

# Public Document Pack

## TENDRING DISTRICT COUNCIL

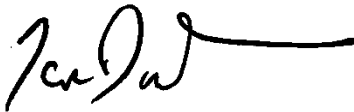
Committee Services  
Room 29  
Town Hall  
Station Road  
Clacton-on-Sea  
Essex  
CO15 1SE

11 November 2022

Dear Councillor

I HEREBY SUMMON YOU to attend the meeting of the Tendring District Council to be held at 7.30 p.m. on Tuesday 22 November 2022 when the business specified in the accompanying Agenda is proposed to be transacted. The meeting will be held in the Princes Theatre, Town Hall, Station Road, Clacton-on-Sea.

Yours faithfully

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

Ian Davidson  
Chief Executive

To: All members of the  
Tendring District Council

TENDRING DISTRICT COUNCIL

AGENDA

For the meeting to be held on Tuesday, 22 November 2022

**Prayers**

**1     Apologies for Absence**

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

**2     Minutes of the Last Meeting of the Council (Pages 1 - 16)**

The Council is asked to approve, as a correct record, the minutes of the ordinary meeting of the Council held on Tuesday 12 July 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 Chairman of the Council**

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

**5     Announcements by the Chief Executive**

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

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

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

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

**7     Statements by Members of the Cabinet**

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

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

**8     Report of the Chief Executive - A.1 - Petition to Council: Nelson Road, Clacton-on-Sea (Pages 17 - 18)**

To report a petition received in accordance with the Scheme approved by the Council.

**9      Report of the Chief Executive - A.2 - Petition to Council: Green Space Development and Sale - Holland Haven (Pages 19 - 20)**

To report a petition received in accordance with the Scheme approved by the Council.

**10     Questions Pursuant to Council Procedure Rule 10.1**

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

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

No questions pursuant to Council Procedure Rule 10.1 have been submitted by members of the public on this occasion.

**11     Report of the Leader of the Council - A.3 - Executive Decisions taken as a matter of Urgency (Pages 21 - 22)**

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

- (a) Rule 15 of the Access to Information Procedure Rules (Special Urgency); and/or
- (b) Rule 18(i) of the Overview and Scrutiny Procedure Rules (Call-in and Urgency); and/or
- (c) Rule 6(b) of the Budget and Policy Framework Procedure Rules.

**12     Minutes of Committees (Pages 23 - 132)**

The Council will receive the minutes of the following Committees:

- (a) Community Leadership Overview & Scrutiny of Tuesday 28 June 2022;
- (b) Audit of Thursday 30 June 2022;
- (c) Resources and Services Overview & Scrutiny of Thursday 30 June 2022;
- (d) Human Resources & Council Tax of Thursday 7 July 2022;
- (e) Tendring/Colchester Border Garden Community Joint Committee of Monday 18 July 2022;
- (f) Standards of Wednesday 3 August 2022;
- (g) Audit of Thursday 29 September 2022;
- (h) Planning Policy & Local Plan of Monday 10 October 2022;
- (i) Human Resources & Council Tax of Tuesday 11 October 2022;
- (j) Resources and Services Overview & Scrutiny of Monday 17 October 2022; and
- (k) Standards of Wednesday 26 October 2022.

**NOTES:**

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

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

**13     Motions to Council Pursuant to Council Procedure Rule 12**

No Motions pursuant to Council Procedure Rule 12 have been submitted by Councillors on this occasion.

**14     Reference from the Cabinet - A.4 - The Local Council Tax Support Scheme 2023/2024 - Council Tax Exemptions/Discounts for 2023/2024 and the Annual Minimum Revenue Provision Policy Statement 2023/2024 (Pages 133 - 198)**

The Council is asked to consider the recommendations submitted to it by the Cabinet in respect of the Local Council Tax Support Scheme 2023/2024, Council Tax Exemptions for 2023/2024 and the Annual Minimum Revenue Provision Policy Statement 2023/2024.

**15     Reports Submitted to the Council by an Overview and Scrutiny Committee**

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

**16     Reference from the Standards Committee - A.5 - Proposed Formal Adoption of the Local Government Association's Model Members' Code of Conduct (Pages 199 - 228)**



To enable the Council to consider the recommendation of the Standards Committee in relation to the formal adoption of the Local Government Association's Model Members' Code of Conduct as Tendring District Council's code as regards the conduct, which is expected of all elected Councillors, voting co-opted members and appointed members (Sections 27 & 28, Localism Act 2011).

**17     Reference from the Standards Committee - A.6 - Terms of Office and Recruitment of Members of the Council's statutory Independent Remuneration Panel and also the Council's statutory Independent Persons (Pages 229 - 234)**

To enable the Council to consider the recommendations of the Standards Committee in relation to the terms of office and future recruitment of the members of the Council's Independent Remuneration Panel and its Independent Persons.

**18     Reference from the Standards Committee - A.7 - Review of the Monitoring Officer's Protocol (Pages 235 - 250)**

To enable the Council to consider the recommendations of the Standards Committee following its review of the Monitoring Officer's Protocol.

**19     Reference from the Licensing & Registration Committee - A.8 - Adoption of a new Statement of Licensing Policy (Licensing Act 2003) (Pages 251 - 290)**

To enable the Council to consider the recommendation of the Licensing & Registration Committee in relation to the formal adoption of a new Statement of Licensing Policy (Licensing Act 2003).

**20     Report of the Portfolio Holder for Corporate Finance & Governance - A.9 - Information Governance (Pages 291 - 298)**

To present to Full Council an update on proposals for IT changes. The ongoing work is aimed at reaching an outcome whereby members can undertake their role effectively, whilst ensuring that information held by the Council, is safe, secure and compliant with relevant legislation. This work will also include looking at various different IT solutions and the associated costs.

**21     Report of the Deputy Chief Executive & Monitoring Officer - A.10 - Freeport East Limited: Appointment of Alternate Director (Pages 299 - 300)**

To formally endorse the appointment of the Chief Executive as an Alternate Director of Freeport East Limited.

**22     Questions Pursuant to Council Procedure Rule 11.2 (Pages 301 - 302)**

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

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

One question, on Notice, has been submitted by a Councillor on this occasion.

## 23 **Urgent Matters for Debate**

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

## 24 **Exclusion of Press and Public**

Council is asked to consider passing the following resolution:

*“That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 25 on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 3 and 4 of Part 1 of Schedule 12A, as amended, of the Act.”*

## 25 **Exempt Minutes of the Meetings of the Human Resources & Council Tax Committee held on Thursday 7 July and Tuesday 11 October 2022 (Pages 303 - 312)**

The Council will receive the exempt minutes of the meetings of the Human Resources & Council Tax Committee held on Thursday 7 July and Tuesday 11 October 2022.

### **NOTES:**

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

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

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

Tuesday, 24 January 2023 at 7.30 pm - Princes Theatre - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

## **INFORMATION FOR VISITORS**

### **PRINCES THEATRE FIRE EVACUATION PROCEDURE**

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

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

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

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

## **PUBLIC ATTENDANCE AT TENDRING DISTRICT COUNCIL MEETINGS**

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

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

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

### **Rights of members of the public to film and record meetings**

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

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

The Council will provide reasonable facilities to facilitate reporting.

### **Public Behaviour**

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

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

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

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

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**MINUTES OF THE MEETING OF THE COUNCIL,  
HELD ON TUESDAY, 12TH JULY, 2022 AT 7.30 PM  
IN THE PRINCES THEATRE, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Harris (Chairman), V Guglielmi (Vice-Chairman), Alexander, Allen, Amos, Baker, Barry, Bray, Calver, Casey, Cawthron, Chapman BEM, Chittock, Clifton, Codling, Coley, Davidson, Davis, Fairley, Fowler, Griffiths, C Guglielmi, I Henderson, J Henderson, P Honeywood, S Honeywood, Knowles, Land, McWilliams, Miles, Morrison, Nash, Newton, Placey, Scott, Skeels, Steady, G Stephenson, Stock OBE, Talbot, Turner, White, Wiggins and Winfield
<b>In Attendance:</b>	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Lee Heley (Corporate Director (Place & Economy)), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Keith Simmons (Head of Democratic Services and Elections), Ian Ford (Committee Services Manager), William Lodge (Communications Manager), Keith Durran (Committee Services Officer) and Matt Cattermole (Communications Assistant)

**16. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors Bush, King, Porter and M E Stephenson and also on behalf of the Chief Executive (Ian Davidson).

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

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

**RESOLVED** that the minutes of the ordinary meeting of the Council held on Tuesday 29 March 2022 and the annual meeting of the Council held on 26 April 2022 be approved as correct records and be signed by the Chairman.

**18. DECLARATIONS OF INTEREST**

Councillor Fairley declared a Personal Interest in respect of Agenda Item 17 (Urgent Matters for Debate – Motion on Notice under Council Procedure Rule 13(p) regarding National Grid's East Anglia Green Project) insofar as members of her family owned land in the area that was the subject of National Grid's proposals. However, having consulted the Council's Monitoring Officer, she stated that she was not precluded from participating in the consideration of this item.

Councillor Stock OBE also declared a Personal Interest in respect of the aforementioned Agenda Item 17 insofar as he owned land in the area that was the subject of National Grid's proposals.

Councillors G V Guglielmi and V E Guglielmi both declared a declared a Personal Interest in respect of the aforesaid Agenda Item 17 insofar as they were both members of Lawford Parish Council.

**19. ANNOUNCEMENTS BY THE CHAIRMAN OF THE COUNCIL****Visit to The Guildhall, Harwich**

The Chairman reported that, accompanied by the immediate Past Chairman of the Council, Councillor Bray, he had spent a fantastic, informative afternoon at the historic building, The Guildhall in Harwich. He thanked Councillors Calver and Morrison for arranging the visit and sharing their tremendous knowledge of the building's history. He encouraged Members to partake in a tour of the building.

**Recent Engagements**

The Chairman informed Members that he had been proud to represent the Council at recent commemorative events including those for VE Day, 40<sup>th</sup> Anniversary of the Falklands War, D-Day and Armed Forces Week at which he had met many veterans' groups. He reminded Council that, in addition to the RNLI, his charitable efforts would include raising money and awareness for veterans' charities as well as signposting help for veterans in the District for those in need of help, for example, those suffering from PTSD.

