on the acquisition matrix, which forms part of the Acquisitions and Development Policy adopted by Cabinet in October 2020.

In June 2022 Portfolio Holder approval was obtained to initiate the Council's Property Dealing Procedure, to obtain an independent valuation of the property and to negotiate a price with the owners.

An independent market valuation was subsequently obtained and negotiations with the executor of the lessee's estate have been completed satisfactorily, to enable the purchase to be progressed to a conclusion. Purchasing this property will add an additional property to the Council's housing stock in the Housing Revenue Account.

The related Part B report refers to the detail of negotiations.

RECOMMENDATION(S)

It is recommended that:

- (a) Cabinet authorises, in principle, the purchase of the 75% leasehold interest in this property; and,
- (b) subject to its decision on terms, authorises the Corporate Director (Operations and Delivery), in consultation with the Assistant Director (Governance), to enter into a contract and transfer deed to complete the purchase of the property as set out in the related Part B report.

REASON(S) FOR THE RECOMMENDATION(S)

Although the purchase of the 75% leasehold interest in this property carries a financial cost, it will provide an additional dwelling for the Council's housing stock to meet local need and generate rental income.

ALTERNATIVE OPTIONS CONSIDERED

Not to purchase the leasehold interest in this property has been considered. Given the general difficulties leaseholders face in selling a property that they part own and the demand for this type of property as a rental within the Council's own housing stock this option has been discounted.

PART 2 – IMPLICATIONS OF THE DECISION**DELIVERING PRIORITIES**

The purchase of the leasehold interest has potential to contribute to the Council priority to build sustainable communities for the future through building and managing our own homes.

The Council's Housing Strategy, adopted in October 2020, also has delivering homes to meet the needs of local people as one of its key strategic priorities.

OUTCOME OF CONSULTATION AND ENGAGEMENT

Consultation has been undertaken with:

The Development and Building Manager and Housing Solutions Manager, who both support the purchase of this property.

The Chair of the Tenants' Panel who has agreed to the principle of purchasing properties that meet the Council's acquisition priorities.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	YES/NO	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input checked="" type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	12 October 2022

Section 17 of the Housing Act 1985 provides the principal power for the acquisition of land for housing purposes, including land as a site for the erection of houses; this includes the power to acquire land for the purposes of disposing of the land to a person who intends to provide housing accommodation on it.

Pursuant to Section 9 of the Housing Act 1985 ("the 85 Act"), a local housing authority may provide housing accommodation by acquiring houses. Section 24 of the 85 Act provides that the Council acting as a housing authority may make such reasonable charges as they may determine for the tenancy or occupation of their houses.

<input type="checkbox"/>	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:
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There are no further comments over and above those set out elsewhere in this report.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Finance and other resources

The purchase of properties carries a financial cost but this also results in additional properties being added to the Housing Revenue that can generate a return via the future rental income received.

The purchase is to be wholly funded by Section 106 agreements for affordable housing. Further detail is set out in the Part B report.

Risk

Officers have not identified any significant risk associated with the proposals other than the risk associated with the Right to Buy – a financial risk that is inherent to almost all Council owned housing.

However, section 131 of the Housing Act 1985 (as amended) limits the Right to Buy discount to ensure that the purchase price does not fall below what has been spent on building, buying, repairing or maintaining it over a certain period of time – known as relevant expenditure. For properties built or acquired before 1 April 2012, this period is 10 years but this period increases to 15 years for those built or acquired after 1 April 2012.

<input type="checkbox"/>	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
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There are no further comments over and above those set out elsewhere in this report.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	This is set out in the Finance and Other Resource Implications section of this report.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	This is set out in the Legal Requirements section of this report.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	This is set out in the Finance and Other Resource Implications section of this report.

MILESTONES AND DELIVERY

Subject to Cabinet approval, anticipated completion would be towards the latter part of 2022/2023 and the transaction would be completed by the Council's Legal Services.

ASSOCIATED RISKS AND MITIGATION

Officers have not identified any significant risk associated with the proposals other than the risk associated with the Right to Buy – a financial risk that is inherent to almost all Council owned housing.

However, as stated under Finance and Other Resource Implications, 131 of the Housing Act 1985 (as amended) limits the Right to Buy discount to ensure that the purchase price does not fall below what

has been spent on building, buying, repairing or maintaining it over a certain period of time – known as relevant expenditure.

EQUALITY IMPLICATIONS

The proposal does not impact on the protected characteristics of any individuals

SOCIAL VALUE CONSIDERATIONS

None identified

IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2030

The purchase of this property does not present a direct impact on the Council’s target for net zero greenhouse gas emissions from its business operations by 2030. It does, however, present an opportunity to improve the energy efficiency of the property as part of the refurbishment process and thereby reduce the greenhouse gas emissions generated by the eventual tenants. The aim will be to improve the energy performance of the property as much as reasonably possible.

OTHER RELEVANT CONSIDERATIONS OR 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	None noted
Health Inequalities	None noted
Area or Ward affected	Harwich and Kingsway

PART 3 – SUPPORTING INFORMATION

BACKGROUND

For a number of years the Council has had strong demand for two bedroom houses in Dovercourt. However our stock has dwindled and turnover of tenancies is very slow.

There now exists an opportunity to purchase the 75% leasehold interest in a two bedroom property in Ferndale Road that is currently leased under the Council’s Do It Yourself Shared Ownership Scheme (DIYSO). The Council already owns a 25% share of the lease and is the freeholder.

The DIYSO scheme was introduced in the 1980s as a low cost home ownership scheme. Eligible applicants were able to find their own property on the open market and this would, subject to it meeting relevant criteria, then be purchased by the Council. Simultaneously with the purchase, a lease would be granted to the applicants, based upon their purchase of a percentage share in the property. The intention was then that lessees would be able to progress to full ownership through the purchase of additional shares in the property over time.

The Council has Section 106 and Right to Buy sale capital receipts and by purchasing the remaining 75% of this property using the Section 106 funds we will be able to take 100% ownership.

The property has been viewed by the Development & Building Manager and has been identified as a property of high demand with a construction type known to the Building Services Team.

PREVIOUS RELEVANT DECISIONS

Property Dealings Procedure Initiation report published June 2022.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Published in the Notice of forthcoming decisions for the Council on the 12th October 2022.

APPENDICES

1) Acquisition Matrix

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A.5 APPENDIX

Dovercourt

Property Type: 2 Bed House

ACQUISITION CRITERIA FOR EXISTING HOMES

The Council acting in its capacities under the Housing Revenue Account will apply set criteria in considering:

- Opportunities to purchase homes on the open market or offered to the Council
- Opportunities to purchase discounted homes through S106 agreements
- Opportunities to buy back former homes sold under the Right to Buy and
- Opportunities to buy back homes partly owned through the Council's shared ownership and equity schemes.

In all scenarios referred to above, any property to be acquired should meet all of the minimum criteria set out and achieve an overall score of 15 points based on the assessment below:-

Criteria	Key Risk(s) Addressed	Minimum	Target/Scoring	Score
There must be a demonstrable need for the property in its location	Lack of demand will lead to extended void periods and rental loss	There must be a minimum of 20 households on the housing register seeking the property in that particular area.	High demand= 5 points Medium demand=3 points Low demand =1 point	4
The property's location and configuration is attractive from a rentable perspective.	Lack of demand will lead to extended void periods and rental loss.	The property must be in a risk-free location e.g not in a flood zone and the room sizes must meet legal requirements.	Low risk location = 5 points Medium risk location = 3 points High risk location = 1 point	4
The projected rental yield should represent a rational balance between revenue returns and security.	Security of capital invested and providing value for money	The possible rental yield (based on purchase price and any necessary refurbishment and/or development costs) should fall within a range consistent with the wider social housing sector and that achieved from the existing stock	Low risk investment = 5 points Medium risk investment = 3 points High risk investment = 0 points	5
The property itself should be in good repair and not pose future concerns that could compromise a tenancy or give	Unforeseen property or repair costs. Contamination.	To include 'due diligence' such as: a) Buildings to be of robust construction and in sound condition.	Property in sound condition = 5 points Property is reasonable condition = 3 points	3

rise to maintenance expenditure. .		<ul style="list-style-type: none"> b) Not potentially polluting. c) Free from onerous planning conditions and land contamination. d) Any financial appraisal for a lower value homes 	Property in poor condition = 1 point	
The property is in poor condition and of low value but could be brought back to use through renovation (e.g compulsory purchase or properties purchased at auction).	Security of capital invested and providing value for money	The possible rental yield (based on purchase price and any necessary refurbishment and/or development costs) should fall within a range consistent with the wider social housing sector and that achieved from the existing stock	<p>Low risk investment = 5 points</p> <p>Medium risk investment = 3 points</p> <p>High risk investment = 0 points</p>	5
Total Score				<u>21</u>

CABINET

16 DECEMBER 2022

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

A.6 UPDATED HOUSING REVENUE ACCOUNT BUSINESS PLAN AND BUDGET PROPOSALS 2023/24

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To set out and seek approval of an updated HRA Business Plan, which includes proposed changes in 2022/23 along with budget proposals for 2023/24.