The Chairman stated that a particular highlight had been the opening of a new mobile home in Weeley provided by UK Homes for Heroes, whose function was to provide homes for homeless veterans and/or those in need of respite. He urged Members to become familiar with the work of this charity.

**Platinum Jubilee**

The Chairman informed Council that he had been privileged to represent TDC at nine different events held across the District. He congratulated District and Town/Parish Councillors who had been involved in putting on these tremendous and memorable civic occasions.

**Tendring Veterans and Services Day**

The Chairman was pleased and proud to announce that the first ever Tendring Veterans and Services Day would be held on Clacton Greensward on Sunday 7 August 2022 from 11.00 a.m. until 5.00 p.m. with participation from veterans groups and charities and the emergency services. He sincerely thanked Officers for arranging this event from scratch in less than two months and he urged all Members to attend if at all possible.

Council noted the foregoing.

**20. ANNOUNCEMENTS BY THE CHIEF EXECUTIVE**

There were no announcements by the Chief Executive on this occasion.

**21. STATEMENTS BY THE LEADER OF THE COUNCIL****Gold Award for Council in Recognition of Support to Armed Forces Personnel**

The Leader of the Council (Councillor Stock OBE) was delighted to inform Members that this Council (TDC) had been given a gold award as part of the Ministry of Defence

Employer Recognition Scheme. This scheme publicly recognised employers' efforts to support defence personnel issues, such as employing reservists and veterans, while encouraging other organisations to do the same.

He reported that TDC had previously held a silver award, bestowed in 2019, but that it had recently improved its offer through a number of means, including changes to its leave policy to support reservists and cadet leaders.

Councillor Amos, TDC's Armed Forces Champion, also made a brief statement to Council on this matter.

Council noted the foregoing.

## **22. STATEMENTS BY MEMBERS OF THE CABINET**

### **Action on Climate Change Update**

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

*"Good evening Colleagues,*

*This is another report intended to inform Members of activity within our respective Council Departments, activity to help meet our Net Climate Zero ambition by 2030.*

*May I start off this report by quoting Lee Heley in a note to me. Lee had attended a major event, with Climate Change case studies on the agenda, he wrote: "What I took away from the discussions was that the basic rules set in law and guidance from central government are not enough to meet our ambitions to reach net zero – certainly our stretch goal of 2030, and so we are always seeking to try to get ahead of National policy". I thought this a very honest comment from someone with no axe to grind!*

### **Now to Tending:**

*\*We are seeking a consultant to collaborate with us on our Council houses and buildings, designing renewable energy schemes for some of our buildings. Tenders have been received and are being evaluated. A full report containing recommended options for investment will be taken to a Cabinet meeting in the Autumn.*

*\*Electric Vehicle charging points in our roads, where parking is controlled, are likely to be an Essex C.C. function. I am personally keen to see this facility in our roads approaching the Sea Front areas for the benefit and even encouragement of our holiday visitors. There is no present indication from ECC of action on this. The Council is engaged with ECC and the NEPP to encourage more on-street EV charging provision. One of the most difficult areas of concern with Electric Vehicles will be supporting residents who do not have off road parking, to charge at home. It could be that coupled with the needs of visitors, in both cases the most likely providers of EV charging are the commercial sector – as currently they provide the fuel at petrol stations.*

*Off street in car parks is where TDC can help both visitors who require charging before returning home and to assist local residents who do not have off road capability. At present the main govt. grant scheme - ORCS funding (up to 75% of cost to a*

maximum of £13,000 per bay) is available to support households without off road capability but is not so readily available to support the special needs of our Tourist / visitor needs. Ian Taylor has secured grant support for EV charging in the proposed new Starlings car park, which is based in an area of terraced properties and without off road provision. The Council had the opportunity to purchase new equipment for the new car park. These last two situations helped the secure the grants success. It might be that we eventually seek a partnership with the commercial sector via a variety of Charge Point Operators, but these companies still often require 15-year contracts – something that most local authorities are rightly cautious about, particularly in such a changeable market as this.

*\*Our Planners, promised in an earlier Climate Change statement to encourage any developer to add facilities, such as EV charging points, Solar roof panels, increased insulation of buildings etc. to their plans, prior to formal consideration. Their promises have come to fruition. The Planning Committee have been using some standard conditions attached to planning applications around EV charging (for all new development) and energy efficiency (for major applications). These are supported by Policies SPL3 and PPL10 of the new Local Plan.*

*EV charging (is now a requirement for all new development). A policy of 20% renewables (applies to all new housing development): This means that a scheme detailing how a minimum saving of 20% of the energy needs generated by the development can be achieved through renewable energy source, and I am informed that a 'A Climate Change Special Planning Document' is under development by the Planning Policy Team, which I will report on in due course.*

*\*Last Tuesday the Staff Climate Change Network had its first lunch time learning session during which they received a presentation from the PACE group based in Manningtree, the Group that organised the successful Earth Festival. Discussion on Climate Change and action to reduce carbon emissions in Tendring was the purpose of the meeting.*

*\*Our CEO Ian Davidson report to Members on 4<sup>th</sup> July, informing us that he had attended that day the Essex Climate Change Commission, looking at various initiatives around the County. He finished with an observation, which I think we must bear in mind when considering some sort of association with the number of bodies that seek our support and an association with them. I quote Ian: "I have to say that some attendees were there to use Climate Change as a tool to fight other battles."*

*\*I report here at each Council Meeting, about Tendring's high ambition to be 'nett Carbon Zero' by the end of this decade. But there is much going on in the Country as a whole and I thought a very brief report on one national matter, that eventually will concern all citizens and all members, may be of interest, as each of us go about our daily business.*

*When all motor vehicles cease to use Petrol and Diesel the Government will lose around £29 Billion in revenue from motorists. The main proposals being considered are to charge drivers to use the road, with some form of a tachometer charging each vehicle for every mile travelled, to replace lost fuel duty and VED in the switch to electric vehicles.*



*On the 15th of June, the LGA invited elected Council Members to a web meeting to discuss how 'Road Pricing' could be introduced to compensate the Treasury for the loss of tax revenue, with consideration being given to a 'National' delivery of a scheme, and the introduction alongside the 'National' scheme, of a 'Local' road charging scheme, for essentially local road matters. (Sounds to me a bit like a bribe to get LA's support)."*

Councillor Talbot then responded to questions raised on his statement by Councillors Scott, I J Henderson, Miles, Allen and Clifton.

## **23. PETITIONS TO COUNCIL**

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

## **24. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.1**

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

One question had been received, on notice, from a member of the public on this occasion.

### Question

Jan Vincent asked the Chairman of the Planning Committee, Councillor John White:-

*"Will TDC issue a Section 215 TCPA for Bel-Air Chalet Estate, St. Osyth Beach, to make safe the extremely dangerous roads on the Holiday Park which are unusable by wheelchair users and hazardous to public and holiday makers?"*

*The roads are hidden dangers at night as all street lighting has been disconnected. The danger is compounded and hidden after rainfall as the potholes become filled with rainwater which is slow to drain as TDC Planning gave permission years ago for the natural drainage dykes to be filled in without any inspection of the works done. The potholes are so deep a person or child could drown if they fell into a pothole and were rendered unconscious in the fall. There are no pavements to avoid the danger. Two Ambulances got stuck in the roads last year causing danger to life by delay of medical treatment."*

Councillor White replied to that question as follows:-

*"Thank you, Chairman and thank you Ms Vincent for the Question.*

*I am aware that you met the Chief Executive and that more recently you had a meeting with the Corporate Director for Operations and Delivery, together with our Assistant Director for Planning, to discuss a variety of issues and concerns about the Bel-Air Estate. This is soon to be followed, by a further meeting with you on site which hopefully will include the Police. The Council is keen to work across its services and in partnership with other agencies to tackle the range of issues that have been identified. It is keen to employ the relevant powers available and most appropriate.*

*With regards to the use of Section 215 Notices to tackle the particular problems described about the condition of roads at Bel-Air, I am advised that this would not be an appropriate means by which to take action having regard to the purpose of Section 215 Notices under the legislation and the grounds upon which a landowner could appeal against such a Notice. I have asked the Assistant Director for Planning to provide you with the full and technical reasoning for that in writing.*

*The disconnection of the lighting does not constitute an issue of poor maintenance for which Section 215 Notices are designed to tackle. The potholes affect a private road within the Chalet Estate, is not adopted and is not otherwise available to the general public. Because the amenity enjoyed by the wider public and neighbours is not affected by the condition of the internal road, a Section 215 Notice is not appropriate in this instance.*

*However, our Officers are exploring other means by which these issues could be addressed and how best the owners can be engaged in sensible discussions about the proper maintenance of their site.*

*In your question you mentioned that two ambulances got stuck in the roads last year. My understanding is that this was in the estate approach Seaview Road, also an unadopted road. Here the responsibility of the road repairs is in the hands of the adjacent property owners with their Riparian rights and that comes under a completely different legislation namely Section 230 of the Highways Act 1980.”*

**25. REPORT OF THE LEADER OF THE COUNCIL - A.1 - URGENT CABINET OR PORTFOLIO HOLDER DECISIONS**

In accordance with the requirements of Rule 16.2 of the Access to Information Procedure Rules and Rule 18(i) of the Overview and Scrutiny Procedure Rules, Council received a report from the Leader of the Council which notified Members of any recent Executive Decision(s) taken in the circumstances set out in Rule 15 of the Access to Information Procedure Rules and/or Rule 18(i) of the Overview and Scrutiny Procedure Rules and/or Rule 6(b) of the Budget and Policy Framework Procedure Rules.

**(1) Discretionary Council Tax Energy Rebate Scheme**

It was reported that, on 10 May 2022, the Corporate Finance & Governance Portfolio Holder (Councillor G V Guglielmi) and the Housing Portfolio Holder (Councillor P B Honeywood), in view of the urgency of the issue concerned, and in accordance with Rule 15 of the Access to Information Procedure Rules, had sought and subsequently obtained the Chairman of the Resources and Services Overview and Scrutiny Committee's (Councillor M E Stephenson) consent that the Corporate Finance & Governance Portfolio Holder's and Housing Portfolio Holder's joint decision relating to the adoption of a discretionary Council Tax energy rebate scheme could be taken under the Council's "Special Urgency" procedure.

The Corporate Finance & Governance Portfolio Holder's and Housing Portfolio Holder's joint decision had been as follows:-

- (1) *"That a Discretionary Council Tax Energy Rebate Scheme be approved and adopted by Tendring District Council;*

- 
- (2) *That the Assistant Director (Finance & IT), be authorised under existing officer delegations, as set out in the Scheme of Delegation to determine:*
- a) the final 'top up' payments to those households in properties with a council tax band of A to D and in receipt of LCTS to fully utilise the associated funding made available by the Government.*
  - b) any other technical changes required to implement and administer the scheme to reflect any emerging Government guidance as necessary; and*
- (3) *That any payments made to households under both the mandatory and discretionary are disregarded for the purpose of calculating entitlement to LCTS as a potential interim approach until further Government guidance is made available."*

It had been felt that any delay likely to be caused by the usual key decision forward plan process would have seriously prejudiced the Council's and the public's interest for the following reasons:-

*"There would be a potential delay in households being able to access a council tax energy rebate payment under the associated discretionary scheme along with opportunities that could be missed by overlapping the administration of the discretionary scheme with the roll-out of the mandatory scheme."*

(2) North Essex Parking Partnership Joint Committee Agreement

Council was informed that, on 30 June 2022, the Deputy Chief Executive & Monitoring Officer (Lisa Hastings), acting on behalf of the Leader of the Council (Councillor Stock OBE), in view of the urgency of the issue concerned, and in accordance with Rule 15 of the Access to Information Procedure Rules and Rule 18(i) of the Overview & Scrutiny Procedure Rules, had sought and subsequently obtained the Chairman of the Resources and Services Overview and Scrutiny Committee's (Councillor M E Stephenson) consent that the Leader of the Council's decision relating to the renewal of the North Essex Parking Partnership Joint Committee agreement could be taken under the Council's "Special Urgency" procedure and that it would also be exempted from the call-in procedure.

The Leader of the Council's decision was as follows:-

*"To renew the Council's participation in the North Essex Parking Partnership Joint Committee agreement."*

It was felt at that time that any delay likely to be caused by the usual key decision forward plan process would have seriously prejudiced the Council's and the public's interest for the following reasons:-

*"Unfortunately, this Council (TDC) was placed in a situation whereby it had become necessary for the Leader to exercise his power to make an urgent decision for the benefit of the Council. The North Essex Parking Partnership Joint Committee agreement expired at midnight on 30 June 2022. The intention was to take this matter to Cabinet on 15<sup>th</sup> July 2022 for approval for the new agreement, which had only just been received, however TDC had been in various conversations with Essex County Council (ECC) on 30 June 2022 and had two choices, either to take an urgent decision*

*and complete on that day or not to be part of the Joint Committee and Partnership and request to join after the event, which for the Council's reputation would not have been ideal. The Leader had sought assurances from ECC that this Council would not be in any adverse financial position under the terms of the new agreement and this had been provided."*

Council noted the foregoing.

**26. MINUTES OF COMMITTEES**

It was moved by Councillor Stock OBE and:-

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

- (a) Resources and Services Overview & Scrutiny of Monday 14 March 2022;
- (b) Community Leadership Overview & Scrutiny of Monday 21 March 2022;
- (c) Audit of Thursday 31 March 2022;
- (d) Standards of Wednesday 6 April 2022;
- (e) Audit of Monday 25 April 2022;
- (f) Community Leadership Overview & Scrutiny of Monday 9 May 2022;
- (g) Planning Policy & Local Plan Committee of Wednesday 11 May 2022;
- (h) Resources and Services Overview & Scrutiny Committee of Tuesday 24 May 2022;  
and
- (i) Planning Policy & Local Plan Committee of Tuesday 31 May 2022.

**27. MOTIONS TO COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE 12**

No motions, on notice, had been submitted pursuant to Council Procedure Rule 12 from members of the Council on this occasion.

**28. RECOMMENDATIONS FROM THE CABINET**

No recommendations from the Cabinet had been submitted for Council's consideration and determination on this occasion.

**29. REPORTS SUBMITTED TO THE COUNCIL BY AN OVERVIEW AND SCRUTINY COMMITTEE - REFERENCE FROM THE COUNCIL'S TWO OVERVIEW AND SCRUTINY COMMITTEES - A.2 - OVERVIEW AND SCRUTINY COMMITTEES: PROPOSED WORK PROGRAMMES FOR 2022/2023 AND A REVIEW OF THE WORK CARRIED OUT DURING 2021/2022**

Council considered the respective proposed work programmes for the Community Leadership and the Resources & Services Overview and Scrutiny Committees for the

remainder of 2022/23. Council also received the proposed 'Annual Report 2021/22' for overview and scrutiny work undertaken through those Committees.

Members were aware that, under the Council's Overview and Scrutiny Procedure Rules, the Constitution stated, in relation to the Work Programme (Rule 7), that:

*"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 coordinating and prioritising its work programme on an ongoing basis."*

In submitting their proposed work programmes for 2022/23, the Overview and Scrutiny Committees had taken into account:-

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

In addition, under Article 6.02 of the Constitution the separate Overview & Scrutiny Committees (OSCs) performed the role of overview and scrutiny in relation to:-

### **Resources and Services OSC**

*"the effective use of the Council's resources including approval of discrete researched and evidenced reviews on the effectiveness of:*

- *Financial Forecast and Budget setting and monitoring (including the General Fund and the Housing Revenue Account)*
- *Service Delivery and Performance (where not delegated to the Community Leadership Overview and Scrutiny Committee)*
- *Procurement and Contract Management*
- *Transformation and Digital Strategies*
- *Customer Service and Standards"*

### **Community Leadership OSC**

- *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*

In considering the Work Programme of enquiries to submit for approval to Council, the separate Overview and Scrutiny Committees had had regard to the Corporate Plan 2020-24 and the themes of that Corporate Plan. Those themes were:

- Delivering High Quality Services;
- Building Sustainable Communities;
- Strong Finances and Governance;
- A Growing and Inclusive Economy; and
- Community Leadership through Partnerships.

The Overview and Scrutiny Committees had each formally reviewed the work carried out in 2021/22 and had considered items for inclusion in their respective proposed Work Programmes for 2022/23 as follows:

Community Leadership Overview and Scrutiny Committee – 28 June 2022; and  
Resources and Services Overview and Scrutiny Committee – 30 June 2022.

This formal approval had followed consultation with Councillors, Officers, external partners, Parish Councils and the public. In total, 22 proposals had been received in response, one was from a Parish Council, three were from this Council's own staff, five had been submitted by TDC Councillors and 13 had been from the public. Those responses had been assigned to the separate Overview and Scrutiny Committees based on their respective terms of reference and had been reported to the Committee meetings identified above.

It was reported that both Committees had also received a report on a meeting between the Chairmen of those Committees, the Leader of the Council, the Deputy Leader, the Chief Executive, the Deputy Chief Executive and the Head of Democratic Services & Elections held on 17 May 2022. A number of suggested possible enquiries had been identified at that meeting.

Having considered all of the above, the two Overview and Scrutiny Committees had determined their Work Programmes for 2022/23 and those were now submitted for approval by Council along with a review of the scrutiny function at the Council in 2021/22 as performed through the two Committees. This had been developed in dialogue with the Chairmen of the two Committees and a draft had been submitted at the Committee meetings already referenced above. The Committees had authorised finalisation of the report in consultation with their respective Chairmen.

Appendix Ai to the report before Council set out the proposed work programme for the Community Leadership Overview and Scrutiny Committee, Appendix Aii set out the proposed work programme for the Resources and Services Overview & Scrutiny Committee and Appendix B set out the review of the scrutiny function in 2021/22. All were now for consideration by Council.

Council was made aware that both of the Overview and Scrutiny Committees had agreed to meet again following this meeting of Council to consider further the delivery of the Work Programmes as approved by Council. The Community Leadership Overview & Scrutiny Committee had specifically indicated that it would further review the

suggestions for work programme themes and prioritise any further enquiries to be undertaken in 2022/23.

It was moved by Councillor Chittock and:-

**RESOLVED** that Council –

- (a) approves the proposed work programmes for the Community Leadership and the Resources & Services Overview and Scrutiny Committees for the 2022/23 Municipal Year, as set out in Appendices Ai and Aii to item A.2 of the joint Reference from the Community Leadership and Resources & Services Overview & Scrutiny Committees respectively; and
- (b) notes the work carried out by those Committees in the year 2021/22, as set out in Appendix B to the aforementioned joint reference report.

**30. REPORT OF THE CHIEF EXECUTIVE - A.3 - MEMBERSHIP OF COMMITTEES**

The Chief Executive formally reported that, in accordance with the wishes of the Leader of the Conservative Group and the authority delegated to him, the following appointments had been duly made since the Annual Meeting of the Council, namely:-

Audit Committee

Councillor Fairley had been appointed to serve in place of Councillor Nash.

Human Resources & Council Tax Committee

Councillor S A Honeywood had been appointed to serve in place of Councillor Chittock.

Planning Committee

Councillor V E Guglielmi had been appointed to serve in place of Councillor Bray.

Planning Policy & Local Plan Committee

Councillor Chittock had been appointed to serve in place of Councillor S A Honeywood.

Resources and Services Overview & Scrutiny Committee

Councillor Skeels had been appointed to serve in place of Councillor Fairley.

Council noted the foregoing.