EXECUTIVE SUMMARY

- Similarly, to the General Fund's long-term forecast, a 'live' HRA Business Plan is maintained on an on-going basis, with the most up to date position in December each year being translated into the detailed budget for the following year for consultation with the Resources and Services Overview and Scrutiny Committee.
- A number of changes have been made to the business plan for 2023/24 onwards that largely reflect increased inflationary pressures. These pressures are also being experienced in 2022/23, with corresponding adjustments set out accordingly.
- As part of the existing guidance from the Regulator for Social Housing, rents are permitted to be increased by CPI + 1% each year. However, the Government have intervened for 2023/24 due to the significantly high CPI rate at the present time. To 'protect' existing tenants, whilst balancing the impact on Local Authorities, the Government have set a rent increase 'cap' of 7% for 2023/24.
- Although Council's can set lower increases, this would be a very difficult approach to adopt in terms of the future sustainability of the HRA business plan, given the 'telescopic' impact this would have. Such an impact was experienced when the Government required Councils to reduce rents by 1% over the 4 year period from 2016/17 to 2019/20 that continues to have impact over the long-term life of the business plan.
- Based on the above, the average weekly rent proposed for 2023/24 is **£93.68** (£87.55 in 2022/23)
- After taking into account the various adjustments set out in **Appendix A** and discussed in more detail later on in this report, there are estimated budget deficits of **£195,548** and **£278,839** in 2022/23 and 2023/24 respectively.
- One approach to reduce these deficits to enable a balanced budget to be set would be to consider reducing an expenditure budget, such as the money that is used for capital investment. However, the Council remains focused on its overall commitment to balance the investment in the existing homes of tenants and building / acquiring homes for local people. It is also important to acknowledge that asking tenants to pay higher rents whilst

reducing the investment in their homes would be a difficult balance to justify and should be avoided as far as is financially possible.

- In light of the above, it is therefore proposed to fund the estimated deficits for 2022/23 and 2023/24 by calling money from HRA balances as an alternative to reducing expenditure.
- HRA General Balances are currently estimated to total **£3.777m** at the end of 2023/24 (after taking account of the use of balances highlighted above) that remains available to support the 30 year Business Plan and associated risks to the forecast.
- The proposed HRA Capital Programme for 2023/24 reflects the commitment to maintain the necessary investment in existing stock as mentioned above.
- HRA debt continues to reduce year on year as principal is repaid with a total debt position at the end of 2023/24 forecast to be **£33.949m**, which also takes into account the refinancing of an historic loan via an internal borrowing approach.
- In addition to requesting comments from the Resources and Services Overview and Scrutiny Committee, it is also proposed to consult with the Tenant's panel during January, with the outcome reported to Cabinet later that month, where the final HRA budget proposals will be considered for recommending onto to Full Council in February 2023.
- In addition to the above, the recommendations also reflect the associated procurement decisions associated with the purchase of a new IT system that supports the efficient / effective administration of the in-house housing repairs function.

RECOMMENDATION(S)

That Cabinet:

- a) approves the updated HRA 30 year Business Plan, which includes the proposed revised position for 2022/23 along with budget proposals for 2023/24;**
- b) requests the Resources and Services Overview and Scrutiny Committee's comments on this latest HRA financial forecast, including the proposed changes in 2022/23 and proposed position for 2023/24; and**
- c) subject to a) above, agrees to an exemption from the Procurement Procedure Rules along with the associated purchase of the Oneserve IT system covering a period of 3 years from January 2023, to support the effective administration of the housing repairs function.**

REASON(S) FOR THE RECOMMENDATION(S)

To enable Cabinet to consider the most up to date HRA Business Plan, which sets out a revised position for 2022/23, along with the proposed HRA budget for 2023/24, for consultation with the Resources and Services Overview and Scrutiny Committee.

ALTERNATIVE OPTIONS CONSIDERED

Not applicable as this report reflects the budget setting requirements that are set out within the Council's Constitution

PART 2 – IMPLICATIONS OF THE DECISION**DELIVERING PRIORITIES**

The HRA budget and Business Plan plays a significant role in the delivery of affordable and decent housing in the district and the Council's responsibilities as a landlord has direct implications for the Council's ability to deliver on its objectives and priorities.

OUTCOME OF CONSULTATION AND ENGAGEMENT

N/A

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	Yes	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input checked="" type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	This item has been included within the Forward Plan for a period in excess of 28 days.

It is a statutory requirement on a local authority to determine its Housing Revenue Account budget before the upcoming financial year and to ensure that its implementation will not result in an overall debit balance on the Account.

The self-financing regime for the Housing Revenue Account that came into effect from April 2012 was enabled by the Localism Act 2011.

The Regulator of Social Housing and its predecessor bodies have, at the Direction of Government, issued requirements and guidance to registered providers of social housing (which includes Local Authorities) in respect of rents. This has included the maximum levels of rent they can charge and annual increases in rents.

In 2016, Parliament passed the Welfare Reform and Work Act, which, together with Regulations made under it, created a legislation-based regime of rent reduction across the sector by 1% per year until 2020. Therefore, over this 4-year period, providers were required to reduce rents by 1% per year across its housing stock.

In October 2017, the Government announced that at the end of the 4 year rent reduction period it intended to return to annual rent increases of up to CPI + 1%, implemented through the regulator's Rent Standard rather than through legislation.

The Secretary of State for Housing, Communities and Local Government published on 26 February 2019 a 'Direction to the Regulator' to set a Rent Standard that will apply from 1 April 2020. That Direction was published alongside the Government's Policy Statement on Rents (the Policy Statement) and the regulator is required to have regard to this when setting its Rent Standard.

The regulator may under section 194(2A) of the Housing and Regeneration Act 2008 set standards for registered providers requiring them to comply with specified rules about their levels of rent (and the rules may, in particular, include provision for minimum or maximum levels of rent or levels of increase or decrease of rent).

The Regulator of Social Housing has confirmed rents can be increased by up to CPI+1% per year for a period of 5 years starting from 1 April 2020. However, the Government have intervened for 2023/24 due to the current level of CPI and will issue a Directive, which sets a 'ceiling' of 7% to rent increases for the upcoming year. Further details, including the impact on the HRA are set out later on in this report.

The rent standard does not apply to properties let to high-income social tenants, so rather than this being a mandatory requirement that the Government had previously looked to implement, it is now a voluntary decision taken at a local level. In continuing with the approach agreed last year, given the very challenging administrative issues associated with charging higher rents to high-income tenants, it is not proposed to introduce this in 2023. However, it is acknowledged that this flexibility may be subject to review in future years, for example, as part of developing future policy decisions within the HRA.

The Housing and Planning Act 2016 introduced a number of changes that had an impact on social housing, which via associated regulations are reflected in the HRA estimates as necessary.

The original HRA 30 Year Business Plan was agreed as part of the self-financing reforms and associated borrowing agreed by Full Council in February 2012 and the budget proposed for 2023/24 reflects the latest / updated forecast position set out in **Appendix A**.