**31. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 11.2**

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

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

### Question One

Councillor Alan Coley asked Councillor Michael Talbot, the Portfolio Holder for Environment & Public Space:

*"This Council has made a firm commitment to reducing carbon emissions and thereby reducing Greenhouse Gases and improving Air Quality in our District.*

*I am sure, we all welcome the return of TDC supported events such as the Car Rally, the Airshow, and the Tendring Show etc.*

*So that the Council cannot be accused of conspiracy in 'Greenwashing', can the Portfolio Holder provide details of what meaningful Carbon Off-Set mitigations the Organisers and Service Suppliers of these events have committed to, and in particular, where those offsets will be found?"*

The Environment & Public Space Portfolio Holder replied as follows:-

*"Thank you, Councillor Coley, for your question. I share your positive comments about the return of a full Clacton Airshow this year, together with the Harwich Illuminate Festival, Corbea Seats Rally Tendring and Clacton, the hugely successful Tour Series and all the other quality events planned in Tendring this year. They have a huge benefit to our local economy, and I am delighted to see them back on the calendar.*

*I am pleased to say that the Council has an ongoing tree planting scheme which offsets the carbon footprint of the Clacton Airshow. That results in around 300-400 trees being planted every year. This autumn that will include an additional one hundred trees as part of the Clacton 150 celebrations and further details will be made available in the next few months. Further to this, the organisers of the Rally are also planning a tree planting scheme as mitigation for their event.*

*The above is the official answer Alan, but the matter is so important in our overall Climate Change objectives in Tendring, that to show potential critics, that 'Off-Setting' is not just an easy excuse to allow such events to take place with a clear conscience, I will pursue more definite information about promised off-setting action by both ourselves and others involved in these activities in Tendring, as such action emerges over the period ahead."*

Councillor Coley then asked a question of clarification to which Councillor Talbot then responded.

### Question Two

Councillor Ivan Henderson asked Councillor Neil Stock OBE, the Leader of the Council:

*"In the Leader of the Council's Budget speech he confirmed that his administration was adopting a policy of voting against all budget amendments but that any such amendments would then be considered through the new Corporate Investment Plan.*

*One such amendment, tabled by me on behalf of the Labour Group, sought to utilise £144,000 of the existing Tendring Community Fund to allow each Member to make*



*available £3,000 of support funding to local charities and organisations assisting vulnerable residents through the cost of living crisis.*

*The Leader instructed his administration to vote down this much needed amendment that would offer vital, targeted support to those experiencing genuine hardship within our District. Will he please inform Members as to when he is going to make good on his promise to bring this budget amendment before the board overseeing the Capital Investment Plan?"*

The Leader of the Council replied as follows:-

*"I would like to thank Councillor Henderson for his question and in particular for raising the issue of the cost of living. We all recognise that this is something that every resident in Tendring is experiencing, whether it is the cost of heating at home, food bills in the local supermarket, or the cost of petrol and diesel at the pumps. Costs are going up and are expected to keep going up for some time to come.*

*It is also worth correcting the perception given that we simply voted down the amendment as that completely ignores the very important and financially prudent point that I made on the night; we should not be taking amendments to the budget on the night that have not been through the rigorous scrutiny and decision-making process of the rest of the budget – they need to be considered against the Council's overall financial position and take account of all the other challenges we face. Ideas put forward on the night may be perfectly reasonable, but they have to be judged and prioritised within a much wider financial context, which I am sure everyone will agree is the sensible and pragmatic approach to take. That is what the Corporate Investment Plan is designed to do. Members may have had the chance to read the Financial Outturn Report that Cabinet will be considering on Friday, which starts to highlight some of the significant challenges that lie ahead. This provides a timely reminder of the need to manage our finances as carefully as possible in 2022/23 and beyond.*

*Within the same outturn report, the availability of £850k from the New Burdens COVID 19 Grant we received from the Government is highlighted. As I have said before, I would like to see this money help the district recover from the COVID 19 pandemic, which includes the cost-of-living issues that our residents are faced with. I am happy to reconfirm this commitment tonight and I have asked Officers to explore a range of further options that we can consider as part of the next iteration of the Corporate Investment Plan that Cabinet will be considering in September. The scheme put forward by Councillor Henderson remains on the Corporate Investment Plan and it will need to be considered against a number of options available to support our residents.*

*Although subject to further development by Officers, I would like to see how we can use the funding I have just mentioned to extend the Tendring Community Fund with the costs of living issues in mind, along with revisiting the potential to introduce a lottery within the district. This could provide a long-term legacy from the funding made available by the Government and a way to support local groups on an on-going basis.*

*I would also like to see Officers explore how we could support the cost of solar panels to reduce the cost of heating for all residents in Tendring. This could also include how solar panels could help reduce the cost of energy for the council and reduce carbon emissions.*

*I would like to thank Councillor Henderson again for highlighting this crucial topic, and I would like to ask for his and all members support in developing further options to support our residents through the current increases in the cost of living.”*

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

### Question Three

Councillor Mick Barry asked Councillor Neil Stock OBE, the Leader of the Council:

*“At a meeting of full Council on 15<sup>th</sup> February 2022 I proposed an amendment to the underlying base budgets for 2022/23 calling for re-instatement of the budgets for Brightlingsea and Harwich Sports Centres which had been withdrawn.*

*The amendment was lost and the Leader, in speaking against the amendment, said: ‘We have not taken a decision to close any sports facilities.’ He went on to say that he was ‘happy to guarantee as Leader that these facilities will stay open.’*

*The reality is that in Brightlingsea the Sports Centre has now got very limited opening times with early weekday closures and no weekend opening. Community access has shrunk from nearly 70 hrs per week to less than 15 and the expectation is that it will be fully closed during the six weeks school holiday.*

*Does the Leader feel that his guarantee given in February has been kept in respect of the sports facilities at Brightlingsea?”*

The Leader of the Council replied as follows:-

*“I am disappointed that you have misquoted me so egregiously. At no point have I made any guarantee that the facilities will stay open. I could not make such a promise as the Sports Centre is not a facility over which this Council has any control or authority. It belongs to the school, and the school is owned and run by the Sigma Trust.*

*What I did say, which is entirely different, is that I would do all I can to ensure that the facility remains open, and as you yourself acknowledge that has been achieved.*

*I am advised that the Sigma Trust, as the owners of the Colne Academy, do intend to close the buildings during the summer holidays, this I understand, is primarily because they have building improvement works underway as part of their ongoing and wider investment in the school, which will require the centre to close while works are carried out. It is of course entirely sensible and usual for a school to do this in the summer holidays.*

*The opening hours have changed but the Centre remains open when the majority of clubs want to book it out. The benefit of the facility comes from its use rather than its opening hours, and I understand that around 50 bookings have been using the centre regularly, so it still acts as a hub of sporting activity in Brightlingsea.”*

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

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**32. URGENT MATTERS FOR DEBATE**

Earlier on in the meeting (Minute 18 above refers) and for the reasons reported therein, Councillors Fairley, Stock OBE, G V Guglielmi and V E Guglielmi had each declared a Personal Interest in the subject matter of this item as reported below.

The Chairman informed Council that, pursuant to the provisions of Council Procedure Rule 13(p), he had agreed to allow the consideration of an urgent Motion on Notice. That Motion, the text of which had been circulated to all Members of the Council in advance of the date of the meeting, had been submitted by Councillor Stock OBE and read as follows:-

*“National Grid’s East Anglia Green Project, proposes an energy transmission route consisting of the construction of 180km of 50m tall pylons carrying 400kV cables through the entire central length of our County (as well as through our neighbours, Norfolk and Suffolk), save for a section of undergrounding at Dedham Vale.*

*This Council has already expressed declared a climate emergency and an ambition to be net zero by 2050 so plans for renewable wind farms off the East Anglian coast are welcomed. However, this Council has serious concerns about the nature and short-period of consultation, the route, and how carbon-heavy the proposed scheme of overhead pylons are which rely on 100 year-old technology.*

*Furthermore, this Council believes that:*

- There has been insufficient consideration of alternative approaches which would allow for the required infrastructure but without the sheer scale of the damage to the environment, landscape and the difficulties of this project going ahead, all at the same time as multiple large-scale infrastructure projects which have the potential to cause major disruption across the East of England.*
- New offshore generated electricity should be transmitted offshore, which is why an offshore grid is needed. This is firmly in the interests of both residents and business, offshore windfarms themselves and wider interests e.g. Freeport East. Such an alternative approach would future-proof the network and could avoid all the physical constraints of an above or below-ground solution, retain ease of access for ongoing maintenance and provide a more direct point of connection for any current or future off-shore wind farms.*
- This pylon infrastructure is neither wanted nor needed considering the viable option of undersea power cables. These cables could transport power to where it is needed, helping future proof energy supplies and boost energy security, without adversely impacting on residents, businesses and communities across Essex.*

*This Council therefore calls upon:*

- Both the Government and National Grid to refocus the East Anglia Green Proposals on an offshore solution and engage in meaningful discussions with Essex and its neighbouring County Councils to achieve this.*

*National Grid to:*

- Provide this Council with all the information asked for in our response of 16 June by 30 August 2022.*

- *Make publicly available full, open and transparent information on all options, including offshore and undergrounding, to enable evaluation and comparisons to be made by Essex residents, businesses, Councils and other stakeholders. This information to be publicly available for a period of at least 6 months before any Development Control Order (DCO) application is made.”*

Councillor Stock OBE formally moved the Motion, which was then seconded by Councillor G V Guglielmi.

Councillor Stock explained the purpose of the Motion which was for this Council, on behalf of the residents of Tendring, and together with fellow Essex Councils, to make it very clear to both the Government and National Grid (NG) that there were grave concerns about the nature and short duration of NG's consultation, the proposed route (and the sheer scale of its damage to the landscape of East Anglia), and the proposed scheme of overhead pylons reliant as they are on a 100 year-old carbon-heavy technology. Furthermore, this Council, on a strategic level, should be advocating that new offshore generated electricity should be transmitted offshore, which was why an offshore grid employing the viable option of undersea power cables was needed. This would be firmly in the interests of both residents and business, offshore windfarms themselves and wider interests e.g. Freeport East. Such an alternative approach would future-proof the network and could avoid all the physical constraints of an above or below-ground solution, retain ease of access for ongoing maintenance and provide a more direct point of connection for any current or future off-shore wind farms and boosting energy security.

Councillors G V Guglielmi, Baker, Scott, Allen, Fairley, White and Bray addressed the Council during the course of the debate on Councillor Stock OBE's Motion.

On being put to the vote Councillor Stock OBE's Motion was declared unanimously **CARRIED**.

### **33. EXCLUSION OF PRESS AND PUBLIC**

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

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 18 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 7 of Part 1 of Schedule 12A, as amended, of the Act.