YES	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:
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Although there are no additional comments above those set out in this report, it is important to highlight that further decisions may be necessary to take actions forward that are reflected in the business plan.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The financial implications are set out in this report and its appendices.

Although the availability of financial resources is a key component in the delivery of HRA services, there will also be a need for appropriate input of other resources such as staffing, assets, IT etc.

YES	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
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The Section 151 Officer is the co-author of this report.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	This is addressed in the body of the report.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	

MILESTONES AND DELIVERY

This report sets out the most up to date HRA Business Plan and proposed budget for 2023/24 for consultation with the Resources and Services Overview and Scrutiny Committee (RSOSC) in January.

Final budget proposals, taking into account the comments of the RSOSC, will be considered by Cabinet at the end of January 2023, which will include their associated recommendations to Full Council.

In February 2023, Full Council will be asked to consider the detailed HRA Budget proposals for 2023/24 as recommended by Cabinet.

ASSOCIATED RISKS AND MITIGATION

There are significant risks associated with forecasting such as cost pressures, inflation and changes to other assumptions that form part of the financial planning process. These have been brought into even sharper relief given the current challenging economic environment. The Council's initial / short-term response is set out in the body of this report and will continue to be addressed as part of the future financial update reports.

There are inherent risks associated with the forecast such as:

- Changes in income achieved and future rent setting policy
- Emergence of additional areas of spend
- Emergence of new or revised guidance
- New legislation / burdens
- Changing stock condition requirements
- Adverse changes in interest rates
- National welfare reforms

In view of the above, it is important that a sufficient level of balances / reserves is available to support the HRA. HRA General Balances are currently forecast to be **£3.777m** at the end of 2023/24. This is after drawing down money in both 2022/23 and 2023/24 from balances to support the Council through the difficult financial position faced by the Council in the immediate term. The remaining balance continues to be available to support the delivery of the HRA business plan in the medium to longer term.

A 30 year HRA Business Plan is maintained on an on-going basis that continues to demonstrate the sustainability and resilience of the HRA within a self-financing environment and the ability to provide opportunities for housing investment and associated housing services in the future, although it is acknowledged that the longer-term view always remains subject to the Government's housing policies.

EQUALITY IMPLICATIONS

See comments below within the 'Other Relevant Considerations or Implications' section.

SOCIAL VALUE CONSIDERATIONS

See comments below within the 'Other Relevant Considerations or Implications' section.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

See comments below within the 'Other Relevant Considerations or Implications' section.

OTHER RELEVANT CONSIDERATIONS OR 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.

In carrying out its functions as a social landlord, the Council has regard to the need to reduce the potential for criminal activity by improving the security of dwellings as part of maintenance and repair programmes and for combating anti-social behaviour through effective management procedures.

Although there are no direct equality and diversity issues, the overall HRA and associated financial planning and decision making processes will recognise and include such issues where appropriate and relevant.

Whilst this report does not have a direct impact on the Council's commitment to carbon neutrality, any work undertaken within the HRA and associated capital programme will take into account any opportunities to contribute to this key priority where possible. The planned stock condition survey will also support this approach.

Crime and Disorder	Please see comments above
Health Inequalities	
Area or Ward affected	

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The HRA is the Council's landlord account and it is 'ring fenced' for this purpose. Comprehensive rules and requirements surround the HRA such as specific accounting treatment and what items can or cannot be charged to the account. Authorities are required to set a balanced HRA budget each year and agree the level of rents it wishes to charge.

From April 2012, the Housing Revenue Account has operated under the self-financing approach introduced as part of the Localism Act 2011, which required the Council to 'buy' itself out of the previous subsidy arrangements via a debt settlement process.

From 2016/17, the Government imposed annual rent reductions of 1% each year for a period of 4 years. As mentioned earlier, the Regulator of Social Housing has confirmed rents can be increased by up to CPI+1% per year for a period of 5 years starting from 1 April 2020. The rate of CPI used is the figure for September of the preceding year that the increase will apply to. For 2023/24, the figure for September 2022 was 8.8%. However due to the very high level of inflation at the moment and in light of the cost of living challenges facing households, the Government consulted on ‘capping’ rent increases for 2023/24. In recognising the need to balance the ‘protection’ of existing tenants with the financial sustainability of the housing revenue account, the Government have recently confirmed a rent ‘cap’ of 7% for 2023/24. Although the detailed outcome from the consultation has yet to be published, the Government have indicated that they are minded to continue with a ‘cap’ in 2024/25 based on current inflation forecasts. This can be considered as part of future financial performance reports once the position is confirmed.

As highlighted within budget reports from previous years, one area that is important to note as it may have a bearing on the overall financial position of the HRA in future years is the regulatory regime emerging from the Hackett review, which followed the Grenfell fire incident. This is in addition to the national trend of increases in housing disrepair claims made against local authorities. Regardless of this latter point, the Council has always been committed to providing good quality housing whilst also recognising the ambition of building / acquiring new homes for local people. Given the financial issues set out in this report, this balance is becoming increasingly more challenging in the short term.

The Council remains alert to any changes that may be required in managing its housing stock, which are reflected in the 30 year business plan as necessary, with further commentary set out below.

HOUSING REVENUE ACCOUNT UPDATED BUSINESS PLAN, PROPOSED IN-YEAR BUDGET CHANGES FOR 2022/23 ALONG WITH THE PROPOSED BUDGET FOR 2023/24

The latest iteration of the 30 year HRA Business Plan is set out within **Appendix A**.

Similarly to the General Fund position reported elsewhere on the agenda, many of the issues that will have an impact in 2023/24 are also having an impact in 2022/23. Columns (3) and (6) of **Appendix A** highlight the changes against the previously reported figures for 2022/23 and 2023/24 respectively. **Appendix A** also includes a RAG risk rating against each line of the forecast.

The table below sets out the changes proposed in 2022/23 along with additional commentary:

The relevant line of the 30 year Business Plan	Change / Impact in 2022/23 £	Change / Impact in 2023/24 £	Comments
Line 1 - Maintenance	0	296,207	The figure for 2023/24 represents an inflationary uplift along with the annual cost of a new housing repairs IT system that is discussed in more detail later in

			<p>this report.</p> <p>At the present time, the existing budget for 2022/23 is expected to be sufficient to meet the associated costs for the year.</p>
Lines 2 & 3 - Depreciation and the Revenue Contribution to the Major Repairs Allowance	0	137,830	<p>The increase for 2023/24 represents a continuation of an in-house approach that includes additional officer capacity to support the delivery of the capital programme. Similarly to the line above, the existing 2022/23 is expected to be sufficient to meet the various planned activities for the year.</p>
Line 4 - Management Costs	23,870	774,797	<p>These increases primarily reflect the move to charging officer time directly to the HRA rather than from the General Fund via recharges (a corresponding adjustment is therefore highlighted against the recharges line of the budget below).</p> <p>This line of the budget also reflects the increase in estate sweeping which is part of the wider street cleansing contract that is expected to be increased in line with RPI from January / February 2023.</p>
Line 5 - Utilities	141,860	275,756	<p>The increase to this budget reflects the continuing / volatile</p>

			environment of significant energy price increases.
Line 7 - Council Tax in Empty Properties	0	53,788	Although performance in the management of voids has improved over the past year, there continues to be a cost associated with a limited number of long-term voids along with Spendells House until such time as it is redeveloped / occupied.
Line 8 - Debt Management Expenses	3,288	4,734	These reflect small inflationary increases in costs.
Line 9 - HRA Interest Payments on Debt	(29,600)	(69,382)	These changes largely reflect the reduced costs from not refinancing an existing loan of £800k via external finance. Further comments are set out later on in this report.
Line 10 - Principal Repayments on Debt – MRP	(13,330)	(26,667)	
Line 11 - Revenue Contribution to the Capital Programme	0	0	Although there are no proposed changes, it is worth highlighting that within the total contribution of £613k set out within Appendix A , £281k was originally set aside to meet the financing costs associated with borrowing to pay for the redevelopment of the Honeycroft site. Although further details are set out later on in this report, it is no longer proposed to borrow money for this project which therefore effectively 'releases' this funding for alternative capital investment.

Line 12 - Recharges	120,950	(514,506)	The figures include underlying increases in recharges from the General Fund that reflect increased cost such as employee, utility and other expenditure included within the updated forecast. In terms of 2023/24, this also reflects a 'saving' as Officer time previously charged to the HRA from the General Fund is now being directly charged within the Management Cost line of the budget above.
Total Change / Impact on Expenditure	247,038	933,058	
Line 13 - Dwelling Rents	0	(431,869)	This reflects a proposed 7% increase – further commentary is set out later on in this report.
Line 14 - Service Charges	0	(28,006)	
Line 15 - Garage Rents	0	(6,249)	
Line 17 - Misc. Income	4,290	4,290	This minor change reflects the outcome of the annual rent review across various non-dwelling properties 'held' within the HRA.
Line 18 - Investment Income	(55,780)	(124,910)	Similarly to the General Fund, recent / forecast increases in interest rates will deliver additional investment income to the HRA in both years.
Line 19 - Capital Receipts	0	6,500	This reflects a lower number of right to buy sales expected during 2023/24.
Total Change / Impact on Income	(51,490)	(580,244)	
Net Change Impact	195,548	352,813	

** Although the table above reflects the changes for 2022/23 and 2023/24, the 30 year Business Plan set out in **Appendix A** includes inflationary uplifts where necessary from 2024/25 onwards along with known changes such as those relating to the repayment of debt and interest charges as they represent fixed costs over the life of the respective loans.*

Some additional commentary against the major items highlighted (including those with a red RAG rating) within **Appendix A** are set out below.

Line 1 - Maintenance

Although an inflationary uplift of just over 10% has been reflected in the forecast for 2023/24, there is the risk that additional inflationary pressures may emerge in the short term. This will remain under review over the next stages of the budget cycle and in-year as part of the regular financial performance reports.

Lines 2 and 3 - Depreciation and the Revenue Contribution to the Major Repairs Allowance

This line of the plan represents the capital investment in existing stock that is over and above the more routine maintenance highlighted above. This therefore includes major items such as replacement kitchens, bathrooms, windows and doors etc.

The risk to this line of the plan is not only inflationary pressures, but it also includes potential responses to outcome of the Hackett review that followed the Grenfell Tower tragedy and those associated with any revised 'decent homes' standards.

A stock condition survey is planned to be undertaken shortly, which will help shape the forecast going forward.

This issue will be kept under review, but it is recognised that there is a continuing need to balance the focus of maintaining the existing stock with the affordability, scale and speed of other activities such as investing in housebuilding / acquisitions.

To support the investment in the existing homes of tenant's, further revenue contributions are included in the business plan, which are discussed further on in this report.

Line 5 - Utilities

Although at a smaller scale to the issues facing the General Fund, the volatility in energy prices will impact on HRA budgets. Additional estimated amounts have been included in both 2022/23 and 2023/24, which will be kept under review going forward to enable further action to be taken as necessary during 2023.

Line 13 - Dwelling Rents

Ordinarily rents would be increased by CPI + 1% in 2023/24 in-line with the position set out by the Regular of Social Housing, which is a policy that covers the period 2020 to 2025.

Given the current high level of CPI, the Government acknowledged that the 'usual' increase of CPI + 1% would put considerable pressure on those households living in social housing. As highlighted earlier in this report, the Government have confirmed that they will issue a Directive that will effectively 'cap' increases in rent for 2023/24 to 7%.

The figures set out in **Appendix A** therefore reflect this level of increase. Local Authorities are allowed to set lower increases in rents for the year, but this would add risk to the future sustainability of the HRA given the 'telescopic' impact over the remaining years of the

business plan along with the fact that many HRA expenditure lines of the budget are likely to see increases above this 7% limit. It is also important to highlight that this approach also helps the continuation of recovering from the unsustainable 1% reduction in rents over the period 2016/17 to 2019/20 that was imposed by the Government.

Based on the 7% increase, this results in an average rent of **£93.68** (an increase from **£87.55** in 2022/23). After taking account of other adjustments such as estimated void periods and the level of right to buy sales, this will raise additional income of **£0.432m** compared to the figure originally included in year 12 of the business plan (or **£0.796m** over and above the budget for 2022/23).

Although it will only make a marginal difference to the overall level of income receivable, the 7% 'cap' does not apply to new properties or relets during the year as the policy was only designed to 'protect' existing tenants. In such circumstances, the rent will move to the underlying formula rent for the associated property rather than be restricted by the 7% limit.

In line with the increases above, the figures set out within **Appendix A** also reflect 7% increases in service charges and non-dwelling rents. This approach reflects the underlying cost of providing the associated services and current inflationary increases to expenditure.

In conclusion, the business plan from 2023/24 onwards continues to react to changes in costs / prices, demands on the service, loan refinancing and other timely changes to the forecast.

The following table sets out a summary of the overall HRA position for 2022/23 and 2023/24 after taking into account the adjustments set out above:

	2022/23 £	2023/24 £
Estimated Expenditure	14,558,848	15,554,389
Estimated Income	(14,363,300)	(15,280,550)
Net Deficit Position	195,548	273,839

There is a net deficit forecast in both 2022/23 and 2023/24. As the ability to increase income is subject to restrictions as previously discussed, to meet the statutory requirement of setting a balanced budget, there are therefore two primary options as follows:

- 1) Identify corresponding reductions in expenditure** – looking down the various budget lines, there are many areas of the budget where this is more challenging such as loan financing where loans are fixed over a number year or staff capacity, which currently reflects the demands on the service.

The main area of the budget where reductions in expenditure could be considered is the revenue repairs and capital improvements to the existing homes of tenants. However, the Council remains focused on the overall commitment to balance the investment in the existing homes of tents and building / acquiring homes for local people. It is also important to acknowledge that asking tenants to pay higher rents

whilst reducing the investment in their homes would be difficult to justify and should be avoided as far as is financially possible.

With this in mind, it is proposed to choose the alternative option, which is as follows:

- 2) **Draw down money from HRA Balances** – Although further details are set out later on in this report, it is proposed to draw down **£195,548** and **£273,839** from the HRA general balance for 2022/23 and 2023/24 respectively.

This approach strikes the right balance of ‘protecting’ the investment in tenant’s homes whilst recognising the need to use reserves to respond to the very challenging financial environment that the Council currently faces. It is recognised that this is not a sustainable long-term solution, but it enables the Council to meet its key priorities in the immediate term, which can be revisited as part of the HRA Business Plan in future years.

Similarly to the long-term forecast approach taken in the General Fund, the HRA Business plan remains a ‘live’ process and will be updated accordingly as part of the current budget cycle and during 2023.

Based on current projections, the 30 Year Business Plan is still expected to deliver annual surpluses in the medium to longer term to support the on-going financial viability of the HRA in the years ahead.

HRA Capital Programme

Although a more detailed schedule will be included in the report to Cabinet in January as part of finalising the budget for presenting to Full Council in February, it is not proposed to reduce the existing level of investment in 2023/24 as highlighted earlier.

However, it is worth highlighting the following two key HRA capital projects:

- **The Redevelopment of the Honeycroft Site in Lawford** – the associated procurement process has now been undertaken with the expected overall cost being lower than the expected **£4.000m** mentioned in previous reports. To enable the project to be progressed, a separate report is currently being prepared that is planned to be presented to Cabinet at its meeting in January.

As discussed earlier in the year, it is no longer proposed to fund this scheme via external borrowing given the likely interest rate ‘premium’ that would be payable at the present time. It is therefore proposed to fund this project primarily from capital receipts with the potential for a contribution to be made via an external grant. In terms of the latter, discussions with an associated grant funding body remain in progress.