### **34. EXEMPT MINUTE OF THE MEETING OF THE AUDIT COMMITTEE HELD ON THURSDAY 31 MARCH 2022**

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

**RESOLVED** that the Exempt Minute of the meeting of the Audit Committee held on Thursday 31 March 2022, as circulated, be received and noted.

The Meeting was declared closed at 9.08 pm

**Chairman**

## COUNCIL

22 NOVEMBER 2022

### REPORT OF CHIEF EXECUTIVE

#### A.1 **PETITION TO COUNCIL: NELSON ROAD, CLACTON-ON-SEA**

(Report prepared by Ian Ford)

In accordance with the Council's approved scheme for dealing with petitions, I formally report the receipt of a petition submitted by Councillors Alexander and Griffiths on behalf of Ms Maria Monteith, the lead petitioner, on 30 September 2022. The petition was supported by 60 residents of Nelson Road, Clacton-on-Sea (and further supported by 33 other local residents) and requested that the Council "...urgently exercised its planning enforcement powers to serve a Breach of Condition Notice on Lane Homes Construction Group in order to ensure that the contractor responsible for the new nine build houses makes good the unmade pavement and drop kerbs in Nelson Road that are required by the planning permission for this site."

Accordingly, this matter was investigated and a report was prepared and presented to the meeting of the Planning Committee held on 25 October 2022.

At that meeting, and in accordance with the Council's approved scheme, Ms Monteith, as the lead petitioner, was invited to address Members and to outline the action that the petitioners wanted the Council to take. The Ward Members, Councillors Alexander and Griffiths, also addressed the Committee. The Committee then discussed and deliberated on the petition and the report and decided:-

*"That the Planning Committee instructs our Director of Planning to write, formally, to the Portfolio Holder responsible for Highways at Essex County Council to escalate this matter with a view to a speedy and satisfactory resolution – bearing in mind this is a matter that has been unresolved for in excess of a year and should have been concluded prior to occupation of the new homes.*

*The letter will explain that there has been a strong petition from a significant number of local residents that, with good reason, demonstrates that this is a matter of great public interest which is causing a great deal of local distress and which is undermining the public's faith in both their District and County Councils in carrying out their duties. Furthermore, the state of the footway has given rise to genuine concerns about the safety of pedestrians and damage to residents' vehicles – which could potentially give rise to claims against the Highway Authority as it falls within its duty to maintain the public highway.*

*With the full support and backing of the Members of this Planning Committee, the letter will demand that the completion of the footpath is given a higher priority and is resolved as a matter of urgency, utilising the available enforcement powers if necessary, and that this Council is provided with an explanation of the current position and a timetable for completing the works – which can be reported back to the Planning Committee and local residents."*

Ms Monteith was then subsequently informed, in writing, of the Planning Committee's decision and the decision was published on the Council's website by way of the Minutes of that meeting.

**RECOMMENDED - That the contents of this report be noted.**

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

**COUNCIL**

**22 NOVEMBER 2022**

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

**A.1 PETITION: NELSON ROAD, CLACTON-ON-SEA**

Petition submitted by Ms Maria Monteith to the Council (via Councillors Alexander and Griffiths) on 30 September 2022.

## COUNCIL

22 NOVEMBER 2022

### REPORT OF CHIEF EXECUTIVE

#### A.2 **PETITION TO COUNCIL: GREEN SPACE DEVELOPMENT AND SALE – HOLLAND HAVEN**

(Report prepared by Ian Ford)

In accordance with the Council's approved scheme for dealing with petitions, I formally report the receipt of an e-petition submitted by Sharon Tyler, as lead petitioner, on 8 October 2022. The petition is signed by 171 persons and states:-

*"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."*

In accordance with the Council's approved scheme for dealing with petitions, this matter will now be investigated and a report will be prepared and presented to the Cabinet on the basis that it contains between 30 and 500 signatures and relates to a matter that is an Executive function under the law.

Members will be aware that the next practicable ordinary meeting of the Cabinet is on 16 December 2022.

At that meeting, and in accordance with the Council's approved scheme, Sharon Tyler, the lead petitioner, will be invited to address the Cabinet, explain the petition and outline the action that the petitioners would like the Council to take. Members will then discuss the petition and decide what action, if any, should be taken. Cabinet's decision will be confirmed in writing to Ms Tyler and the decision will be published on the Council's website via the Minutes of that meeting.

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

**IAN DAVIDSON  
CHIEF EXECUTIVE**

**COUNCIL**

**22 NOVEMBER 2022**

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

**A.2 PETITION: GREEN SPACE DEVELOPMENT AND SALE – HOLLAND HAVEN**

E-Petition submitted by Sharon Tyler to the Council on 8 October 2022.



## COUNCIL

22 NOVEMBER 2022

### REPORT OF LEADER OF THE COUNCIL

#### **A.3 EXECUTIVE DECISION(S) TAKEN AS A MATTER OF URGENCY**

##### **PART 1 – KEY INFORMATION**

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

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

- (a) Rule 15 of the Access to Information Procedure Rules (Special Urgency); and/or
- (b) Rule 18(i) of the Overview and Scrutiny Procedure Rules (Call-in and Urgency); and/or
- (c) Rule 6(b) of the Budget and Policy Framework Procedure Rules.

###### **EXECUTIVE SUMMARY**

In accordance with the requirements of Rule 16.2 of the Access to Information Procedure Rules and/or Rule 18(i) of the Overview and Scrutiny Procedure Rules and/or Rule 6(b) of the Budget and Policy Framework Procedure Rules, this report notifies Members of recent Executive Decision(s) taken in the circumstances set out in Rule 15 of the Access to Information Procedure Rules and/or Rule 18(i) of the Overview and Scrutiny Procedure Rules.

###### **RECOMMENDATION**

**That the contents of the report be noted.**

##### **PART 2 – SUPPORTING INFORMATION**

###### **BACKGROUND**

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

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

## **DECISION(S) TAKEN AS A MATTER OF URGENCY**

### **(1) Local Covid-19 Additional Relief Fund Scheme for Business Rates for 2021/22**

On 23 September 2022, the Leader of the Council (Councillor Stock OBE), in view of the urgency of the issue concerned, and in accordance with Rule 15 of the Access to Information Procedure Rules and Rule 18(i) of the Overview & Scrutiny Procedure Rules, sought and subsequently obtained the Chairman of the Resources and Services Overview and Scrutiny Committee's (Councillor M E Stephenson) consent that his decision relating to the approval of a local Covid-19 additional relief fund scheme for Business Rates for 2021/22 be taken under the Council's "Special Urgency" procedure and that it also be exempted from the call-in procedure.

The Leader of the Council's decision was as follows:-

*"That a Local Covid-19 Additional Relief Fund Scheme 2021/22 be adopted."*

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

*"In accordance with the associated legislation, the proposed local relief scheme for 2021/22 had to be adopted before 30 September 2022."*

## **BACKGROUND PAPERS**

### **(1) Local Covid-19 Additional Relief Fund Scheme for Business Rates for 2021/22**

Letter dated 23 September 2022 from the Leader of the Council, to the Chairman of the Resources and Services Overview and Scrutiny Committee.

Reply dated 26 September 2022 from the Chairman of the Resources and Services Overview and Scrutiny Committee signifying his consent to allow the Leader of the Council's decision to be taken under the "Special Urgency" Procedure and to be exempt from call-in.

## **APPENDICES**

None.

**MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP OVERVIEW AND  
SCRUTINY COMMITTEE,  
HELD ON TUESDAY, 28TH JUNE, 2022 AT 7.30 PM  
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Chittock (Chairman), S Honeywood (Vice-Chairman), Codling, Davidson, King, Miles, Nash and Steady
<b>Also Present:</b>	Councillor Paul Honeywood (Portfolio Holder for Housing)
<b>In Attendance:</b>	Keith Simmons (Head of Democratic Services and Elections), William Lodge (Communications Manager), Keith Durran (Committee Services Officer), Hattie Dawson-Dragisic (Performance and Business Support Officer) and Taylor Turner (Apprentice (Democratic Services & Elections))

**6. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

An apology for absence was submitted by Councillor Paul Clifton (no substitution).

**7. MINUTES OF THE LAST MEETING**

It was **RESOLVED** that the minutes of the meeting of the Committee held on Monday 9 May 2022 be approved as a correct record.

**8. DECLARATIONS OF INTEREST**

Councillor Steady declared an interest in relation to the item on the agenda for this meeting in respect of the work programme (Minute 12 refers), as there were suggestions that an enquiry be undertaken in relation to the Council's Beach Hut Strategy, as he owned a Beach Hut and was a member of the Brightlingsea Beach Hut Association.

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

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

**10. SCRUTINY OF PROPOSED DECISIONS**

The Head of Democratic Services and Elections submitted to the Committee the list of forthcoming decisions published since the publication date of the agenda for its last Committee meeting. No Councillor had served notice that they wanted to raise an item in respect of any of those items.

It was **RESOLVED** to note the report.

**11. RECOMMENDATIONS MONITORING REPORT**

The Committee was informed by the Head of Democratic Services and Elections that the recommendations agreed in their meeting on 21 March 2022 (Minute 53 refers), on

Children Missing from Education, had been submitted to Cabinet on 17 June 2022. The decision Cabinet made in response to the recommendations had been recorded in the report to this Committee. The Committee was also advised that the recommendations that were agreed in its meeting on 9 May 2022 in respect of Freeport East were also set out in the report together with the decision made by Cabinet on 17 June 2022 in response.

It was **RESOLVED** to note the report.

## **12. WORK PROGRAMME FOR 2022/23 AND REVIEW OF THE YEAR 2021/22**

The Committee had before it a report of the Head of Democratic Services and Elections, which invited Members to consider a draft Work Programme for 2022/23 for recommendation to Council on 12 July 2022 and a review of the work that had been carried out in the Year 2021/22 in respect of Overview and Scrutiny.