- **The Redevelopment of Spendells House in Walton** – A budget of **£0.600m** was originally included in the HRA Capital Programme. However, following a recent procurement exercise, global / national impacts on commodity prices / supply side disruption etc. have resulted in estimated costs increasing to **£1.400m**. For similar reasons set out for the Honeycroft site above, it is proposed to fund the additional costs from capital receipts. A separate report is planned to be included elsewhere on the agenda to enable this project to be progressed. Unlike the redevelopment of the

Honeycroft site, the opportunity to seek external funding is not possible, as this scheme relates to the refurbishment of existing stock rather than new units, which appears to be a primary consideration of external grant funding bodies.

Any use of capital receipts will have a knock on impact in terms of future opportunity costs but this can be revisited as part of the development of the forecast and the 30 year HRA Business Plan looking ahead.

Although the above two projects are subject to separate reports, associated changes will be made to the HRA budgets that will be included in the final HRA budget proposals that will be considered by Cabinet / Full Council in January / February (The use of capital receipts at the level proposed are required to be approved by Full Council).

HRA BALANCES / RESERVES

The forecast position for HRA balances at 31 March 2023 and 31 March 2024 will vary over time depending on the outturn positions for 2022/23 and 2023/24 as well as the emergence of other unexpected or unplanned matters that could occur in or across these years.

Based on the updated Business Plan attached, the total HRA reserves are forecast to total **£8.510m** by the end of 2023/24, with the general balances element within this amount being **£3.777m**.

The above figures reflect the proposed call down from reserves of **£195,548** and **£273,839** for 2022/23 and 2023/24 respectively as highlighted earlier in this report.

HRA DEBT

The total HRA debt at the end of 2022/23 is estimated to be **£35.363m**.

With forecast repayments of principal along with the proposed refinancing of an historic loan highlighted earlier, the level of HRA debt at the end of 2023/24 is forecast to be **£33.949m**

With the Government's removal of the HRA debt cap, any future borrowing will need to be considered against the 30 Year Business Plan and underlying prudential code principles.

It is possible to use the Major Repairs Reserve that currently supports the capital programme to pay down historic debt where it is financially advantageous to do so. The total of this reserve is estimated to be **£4.735m** at the end of 2022/23, but a balance needs to be struck between investing in capital projects and tenant's homes and reducing / managing debt repayment costs. Although no adjustments are included within the proposed budget for 2023/24, this option can be revisited in future years of the business plan.

HRA Interest Payments on Debt and Principal Repayments on Debt – MRP

Loans taken out to support the self-financing reforms back in 2012 continue to be repaid each year, with individual loans being completely paid off on a five year cycle that reflects the loan structure agreed at the time. This approach results in lower debt and interest payments from on an on-going basis over the 30 years of the business plan.

As part of previous business plan reviews it was agreed that more historic debt would be considered in future years, especially as it became repayable. Historic debt was traditionally based on 'interest only' type loans, which were 'replaced' as they matured. With this in mind,

an historic loan of **£0.800m** matured in 2022/23. However rather than simply refinance the loan with a further external loan, it has instead been refinanced via internal borrowing that takes advantage of the current positive cash flow position of the Council. This reduces interest costs, which has been reflected in the attached business plan. Although no provision has been made to repay the loan off at the present time, the position will be considered in future years along with the other historic HRA loans that were in place before the self-financing reforms to provide a prudent / sustainable approach to managing this debt in the longer term.

OTHER HRA RELATED MATTERS

Although there are no underlying / significant issues to raise at this stage of the budget setting process, it is acknowledged that the Government may reconsider previous housing policy decisions or introduce new housing related initiatives / requirements on local authorities.

As highlighted in an earlier table above, the maintenance budget has been increased to accommodate the cost of new IT system that supports the efficient / effective management of the in-house repairs function. A corresponding annual on-going budget of **£58,000** has therefore been included from 2023 (an initial budget of **£50,000** was included in 2022/23 as part of an earlier decision).

A software system called Oneserve was trialled following a selection process and was implemented for a one-year period in January 2022. Some resource was applied to iron out teething issues in the setup of the system and the project team is augmenting this work with a review of processes in the repairs function and its development.

In considering the next steps following the end of the 12 month period mentioned above, the project team considered options available from other external providers as well as a potential in-house solution that could be developed by the Council's own IT team. The considerations included presentations by suppliers. A visit was also made to a London Borough Council where the team there demonstrated Oneserve's full functionality (having been deployed and jointly developed over a period of years) and how well it served them in undertaking the repair and maintenance of their vast housing stock.

The other software providers investigated were unable to warrant full deployment of a comprehensive system within the timescale of the residual period with Oneserve.

It is worth highlighting that colleagues from the IT and Internal Audit teams have assisted with the research and trialling of a system to support the needs of the Service. In terms of the option of developing an in-house solution, this will be reviewed in future years as it would not have been possible to fully develop a solution set against the timescales highlighted above.

In terms of the Oneserve system, if fully implemented, it will provide a platform for the management of repairs and other works primarily for the housing stock but also for the wider property estate based on the following key functions:

- Holding and making available asbestos and other safety information
- Holding/making available general property information
- Holding/ making available maintenance records
- Providing for the reporting of repair issues by tenants/occupants
- Allocating repairs to external contractors or to in house tradespersons
- Facilitating and recording post inspections
- Facilitating payment of external contractors

- Recording time and materials used by in house tradespeople
- Allocating costs to service areas and budgets
- Holding and making available records of works completed and inspections carried out

These functions are essential to meeting the various challenges facing the housing team and other services. In light of the pressures all Local Authorities will be facing from regulators, who have made it clear that they will more proactively encourage residents to make complaints to drive service improvements, having a robust system that can capture and centralise the relevant data can only benefit the Council in response to complaints, challenges as well as help drive service improvements.

The annual cost to acquire the system is £57,897.50 which includes user licences, data storage, and test site. The proposed approach also responds to improvements and recommendations identified as part of an earlier review by Internal Audit. The costs identified are in line with other specialist systems acquired by the Council.

Taking the above into account, the recommendations included in this report not only seek approval of the HRA Business plan, that includes the cost of the Oneserve System, but also an exemption from procurement rules to enable the system to be purchased for a further 3 year period.

There is also further potential to roll the system out to include public realm service areas at little additional cost because of economies of scale, which will be considered in due course.

PREVIOUS RELEVANT DECISIONS

The last iteration of the HRA 30 Year Business Plan was report to Cabinet on 17 December 2021 with further general updates included in subsequent budget reports and regular financial performance reports.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

Appendix A – Updated HRA 30 Year Business Plan

REPORT CONTACT OFFICER(S)

Names	Richard Barrett (1) Richard Hall (2)
Job Titles	Assistant Director (Finance and IT) (1) Finance and Procurement Officer (2)
Email/Telephone	rbarrett@tendringdc.gov.uk (01255) 686521 rhall@tendringdc.gov.uk (01255) 686530

HRA 30 Year Business Plan (revised Year 11 to Year 30)

Line	RAG Rating	Year 11						Medium Term			Longer Term			Totals	
		Year 11 Original	Year 11 Revised	Year 11 Change	Year 12 As Last Reported (Dec 21)	Year 12 Revised	Change	Year 13	Year 14	Year 15	Years 16 To 20	Years 21 to 25	Years 26 to 30		
		2022/23 (1) £	2022/23 (2) £	2022/23 (3) £	2023/24 (4) £	2023/24 (5) £	2023/24 (6) £	2024/25 £	2025/26 £	2026/27 £	£	£	£		£
Expenditure															
1		3,287,140	3,287,140	0	3,376,943	3,673,650	296,707	3,857,330	3,973,050	4,074,360	21,984,290	24,933,950	28,279,320	94,063,090	
2		2,906,670	2,906,670	0	2,906,670	2,906,670	0	2,906,670	2,906,670	2,906,670	14,533,350	14,533,350	14,533,350	58,133,400	
3		269,740	269,740	0	269,740	407,570	137,830	407,570	407,570	407,570	2,037,850	2,037,850	2,037,850	8,013,570	
4		1,606,500	1,630,370	23,870	1,589,033	2,363,830	774,797	2,412,350	2,462,330	2,513,810	13,396,900	14,936,290	17,070,450	56,786,330	
5		224,730	366,590	141,860	229,104	504,860	275,756	530,100	556,610	584,440	3,390,860	4,327,720	5,523,370	15,784,550	
6		55,440	55,440	0	55,440	55,440	0	55,440	55,440	55,440	277,200	277,200	277,200	1,108,800	
7		130,090	130,090	0	76,302	130,090	53,788	77,830	78,600	79,380	408,850	429,500	451,190	1,785,530	
8		65,750	69,038	3,288	67,065	71,799	4,734	75,389	77,651	79,980	437,364	507,025	587,781	1,906,026	
9		1,305,510	1,275,910	(29,600)	1,275,242	1,205,860	(69,382)	1,191,570	1,132,070	1,077,180	4,798,160	4,157,930	3,750,320	18,589,000	
10		1,427,630	1,414,300	(13,330)	1,440,967	1,414,300	(26,667)	1,414,300	1,414,300	1,414,300	5,404,850	3,529,850	1,829,850	17,836,050	
11		613,630	613,630	0	613,630	613,630	0	613,630	613,630	613,630	3,068,150	3,068,150	3,068,150	12,272,600	
12		2,418,980	2,539,930	120,950	2,721,196	2,206,690	(514,506)	2,317,020	2,386,530	2,458,130	13,442,040	15,583,010	18,065,030	58,998,380	
		14,311,809	14,558,848	247,038	14,621,331	15,554,389	933,058	15,859,199	16,064,451	16,264,890	83,179,864	88,321,825	95,473,861	345,277,326	
Income															
13		(13,492,620)	(13,492,620)	0	(13,856,921)	(14,288,790)	(431,869)	(14,653,150)	(15,026,810)	(15,409,990)	(83,148,510)	(94,304,620)	(106,957,500)	(357,281,990)	
14		(522,380)	(522,380)	0	(529,374)	(557,380)	(28,006)	(572,430)	(587,890)	(603,760)	(3,272,280)	(3,738,500)	(4,271,190)	(14,125,810)	
15		(155,980)	(155,980)	0	(160,181)	(166,430)	(6,249)	(170,920)	(175,530)	(180,270)	(977,040)	(1,116,200)	(1,275,210)	(4,217,580)	
16		(81,570)	(81,570)	0	(81,570)	(81,570)	0	(81,570)	(81,570)	(81,570)	(407,850)	(407,850)	(407,850)	(1,631,400)	
17		(32,910)	(28,620)	4,290	(32,910)	(28,620)	4,290	(28,620)	(28,620)	(28,620)	(143,100)	(143,100)	(143,100)	(572,400)	
18		(13,350)	(69,130)	(55,780)	(13,350)	(138,260)	(124,910)	(92,180)	(92,180)	(92,180)	(460,900)	(460,900)	(460,900)	(1,866,630)	
19		(13,000)	(13,000)	0	(26,000)	(19,500)	6,500	(19,500)	(19,500)	(19,500)	(97,500)	(97,500)	(97,500)	(383,500)	
		(14,311,810)	(14,363,300)	(51,490)	(14,700,306)	(15,280,550)	(580,244)	(15,618,370)	(16,012,100)	(16,415,890)	(88,507,180)	(100,268,670)	(113,613,250)	(380,079,310)	
		Surplus (-)/Deficit (+) on HRA Balance	(1)	195,548	195,548	(78,974)	273,839	352,813	240,829	52,351	(151,000)	(5,327,316)	(11,946,845)	(18,139,389)	(34,801,984)

*The Year 12 figure as last reported (Dec 21) has been increased by £332k (to £613k) that reflects the additional contribution to the Capital Programme agreed at Full Council in February 2022

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CABINET

16 DECEMBER 2022

REPORT OF THE PORTFOLIO HOLDER FOR PARTNERSHIPS

A.7 DETERMINATION OF A NOMINATION TO REGISTER AN ASSET OF COMMUNITY VALUE: ST JOHN'S AMBULANCE HALL, 55 STATION ROAD, MANNINGTREE, ESSEX, CO11 1EB

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To determine whether the St Johns Ambulance Hall meets the criteria set out in the Localism Act 2011 (“the Act”) and the Assets of Community Value (England) Regulations 2012 (“the Regulations”) following its nomination as an Asset of Community Value by Manningtree Town Council. No other criteria are pertinent.

EXECUTIVE SUMMARY

A valid nomination to register an asset of community value has been received from Manningtree Town Council as shown identified in the plan included within Appendix A.

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011 and The Assets of Community Value Regulations 2012.

The Government’s non statutory guidance defines an asset of community value as: “Building or other land whose main (i.e. “non-ancillary”) use furthers the social wellbeing or social interests of the local community, or has recently done so and is likely to do so in the future”. The report provides an assessment of the nomination.

The Cabinet should consider the content of the nomination against the statutory criteria (and no other factors) and determine whether the asset should be included within the Council’s List of Assets of Community Value.

Taking the evidence provided into account it is recommended that the building nominated does meet the criteria set out Section 88 of the Localism Act 2011. Accordingly it is recommended that the criteria are met and that the building should be listed as an Asset of Community Value.

Cabinet adopted the formal procedure for administering Assets of Community Value in January 2015, when the legislation and the supporting procedures were new to local government. The Council has been operating within this procedure for 7 years and it is considered appropriate for a review to be undertaken, taking into account the experiences of past applications, case law around the subject matter, the strict criteria applied in making such determinations, number of successful community bids and reviews requested. Cabinet Members have previously expressed informal support for Officers to be provided with the appropriate delegations to enable applications to be

determined quicker within the strict legislative framework. However, the formal procedure will require amendment and due to the time passed since its adoption, a thorough review of operating procedures is suggested, including how reviews would be undertaken if the decisions were delayed to Officers.

RECOMMENDATION(S)

That Cabinet:

- (1) agrees that St John’s Ambulance Hall, 55 Station Road, Manningtree CO11 1EB meets the definition of an Asset of Community Value as set out in Section 88 of the Localism Act 2011 and that the asset be added to the Council’s list of Assets of Community Value; and**
- (2) requests that the formal procedure for administering Assets of Community Value, adopted by Cabinet in 2015, be reviewed to enable determinations to be made by Officers under delegated powers and the appropriate review mechanism proposed for consideration.**

REASON(S) FOR THE RECOMMENDATION(S)

- The site has for many years been used by the community. As well as serving the needs of St John’s Ambulance, the building is regularly used by local groups over many years for meetings and other social events. These groups include:- Manningtree Museum, Photographic Club, the Town Council, First Responders, Manningtree & District Royal British Legion, Yarn & Thread (informal craft & social group), Stour Valley Men’s Probus Club have used the facilities over a number of years.
- Officers consider the building to have been recently (between 18 and 24 months) used for community purposes. Although a fundraising group may not be off the ground it is reasonable to conclude that they plan to do it or that someone else might buy and run it for some community purpose. Government guidance indicates that authorities should lean towards the potential for some group to acquire properties even if one is not immediately in a position to do so.

ALTERNATIVE OPTIONS CONSIDERED

- Not adding the property to the list of Assets of Community Value – not recommended – the criteria are met.
- Adding the property to the list of Assets of Community Value –recommended – the criteria are met.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of Council priorities.

A review of the procedure for administering Assets of Community Value demonstrates effective and positive governance ensuring procedures remain efficient and complying with best practice and guidance.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The owners of the property have been informed of the application via a letter and they were also contacted by the auction company dealing with the sale of the property, which in turn out a hold on the property going to auction.

Officers have spoken with Councillor G Guglielmi, as the property is in his ward. Councillor Guglielmi advises that the property has not been used for approximately 18 to 24 months but before this it was indeed used by the community.

The Act and Regulations are intended to increase public engagement.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	No	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011:

- (1) A building or other land in a local authority’s area is land of community value if in the opinion of the authority —
 - (a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and;
 - (b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

Section 88(2) of the Act extends this definition to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.