The Committee was advised that, following Publication of the meeting's agenda and reports, an email had been received from Cllr Davidson, in respect of potential Work Programme Items. This had been circulated at the meeting. Councillor Davidson wished to add the following items for consideration for Work Programme items in 2022/23:

- *"Revisit home education. What progress has been made as to the governing and safeguarding?"*
- *Revisit climate change and progress made.*
- *Revisit Monitoring child poverty, deprivation and child life expectancy. What progress and policies have been put into place?*
- *Tending Homeless and the progress made.*
- *Housing stock/ social housing for larger families."*

The Committee was further provided with a draft Annual Report in respect of the scrutiny function in 2022/23. This was circulated to the Committee at the meeting. It had been prepared in conjunction with the Chairmen of the two Overview and Scrutiny Committees of the Council. The Committee was advised that this report was a reflection of the last year of Scrutiny within this Committee and the Resources and Services Overview and Scrutiny Committee. The Committee was invited to comment on what it wanted to see reflected in the Annual Report and that this report would go to Full Council on 12 July 2022 (with the Work Programme).

In respect of the Work Programme 2022/23, the Head of Democratic Services and Elections advised the Committee that it had before them comments and suggestions by the public and various other stakeholders on what they would like to enquire into. Some of those thoughts included focusing on measure to regenerate Clacton Town Centre and looking back at health and education enquiries.

The process of developing the Work Programme for 2022/23 had involved;

- Requests to all District Councillors for items – dated 3 May 2022
- Requests to Cabinet Members – dated 3 May 2022
- Requests to Parish Town Councils for items – dated 3 May 2022
- A press release and social media posts inviting ideas on 4 May 2022

- 
- Council staff invited to suggest items on 13 May 2022
  - A meeting between the Leader, Deputy Leader, Chief Executive, Deputy Chief Executive, Head of Democratic Services and Elections and the two Overview and Scrutiny Committee Chairmen to explore ideas – held on 17 May 2022
  - Training on 25 May 2022 for Councillors on using approaches such as Task and Finish Groups, briefing papers, enquiry days, standing panels, when undertaking Overview and Scrutiny enquiries and reflecting this in its Work Programme.

The Committee's attention was drawn to the requirements of the Council's constitution in developing, and seeking approval for, its Work Programme proposals.

The Committee was directed to two suggestions for the work programme. The first picked up an enquiry that was set to be undertaken in 2021/22 in respect of the Jaywick Sands-holistic review. The Committee was reminded that this item was not pursued at the time because of the developing Jaywick Sands Place Plan. It was suggested by the Head of Democratic Services and Elections that now that the Place Plan for Jaywick Sands was underway and would be out for consultation, the Committee may wish to revisit this item. The other suggestion was an enquiry into the elements of the Tendring Colchester Border Garden Community. This picked up on concerns previously expressed that this should be scrutinised.

The Committee was advised to take notice to leave space within the Work Programme 2022/23 for any issues that arise during the year and (when setting its work programme) to consider the capacity to undertake a variety of areas for scrutiny in this year.

One option open to the Committee would be to submit to Council on 12 July 2022 initial the areas for scrutiny in 2022/23. Following that Council meeting the Committee could meet again (perhaps informally initially) in order to further identify areas for scrutiny taking into account of the suggestions submitted and others that may be made. The Head of Democratic Services and Elections suggested to the Committee that in order to review the suggestions that had been received there were discussions around creating a small working party in order to achieve this.

When the Committee does further prioritise enquiries for 2022/23, a member made reference to the acronym SWAM which meant that an enquiry should be specific, workable, achievable and meaningful.

The Committee considered the proposals for work programme items from stakeholders.

It was **RESOLVED**;

1. that an informal meeting of the Committee be arranged following the Council meeting on 12 July 2022 to further consider prioritisation of enquiries to be included in the 2022/23 Work Programme taking into account the suggestions of stakeholders including those from Councillor Davidson circulated at this meeting.
2. that the Head of Democratic Services and Elections be authorised, following consultation with the Chairman of this Committee and the Chairman of the Resources and Services Overview and Scrutiny Committee, to finalise the Annual Report on the scrutiny function (in time to submit it Full Council on 12 July 2022). Members of the

Committee were invited to pass comments on the draft report to the Head of Democratic Services and Elections over the next few days.

It was **RESOLVED TO RECOMMEND** to **FULL COUNCIL** that:

1. The Work Programme set out at Appendix A to these Minutes be approved on the understanding that further enquiries would be added to these following further prioritisation by the Committee subsequent to the meeting of Council on 12 July 2022.
2. That the Annual Report 2021/22 on the scrutiny function, as finalised in accordance with the delegation from this Committee, be approved.

The meeting was declared closed at 8.00 pm

**Chairman**

**SCOPING DOCUMENT FOR ENQUIRIES BY COMMUNITY LEADERSHIP OVERVIEW AND SCRUTINY COMMITTEE AS PART OF ITS WORK  
PROGRAMME 2022/23**

Item	Date of Enquiry	Relevant Corporate Plan Theme/Annual Cabinet Priority	Information to be provided in advance	Those to be invited to attend	Articulated value of undertaking the review
<p><b>Jaywick, social issues, crime and deprivation, housing.</b></p> <p><b>Private Sector Housing and rental build quality. Plus a look at the action to address health inequality through addressing housing conditions.</b></p>	To be Allocated	<p><b>Community Leadership Through Partnerships/Joined up public services for the benefit of our residents and businesses</b></p> <p><b>Building Sustainable Communities for the Future/B2 Jaywick Sands - more and better housing; supporting the community, B5 - Building and managing our own homes and Effective planning policies</b></p> <p><b>Delivering High Quality Services/A6 - Effective Regulation and Enforcement</b></p>	<p><b>The emerging Place Plan for Jaywick.</b></p> <p><b>Data around the current position as it relates to Jaywick by way of demographics, health inequalities, recorded crime, service provision and plans for the area.</b></p> <p><b>The Essex Levelling Up proposals for the area and how they seek to address issues in the locality</b></p>	<p><b>Cllr P Honeywood as Portfolio Holder with responsibility for Jaywick</b></p> <p><b>Corporate Director, Operations and Delivery, Interim Director for Planning and Assistant Director, Housing and Environment</b></p> <p><b>Representatives from Essex County Council, the Environment Agency, the Clinical Commissioning Group/Primary Care Network/ICP</b></p> <p><b>Representatives from Community Groups in Jaywick</b></p>	<p><b>To look holistically at the issues as they relate to Jaywick Sands and the measures in place to address those issues and encourage further working between partners to collaboratively take opportunities to improve the area for its residents.</b></p> <p><b>The enquiry may also be able to inform the emerging Place Plan for Jaywick</b></p>

Item	Date of Enquiry	Relevant Corporate Plan Theme/Annual Cabinet Priority	Information to be provided in advance	Those to be invited to attend	Articulated value of undertaking the review
<p>Progressing the proposals for development as part of Tendring-Colchester Border Garden Community</p> <p>Considering the emerging Development Plan Document for the Garden Community</p> <p>Opportunities for enhancing the Garden Community through links to the Freeport East project.</p> <p>Examining stewardship/governance of the Garden Community.</p> <p>Assessing risk and challenges for the District as a whole.</p>	September-November 2022	Community Leadership Through Partnerships	<p>The emerging Development Plan Document for the Garden Community.</p> <p>Responses to consultation with the public/stakeholders on the Development Plan Document.</p> <p>The plans of Essex County Council for roads and for the rapid transit arrangements.</p> <p>Relevant plans of the University of Essex.</p> <p>Plans of public service providers such as health, fire and police for provision in respect of the Garden Community.</p>	<p>Portfolio Holder for Corporate Finance and Governance</p> <p>The Chairman of the Tendring Colchester Borders Joint Committee and the other Members of the Committee.</p> <p>The Planning Portfolio Holder</p> <p>The Deputy Chief Executive, Interim Director for Planning and the Corporate Director for Project Delivery</p> <p>Representatives from Essex County Council (Highways), North East Essex Health and Wellbeing Alliance</p>	<p>Reassurance that the Development Plan Document for the Garden Community (and related plans for the Garden Community) are robust and address the needs for that community.</p> <p>This process can itself inform the full Council's consideration of the Development Plan Document for the Garden Community – scheduled to be considered in January 2023.</p>



**MINUTES OF THE MEETING OF THE AUDIT COMMITTEE,  
HELD ON THURSDAY, 30TH JUNE, 2022 AT 2.30 PM  
IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Coley (Chairman), Alexander (Vice-Chairman), Fairley, Miles and Steady
<b>In Attendance:</b>	Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Andy White (Assistant Director (Building and Public Realm)) (except items 5 (part) & 6), Craig Clawson (Internal Audit Manager), Ian Ford (Committee Services Manager), Karen Townshend (Executive Projects Manager (Governance)) and Keith Durran (Committee Services Officer)

**1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

No apologies for absence were submitted on behalf of Councillors on this occasion.

**2. MINUTES OF THE LAST MEETING**

The Minutes of the last meeting of the Committee held on Monday 25 April 2022 were approved as a correct record and were signed by the Chairman.

**3. DECLARATIONS OF INTEREST**

There were no declarations of interest made on this occasion.

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

No Questions on Notice pursuant to the provisions of Council Procedure Rule 38 had been submitted on this occasion.

**5. REPORT OF THE INTERNAL AUDIT MANAGER - A.1 - REPORT ON INTERNAL AUDIT: MARCH TO MAY 2022 AND THE ANNUAL REPORT OF THE INTERNAL AUDIT MANAGER**

The Committee had before it a report submitted by the Council's Internal Audit Manager (A.1) which provided a periodic update on the Internal Audit function for the period March 2022 to May 2022 together with the Internal Audit Manager's Annual Report for 2021/22 as required by the professional standards. That report was split into three sections as follows:-

***1) Internal Audit Plan Progress 2021/22***

- a satisfactory level of work had been carried out on the 2021/22 Internal Audit Plan in order for the Internal Audit Manager to be able to provide an opinion in his Annual Audit Report.
- two audits from the Internal Audit Plan remained outstanding. All other audits within the plan had been completed with only two receiving an overall audit opinion of 'Improvement Required'. All other audits within the plan had received a satisfactory level of assurance.