Under Schedule 2 of the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, the determination of an appeal against any

<p>decision made by or on behalf of the authority can be made by the Executive or another Committee. It is considered that as Cabinet will be the decision maker of the outcome of the nomination, any review received should be considered and referred to the Community Leadership and Partnerships Overview and Scrutiny Committee, which already includes within its terms of reference review of Cabinet decisions.</p>	
<input type="checkbox"/>	<p>The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:</p>
<p>No additional comments to those set out in the report in relation to the current application. A review of the operating procedures for administering Assets of Community Value should be undertaken using experiences from past applications and case law on the subject matter and should be reflected in any revised procedures.</p>	
<p>FINANCE AND OTHER RESOURCE IMPLICATIONS</p>	
<p>There are circumstances where the Council may be required to pay compensation. It is hard to quantify this risk and it is therefore not proposed to make a specific allocation. The Advice Note issued by Department of Communities and Local Government (“DCLG”) states that if compensation exceeds £20,000 in any one financial year support can be requested through their burdens funding scheme.</p> <p>In this case, the current owner has suspended a planned sale of the site and this may give rise to a compensation claim.</p>	
<input checked="" type="checkbox"/>	<p>The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:</p>
<p>No additional comments.</p>	
<p>USE OF RESOURCES AND VALUE FOR MONEY</p>	
<p>The following are submitted in respect of the indicated use of resources and value for money indicators:</p>	
<p>A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;</p>	<p>The Council has an adopted Financial Strategy.</p>
<p>B) Governance: how the body ensures that it makes informed decisions and properly manages its risks,; and</p>	<p>The Council has an adopted procedure for considering nominations of assets of community value.</p>
<p>C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.</p>	<p>The Council has an adopted Financial Strategy.</p>
<p>MILESTONES AND DELIVERY</p>	
<p>If Cabinet determines to add the property to the list it will be added directly and will remain on the list for five years unless there is an appeal, review or relevant transaction.</p>	

The review of the procedures could be brought to Cabinet in February or March 2023.	
ASSOCIATED RISKS AND MITIGATION	
The property was used by St Johns Ambulance as a training centre, first responders as a training centre, Manningtree Town Council used to meet there and also the local photography group used the hall on a regular basis.	
The Property was due to go to auction but this has been suspended and is waiting to hear the outcome of this nomination.	
There is always some risk that the decision in relation to the nomination will be controversial whether it is listed or not.	
The suspension of the planned sale by the current owners and a decision to add the property to the list of assets of community value may give rise to compensation requirements.	
EQUALITY IMPLICATIONS	
The nominating body lists a number of social and community activities that we likely on the whole to be progressive in terms of equality and diversity.	
SOCIAL VALUE CONSIDERATIONS	
Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of implications.	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030	
The proposed decision is neutral in relation to the Council's emissions ambitions.	
OTHER RELEVANT CONSIDERATIONS OR 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	The nominating body lists a number of social and community activities that we likely on the whole to be progressive in terms of crime and disorder
Health Inequalities	The nominating body lists a number of social and community activities that we likely on the whole to be progressive in terms of health equalities.
Area or Ward affected	Lawford Manningtree and Mistley
PART 3 – SUPPORTING INFORMATION	
BACKGROUND	
The Act and Regulations, also collectively known and described as Community Right to Bid place a duty on local authorities in England and Wales to maintain	

a list of land in their areas that is land of community value as nominated by the local community.

The local authority must consider only if the nominated asset meets the criteria set out in Section 88 Localism Act 2011 in that it is satisfied:

- (a) the actual use, not an ancillary one, that furthers social wellbeing or social interest of the local community; and
- (b) that there can continue to be a non-ancillary use, which will further the social well-being or social interests of the local community.

The Council must maintain:

- A list of assets that are held to be of community value; and
- A list of assets identified in unsuccessful nominations.

If land or buildings are placed on the list of assets of community value:

- They remain on the list for five years;
- They are subject to a local land charge;
- If the owner wishes to sell (some exemptions apply) the asset they must notify the Council;
- The Council must notify the nominator and publicise the potential sale;
- All community groups have a six week window to register their intent to bid for the asset;
- If no registration of intent is received the owner may then sell the asset as they see fit (subject to any normal legal processes);
- If intent is registered community groups are then allowed a further 20 weeks (strictly 6 months from the date of the owner's notice) to raise money, reach agreement or otherwise bid for the asset;
- The owner may sell to a community group at any time but is never obliged to do so;
- If no community bid is made or accepted within the six months the owner may then sell the asset as they see fit;
- No further bid or moratorium can be made for a period of 18 months from the owner's notice; and
- If the owner suffers financial loss as a result of the imposition of either moratorium the Council must compensate the owner.

The provisions of the community right to bid does not:

- Restrict who the owner of a listed asset can sell their property to, nor at what price;
- Confer a right of first refusal to community interest groups,
- Enable a community group to trigger disposal of a site;
- Place any restriction on what an owner can do with their property, once listed, if it remains in their ownership.

Only the owner of the land has the right to seek a review of the decision to include any land on the list in accordance with Section 92 of the Localism Act 2011. This must be done in writing within 8 weeks of the written notice of inclusion of the land in the list.

The table below, based on guidance produced by the Public Law Partnership sets out an overview of what the Act and Regulations intend to constitute as an Asset of Community Value”.

The Act intends to apply to Land and Buildings Where:

1. The main use of the land or building **furtheres the social wellbeing or social interests of the local community** at the present time AND it is realistic to think that this can continue into the near future (even if the type of social use or benefit might change), or;
2. The main use of the land or building **furthered the social wellbeing or social interests of the local community** in the recent past AND it is realistic to think that this could again happen **in the next five years** (even if the type of social use or benefit might change).

The Act does not intend to apply to land where:

1. The main use of the land or **building furthered the social wellbeing or social interest of the local community some years ago** but is not presently in use for a social purpose, or;
2. The land or building has **not recently been, and is not currently, in use for a primarily social purpose**, or;
3. The land or building has been **empty or derelict** for many years and remains so today.

In their Guidance Public Law Partnership provide some helpful interpretation of these terms:

“This could apply to a broader set of activities and not just cultural, recreational and sport interests as provided by the Act. Working with local communities it could include: any land or building where the main purpose is for the provision of public services for education, health and wellbeing or community safety e.g. nurseries, schools, children’s centres, health centres, surgeries, hospitals, day care centres, and residential care homes. Sport, recreation & culture e.g. parks and open green spaces, sports and leisure centres, libraries, theatres, museums and heritage sites, cinemas, swimming pools. Community services e.g. community centres, youth centres, and public toilets. Any economic use which also provides important local social benefits e.g. village shops, pubs, markets.

“What does it mean “realistic to think that this can continue into the near future”? For the use which is **currently ongoing**, the working assumption should be that the present use can continue into the future, unless the local authority is able to identify evidence that is unlikely to be the case. In other words where the asset is presently in social use there should be a **presumption of continued viability**, unless clear evidence suggests otherwise. For a **social use which has lapsed** and needs to be re-established the local authority will need to take a view on the realism of re-establishing this. A new approach can help to re-establish services that were previously not viable.

Cabinet adopted the formal procedures for administering Assets of Community Value at its meeting in January 2015, which was based on Cabinet determining all applications, whether the criteria under the Act was met or not. This approach was adopted at the time, because the legislation and its process was new to local government.

CURRENT POSTION

The Nomination Form has been submitted by Manningtree Town Council (attached at Appendix A), and contains at B4 and B5 reasons why the nominators consider that the building is of community value and how the land could be acquired and used in the future.

The nomination states that the building is regularly used by local groups and has done over many years for meetings and other social events.

In accordance with the Regulations the landowner has been notified. The owners of the property have not been in touch with Tendring District Council at the time of writing this report.

At the time of the nomination being received by the Council, the property was due to be auctioned (by Savills) the same week. This was stopped by the owners of the property and they were made aware of the application by the auction company. The owners will wait for the outcome of this report to make a decision on what they will be doing with the property.

It is recommended that the building does meet the criteria set out in Section 88 (2) (a) of the Act:

“there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community.”

The Nomination request is being sought with the stated intention of continuing the main use which furthers the social wellbeing or interests of the local community.

Taking the above into account it is recommended that the matter for consideration is whether the building nominated does meet the criteria set out in Section 88 (2) (b) of the Localism Act 2011, specifically:

“it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.”

At the time of writing this report the Town Council stated that it is considering setting up a “Save St Johns Hall” community group, At the time of writing Officers have not confirmed the state of progress of this.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Non-statutory advice note for local authorities produced by DCLG Community Right to Bid – October 2012

APPENDICES

Appendix A – Nomination Form (Redacted)

REPORT CONTACT OFFICER(S)	
Name	Kirstin Foley
Job Title	Economic Growth Officer
Email/Telephone	01255 686149 kfoley@tendringdc.gov.uk

A.7 Appendix A

LOCALISM ACT 2011

THE COMMUNITY RIGHT TO BID

NOMINATION FORM

A: You and your organisation

Your Name
Your Organisation (full official name) Manningtree Town Council
Your position in the organisation Town Clerk and Responsible Financial Officer
Organisation address (including postcode) Manningtree Town Council PO Box 12651 Manningtree Essex CO11 9AR
Daytime telephone no.
Email address clerk@manningtreetowncouncil.org.uk
How and when can we contact you?*
Anytime via email

*other correspondence address or preferred way or time for us to contact you

Type of organisation

Description	Put a cross X against all those that apply	Registration number of charity and/or company (if applicable)
Neighbourhood forum		
Parish Council	X	

Charity		
Community interest company		
Unincorporated body		
Company limited by guarantee		
Industrial and provident society		

Unincorporated bodies only:

In the case of an unincorporated body, at least 21 of its members must be registered to vote in the Tendring District or an adjoining authority. If relevant, please confirm the number of such members. If they are registered to vote in the area of a neighbouring local authority, rather than in Tendring, please confirm which area that is.

Local connection

Your organisation must have a local connection, which means that its activities are wholly or partly concerned with the administrative area of Tendring District Council or a neighbouring local authority. Please explain what your organisation's local connection is.

"We are the Town Council of Manningtree and the property is located in Manningtree."

A6 Distribution of surplus funds (certain types of organisation only)

If your organisation is an unincorporated body, a company limited by guarantee, or an industrial and provident society, its rules must provide that surplus funds are not distributed to members, but are applied wholly or partly for the benefit of the local area (ie. within the administrative area of Tendring or a neighbouring local authority). If relevant, please confirm that this is the case, and specifically which area this applies to.

A7 More about your organisation

What are the main aims and activities of your organisation?

Town councils make all kinds of decisions on issues that effect the local community. Probably the most common is planning, but Manningtree Town Council are passionate about our local community, crime prevention, community projects such as the beach toy library, the recent platinum jubilee party and the preservation of the Towns history and heritage.

A8 Your organisation's rules

Please send us a copy of the relevant type of document for your organisation, and put a cross in the next column to indicate which one this is	
Memorandum and Articles of Association (for a company)	
Trust Deed (for a trust)	
Constitution and/or rules (for other organisations)	X

Part B: About the land or building(s) you are nominating

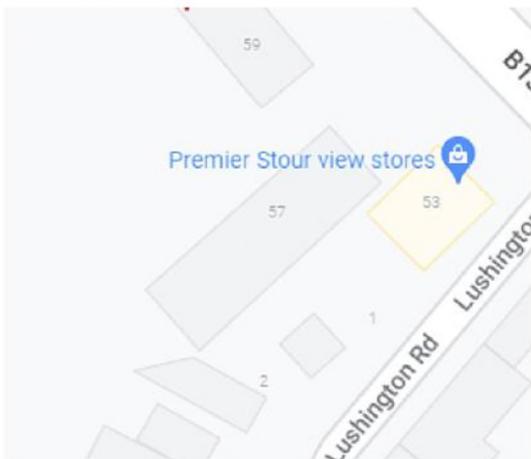
B1 Description and address

What it is (eg. pub, local shop) St John's Ambulance Headquarters
Name of premises (eg. Royal Oak / Littletown stores) St John's Ambulance hall, Manningtree
Address including postcode (if known) 55 Station Road, Manningtree CO11 1EB

B2 Sketch plan

Please include (here or on a separate sheet) a sketch plan of the land. This should show:-

- The boundaries of the land that you are nominating
- The approximate size and position of any building(s) on the land.
- Any roads bordering the site.



As you can see it is the building marked number 57 on both pictures, the front of the

building is on station road.

B3 Owners and others with an interest in the building or land

You should supply the following information, if possible. If any information is not known to you, please say so.

	Name(s)	Address(es)
Names of all current occupants of the land	St John's Ambulance	Same as B1.
Names and current or last known addresses of all those owning the freehold of the land (ie. owner, head landlord, head lessor)		
Names and current or last known addresses of all those having a leasehold interest in the land (ie. tenant, intermediate landlord, intermediate lessor)		

B4 Why you think the building or land is of community value

Note that the following are not able to be assets of community value:-

- *A building wholly used as a residence, together with land “connected with” that residence. This means adjoining land in the same ownership. Land is treated as adjoining if it is separated only by a road, railway, river or canal.*
- *A caravan site.*
- *Operational land. This is generally land belonging to the former utilities and other statutory operators.*

Does it currently further the social wellbeing or social interests* of the local community, or has it done so in the recent past? If so, how?

The site has for many years been used by the community.

The land was donated by a local business with a stipulation that it should only be used for a communal benefit.

The original hut on the plot was replaced by the current building after many years of fund raising by local volunteers and supporters, using a number means and events. Having raised the funds the local community has always regarded this as a local asset.

The land and buildings were since the donation, owned and run by a local Voluntary organization with ongoing fund raising being done to keep the asset going.

As a location for the St John’s Ambulance brigade it has clearly served the health and wellbeing needs of the local community. The Ambulance stationed there attended many community events and tended to the people’s health care. The site has been used to train both members of St John’s and other locals in first aid techniques.

As well as serving the needs of St John’s Ambulance, the building is primarily a Hall, with toilet and Kitchen facilities which have been regularly used by local groups over many years for meetings and other social events. These groups include:- Manningtree Museum, Photographic club, the Town Council, First Responders, Manningtree & District Royal British Legion, Yarn & Thread (informal craft & social group), Stour Valley Men’s Probus club to name but a few who have used the facilities over many years.

Could it in future further the social wellbeing or social interests* of the local community? If so, how? (This could be different from its current or past use.)

At the moment the Town Council do not have a physical premises in the Town and this could become one for them. At the moment the Council do get asked for requests of places that can be hired out for all kinds of groups and there is a lack of spaces available for this – but this could become one of them. It would also be able to continue being used by the current social groups that are now having to find new homes for their groups that run from there. **These could be cultural, recreational and/or sporting interests, so please say which one(s) apply.*

B5 How could the building or land be acquired and used in future?

If it is listed as an asset of community value, community interest groups (not just limited to your organisation) will get the opportunity to bid for it if it comes up for sale. Please set out how you think such a group could fund the purchase of the building or land, and how they could run it for the benefit of the community.

The Town Council are considering setting up a "Save St Johns Hall" community group – there has been lots of members of the public who have contacted the Town Council regarding this sale and feel it would be better served as a place for the community and continuing to be owned by the community of Manningtree.

We will also be looking into funding grants and fund raising to see how much money could be raised if the property does continue to be sold.

Section C: Submitting this nomination

C1 What to include

- The rules of your organisation (question A8).
- Your sketch plan (question B2).

C2 Signature

By signing your name here (if submitting by post) or typing it (if submitting by email) you are confirming that the contents of this form are correct, to the best of your knowledge.

Signature



C3 Where to send this form

You can submit this nomination:-

- **By post to: Kirstin Foley** Tendring District Council, Town Hall, Station Road, Clacton on Sea, Essex, CO15 1SE
- **By email to:** kfoley@tendringdc.gov.uk

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