**2) Annual Report of Internal Audit Manager**

- the Annual Report of the Internal Audit Manager had concluded that an unqualified opinion of Adequate Assurance could be provided.
- the work carried out throughout the year by the Audit Committee, Senior Management and the Internal Audit Team had been in line with the Public Sector Internal Audit Standards and CIPFA Application Notes (Latest release November 2020).
- there were risks to being able to provide an unqualified opinion in 2022/23 given some identified wider governance issues and the difficulties reaching an overall opinion for 2021/22. This would form a key element of the Annual Governance Statement (AGS) that was currently being prepared along with a number of actions to ensure that adequate progress could be made to avoid a potentially unfavourable opinion in future.

**3) Internal Audit Plan Progress 2022/23**

- Six audits within the 2022/23 Internal Audit Plan were currently in fieldwork.

**INTERNAL AUDIT PLAN PROGRESS 2021/22**

The Committee heard how two audits within the 2021/22 Internal Audit Plan remained outstanding (Depot Operations and Strategic Housing). All other audits within the plan had been completed.

A total number of nine audits had been completed during the period April 2022 to June 2022. One report in this period had received an overall opinion of 'Improvement Required' (Housing Repairs and Maintenance) with the other eight receiving satisfactory assurance opinions with no significant issues being identified.

It was reported that Internal Audit had continued to provide advice on internal control, risk management and governance arrangements on a consultative basis. Further to completing audits within the agreed plan, the Team had attended meetings regarding Procurement, Career Track and Careline. The Team also allocated some time throughout the year liaising with departments and advising on an ad-hoc basis.

The Committee was reminded that the audit plan was fluid, which ensured that Audit worked with services to reaffirm audit priorities continuously throughout the year. Audit officers remained focussed on delivering the message that they were here to support services.

**Quality Assurance**

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

**Resourcing**

The Committee was informed that Internal Audit was currently working with an establishment of 3fte with access to a third party provider of internal audit services for specialist audit days as and when required. The Council had recently advertised

internally for the vacant Audit Technician post, unfortunately there had been no applicants. Officers were expected to advertise externally soon.

#### Outcomes of Internal Audit Work

The Standards required the Internal Audit Manager to report to the Audit Committee on significant risk exposures and control issues. Since the last report nine audits had been completed and the final report issued. The Public Sector Internal Audit Standards required the reporting of significant risk exposures and control issues.

Assurance	Colour	Number this Period	Total for 2020/21 Plan	
Substantial		0	5	
Adequate		8	15	
Improvement Required		1	2	
Significant Improvement Required		0	0	
No Opinion Required		0	3	Three consultative engagements in 2021/22

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

Issues arising from audits completed in the period under review receiving an 'Improvement Required' opinion and which required reporting to Committee were:-

#### Housing Repairs and Maintenance

##### 1. Lack of Variation Tracking

Issues identified:

"When a job was not as straight forward as expected a variation order was raised by the contractor which would then increase the expected cost of the job within the contract. The contractor had a contracted self-authorisation limit of £50 (but must send in photo beforehand) and anything above this must be authorised by the Council. This limit had recently been raised by the Council to £100. Whilst those variations were recorded under 'Job History', and looked at during invoice payment stage, there was no independent method of identifying the amount or total value of those works, or how many complied with contractual requirements."

Risk:

"Without an overview or method of identifying variations orders, there was a risk of paying for works or parts that were not required which had an adverse financial impact."

Agreed Action:

*“Explore options within Housing repairs software review to include a reportable process for separately adding, identifying and tracking order variations.*

*This additional step should be linked to authorisation levels for each user, to ensure the value is appropriate for their role and experience.”*

## 2. Tenancy Information

Issues identified:

“Every housing unit should have an identified tenant, or clearly marked as void if between tenants.

Updated records were necessary to ensure the customer service team knew they were dealing with the tenant at the address and to enable any security checks needed as well as complying with any data requirements.

There was currently no regular updating of tenant details within the maintenance system if they move in or out. Similarly, it was understood that initially tenant details needed to be completed manually during initial rollout of software. As a consequence, there was limited confidence that all addresses had a tenant listed and there might be a few rogue overlooked blank entries in the database, where no visits had been needed.”

Risk:

“Apart from reputational damage due to lack of data integrity and apparent professionalism, there was also the risk of allowing unauthorised access or works by a non-tenants.”

Agreed Action:

*“Liaise with IT to identify a data linkage method where existing records held on tenancy system can be exported to Housing Repairs software to ensure the records are current.”*

## 3. Lack of Clear Record Keeping

Issues identified:

“In a case brought to the Housing Ombudsman against the Council, one major criticism had been the absence of clear and comprehensive record keeping. This was also crucial in any legal defence against growing Housing Disrepair Claims.

Although some measures had been brought in, it was considered there was still room for some improvement. Further details and examples had been recorded within the operational audit report.”

Risk:

“If information was missing or dispersed, there was a risk of overlooking key facts which might impact works in place or potential ones, leading to adverse reputational damage or financial impact (especially if a repeat in nature of the case previously sent to the Ombudsman or subject to growing instances of costly Housing Disrepair Claims).”

Agreed Action:

*“New procedures and processes to be implemented so that information is captured centrally.*

*This will be examined as part of Housing Repairs software review to identify what options are available and any subsequent officer training carried out.”*

#### 4. Discrepancies Between Oneserve System and Invoices

Issues identified:

“Work is raised on OneServe with the job description and cost. Once the job is complete, an invoice is raised and submitted to the council for payment. This invoice is matched against work raised and paid accordingly.

In all cases, OneServe (council housing repair software) figures should match invoice to ensure only the work raised is paid for.

There are examples identified through testing which showed payment was apparently in excess of raised work.”

Risk:

“If the correct figures are not matched, this raises the risk that payments forecast may be different from invoice and overpay as a result. The variations are not kept with the main record, adding extra checking time to locate and cross reference any subsequent authorisations.”

Agreed Action:

*“Initially, a reminder will be issued to officers reminding them of the need to ensure the job value matches the received invoice.*

*There will also be investigation into software capability to see if a check function can be incorporated.”*

The Assistant Director (Building & Public Realm) (Andy White) attended the meeting and updated the Committee in respect of the department’s response to the outcomes of the Housing Repairs and Maintenance audit, especially in relation to the implementation of the OneServe software system; its links to the Northgate system and the automated exchange of information. He also indicated that Officers were investigating the department’s longer-term IT software requirements and its related information management protocols.

Mr White then responded to questions posed to him by the Chairman and members of the Committee.

#### Management Response to Internal Audit Findings

The Committee was reminded that there were processes in place to track the action taken regarding findings raised in Internal Audit reports and to seek assurance that

appropriate corrective action had been taken. Where appropriate, follow up audits had been arranged to revisit significant issues identified after an appropriate time.

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

Status	Number	Comments
Overdue more than 3 months	1	
Overdue less than 3 months	1	
Not yet due	1	

### **ANNUAL AUDIT REPORT OF INTERNAL AUDIT MANAGER**

Members were reminded that the Public Sector Internal Audit Standards (PSIAS) stated that a professional, independent and objective internal audit service was one of the key elements of good governance, as recognised throughout the UK public sector. The role of the Head of Internal Audit (Internal Audit Manager), in accordance with the PSIAS, was to provide an opinion based upon, and limited to, the work performed on the overall adequacy and effectiveness of the organisation's governance, risk management, and control processes.

As set out in the PSIAS there was a requirement under PSIAS 2450 that the Chief Audit Executive must provide an annual report to the Audit Committee, timed to support the Annual Governance Statement. This must include:

- *an annual internal audit opinion on the overall adequacy and effectiveness of the organisation's governance, risk and control framework (i.e. the control environment);*
- *a summary of the audit work from which the opinion is derived (including reliance placed on work by other assurance bodies); and*
- *a statement on conformance with the PSIAS and the results of the internal audit Quality Assurance and Improvement Programme.*

The Council was accountable collectively for maintaining a sound system of internal control and was responsible for putting in place arrangements for gaining assurance about the effectiveness of that overall system. The Council continued to adopt a 'Three Lines of Defence' assurance model, which was taken from the following sources:

1. Senior Management and Departmental Leadership  
Under the first line of defence, operational management had ownership, responsibility and accountability for directly assessing, controlling and mitigating risks.

2. Internal Governance

The second line of defence consisted of activities covered by several components of internal governance (Statutory Officers, Corporate Oversight Functions, Quality Control, IT Security, Data Protection and other control departments). This line of defence monitored and facilitated the implementation of effective risk management practices by operational management and assisted the risk owners in reporting adequate risk related information up and down the organisation.

3. Internal Audit

The requirement for an internal audit function in local government was detailed within the Accounts and Audit Regulations 2015, which stated that a relevant body must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.

### Internal Audit Approach

The Internal Audit function undertook a programme of audits each year to provide the Council and its Audit Committee with assurance on the adequacy of its system of internal control, governance and risk management arrangements. The audit programme was developed using a risk based approach that incorporated a number of independent reviews of the Council's activities to be able to give an overall opinion on the areas mentioned above.

CIPFA had released guidance on Head of Internal Audit Annual Opinions in November 2020 due to the impact of COVID-19. There had been no further guidance from CIPFA since then. The Internal Audit Manager continued to refer to this guidance while forming an opinion; however, there had been minimal impact on the delivery of the 2021/22 Internal Audit Plan due to COVID-19.

The impact of COVID-19 was now a section of every audit undertaken and would continue to be going forwards. The Internal Audit Team would record changes to procedures and effectiveness and efficiency issues due to COVID-19 and report any significant issues to the Council's Management Team and Audit Committee, as required.

Communication between Internal Audit, the Council's Leadership and the Audit Committee had been effective and remained consistent which provided reasonable assurance around the effectiveness and transparency of reporting arrangements.

Internal Audit had continued to work with services on a consultancy basis to support the implementation of new processes, identify and analyse root cause if necessary and ensure that all relevant employees had the appropriate training to competently carry out their role. This included advising service area transformation projects, procurement, ad-hoc investigations and any further advice on procedures due to the impact of COVID-19.

Independent investigatory work had also been undertaken throughout the year as and when required to support Senior Management when internal control issues had arisen within service areas.

In 2021/22, only two audits from a total of 27 reviews undertaken had received an overall audit opinion of "Improvement Required" whereby high severity issues had been identified. It had been difficult to reach an overall unqualified opinion this year as there had been other activity that had to be taken into account when forming an opinion. Examples included the fact that two statutory 'Section 5' reports had been issued in order to correct decisions that had contravened law / constitutional requirements, as well as there being early indications from the outturn process suggesting that there had been significant unauthorised overspends of the Council's budgets. With all of the above to be considered, the balancing factors were that all significant issues identified had been addressed instantly which had included setting up working groups when needed and that overall the Council's internal control environment was sound, but needed to be followed.

### Annual Opinion 2021/22

The Committee was made aware that the Head of Internal Audit's annual assurance opinion was based on the following:

- *Internal Audit work completed during the course of the year;*
- *observations from consultancy/ advisory support;*
- *results of any follow up exercises undertaken in respect of previous years' internal audit work;*
- *a review of assurance from other providers including those from first and second lines of defence, independent regulators and peer reviews;*
- *the extent of resources available to deliver the internal audit work; and*
- *the quality and performance of the Internal Audit service and the extent of compliance with the Public Sector Internal Audit Standards.*

### Limitations to the Annual Opinion

There had been no limitations to report on the ability to deliver the Internal Audit Plan and provide an annual opinion on the effectiveness of governance, risk management and internal control. There had been changes to the audit plan throughout the year due to emerging risks and changes to service provision, which had meant that some audits had been merged and some elements had been amended within individual audits. The changes to the audit plan had been made in consultation with the Audit Committee and Management Team, furthermore the amendments to the plan had only added to the overall assurance opinion provided by the Internal Audit Team.

### The Head of Internal Audit's Annual Opinion

It was reported that the overall direction of travel regarding the internal control environment since 2020/21 had remained the same. Officers were unable to state that the control environment had improved overall as the majority of audits had received an 'Adequate Assurance' opinion meaning that although there were no significant issues identified within those audits there was still some work to be done to develop the control environment at an operational level. A total of 39 moderate issues and 6 major issues had been identified with actions agreed with operational management throughout the year. All major actions had been reported to the Audit Committee and all moderate actions had been managed through the audit follow-up process with the service area.

Governance arrangements and internal controls had been evaluated in all audits within the plan, albeit with varying levels of scope. Senior Management continued to review strategic risks on a regular basis within Management Team and the Corporate Risk Register was reviewed bi-annually with any feedback reported to Management Team for consideration.

The opinion of the Internal Audit Manager had therefore been drawn from all of the information reported above, external reviews carried out throughout the year from other assurance providers and through the ongoing work in supporting Senior Management and services in delivering the Council's objectives and vision.

The Internal Audit function had updated the annual Quality Assurance and Improvement Programme (QAIP), which was a self-assessment questionnaire against the Public



Sector Internal Audit Standards. The QAIP had been completed and agreed by the Audit Committee in April 2022.

The Internal Audit Manager was satisfied that sufficient work had been completed in 2021/22 to draw a reasonable conclusion on the adequacy and effectiveness of the Council's activities. The internal control environment continued to remain stable with some significant changes in specific service areas which had been reported to the Audit Committee throughout the year as part of the periodic reporting arrangements. An open dialogue with Senior Management on risk remained in place and a generally sound system of internal control had been assessed across the majority of the Council's operational areas. Therefore, an overall unqualified opinion of '**Adequate Assurance**' could be provided.

The above report would be included within the Council's AGS as part of its statutory responsibilities.

The Committee was advised that there were risks to being able to provide an unqualified opinion in 2022/23 given the wider governance issues identified and the difficulties reaching an overall opinion for 2021/22. This would form a key element of the AGS that was currently being prepared to ensure that adequate progress could be made to resolve historical issues and avoid a potentially unfavourable opinion in future. As part of an immediate and direct response, the Chief Executive had established a regular cycle of Budget, Performance and Delivery Review meetings with Management Team and other Senior Officers across the Council. It had been recommended that those meetings cover the following key issues:

- *high level review of the in-year budget position for each Directorate / Department, which needs to aim to draw out any potential financial issues ahead of the associated impact on the budget e.g. potential overspends, underspends and / or other financial issues / pressures;*
- *following on from the point above, to promote and oversee any associated decision making / governance processes;*
- *to identify financial pressures that may impact on the Council's long term financial plan;*
- *to promote connections / linkages with the recently implemented Corporate Investment Plan;*
- *to review the in-year performance against the Council's key aims and objectives and other key delivery targets;*
- *to identify and oversee any other key governance issues; and*
- *set against all of the above, keep under on-going review the level of resources / capacity to meet the various demands on the Council's departments and services.*

After detailed discussion it was **RESOLVED** that –

- (a) the contents of the report be noted; and
- (b) the Housing Portfolio Holder and the Corporate Director (Operations & Delivery) be required to attend the next meeting of the Committee to give an update on the improvement actions being undertaken in relation to the Housing Repairs & Maintenance audit and to answer Members' questions thereon.

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6. **REPORT OF THE ASSISTANT DIRECTOR (FINANCE & IT) - A.2 - TABLE OF OUTSTANDING ISSUES**

The Committee had before it a report on the progress of outstanding actions identified by the Committee along with general updates on other issues that fell within the responsibilities of the Committee (report A.2).

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

Members also heard that updates were set out against general items and the Annual Governance statement within Appendices A and B respectively and that to date there were no significant issues arising from the above, with work remaining in progress or updates provided elsewhere on the agenda where appropriate.

**Other issues**

Statement of Accounts 2020/21

It was reported that the Statement of Accounts 2020/21 remained subject to the conclusion of the work of the External Auditor. At the time of this Committee meeting, the associated report of the External Auditor had yet to be received as they continued their necessary audit work.

At the last meeting of the Committee, the External Auditor had provided a report which had detailed reasons for the aforementioned awaiting conclusion and had stated that the audit was not sufficiently progressed to enable the Audit Completion Report to be submitted, citing increasing pressures on the sector and unrealistic target dates. At the present time, it was hoped to bring this item to the September meeting of the Committee.

RIPA

The Committee was informed that this Authority had not conducted any RIPA activity in the last quarter and that it was rare that it would be required to do so.

The Covert Surveillance Policy and Procedure Manual pursuant to the Regulation of Investigatory Powers Act 2000 and Use of Social Media in Investigations Policy and Procedure had been finalised and had been published in May and June 2022 respectively.

Housing Void Rate

Members recalled that the housing void rate issue would now be managed through the Financial Performance Reports and it had consequently been removed from the Table of Outstanding Issues. However, if issues arose in the future they would be brought to this Committee as necessary.

Redmond Review

The Committee was informed that the Government had provided a further response to Local Audit Framework: technical consultation, as detailed in the Redmond Review on 31 May 22. This was a culmination of the Government's response into the effectiveness of external audit and transparency of financial reporting in local authorities and detailed the first steps taken towards a more co-ordinated local audit system, in which key players worked together to address challenges as they arose.

The response had confirmed that the new regulator, the Audit Reporting and Governance Authority (ARGA) would act as system leader for local audit. Ahead of ARGA's establishment, shadow arrangements would start at the Financial Reporting Council. Additionally, measures had been announced to ease immediate timeliness issues and to reduce the financial burden which increased audit requirements had placed on councils. Collaboration had accelerated across the current system as key stakeholders had worked closely through the Liaison Committee to deliver a package of measures to improve timeliness. Furthermore, the response had confirmed that once Parliamentary time allowed, it was planned that audit committees would become mandatory for all councils, with at least one independent member nominated to each Authority's audit committee.

It was further reported that the Local Audit Framework technical consultation had set out the Government's intention to act as interim system leader for local audit before new system leader arrangements were established. This had included the establishment of the new Liaison Committee, which had met 4 times. This forum had enabled strong and positive engagement from across the local audit system on how to balance different priorities and objectives. A primary focus for the Liaison Committee across this period had been the development of measures to address ongoing audit delays and to support the fragile audit market.

The Public Sector Audit Appointments Ltd (PSAA) had continued to progress its procurement strategy for the next round of local audit contracts. In March 2022, PSAA had confirmed that 470 out of 475 eligible local bodies had opted-in to its scheme for the procurement of the 2022/23-2027/28 audit contract, including this authority.

#### Planning Enforcement Policy

Members were advised that the draft Planning Enforcement Policy had been presented to the Corporate Enforcement Group where feedback and comments had been invited. The draft policy would now be presented to the Planning Committee in order for it to be formally adopted and it was anticipated that this would be at its August 2022 meeting.

#### Careline update

Following the Audit Committee's consideration of the Careline service at its March 2022 meeting, a report had been presented to Cabinet on 17 June 2022 which had set out options for the future of the Careline service, along with the most up to date position with regard to the improvement actions identified. Those actions had included the creation of a Careline Board which was attended by senior managers and the Portfolio Holder for Housing. This Board continued to oversee the improvement plan which included such elements as the monitoring of performance against the TSA KPI's, incoming call volumes, staffing levels and debt management. Therefore the above had established an assurance framework to respond to the issues previously reported to the

Committee. However, further timely updates would be provided to future meetings of the Committee.

After discussion the Committee **RESOLVED** that –

- (a) it notes the progress made against the actions set out in Appendices A and B of item A.2 of the Report of the Assistant Director (Finance & IT);
- (b) in relation to the Careline update, the Assistant Director (Finance & IT) be requested to submit, on behalf of the Audit Committee, the following questions and comments to the Careline Board:-
  - (1) *are the approved new plans for Careline realistic ambitions for the structure and staffing levels in Careline?;*
  - (2) *the Audit Committee want a reassurance that the agreed new plans for Careline do not compromise the recovery of the service and its delivery to customers;*
  - (3) *will the ability to deliver a sustained and deliverable service match the potential interest resulting from the marketing campaign?;*
  - (4) *will Careline provide a sustainable and cost effective service, which mitigates the financial and reputational risk to the Council?;*
  - (5) *what is the current and proposed staffing levels and does the business case support the employment and training of additional new staff?;*
  - (6) *has the Business Continuity Plan for Careline been updated, to mitigate the previous risks and failings?; and*
  - (7) *is there still outstanding unrecovered debt?.*
- (c) in relation to the response to the Ofsted report following its inspection of Career Track, the Assistant Director (Partnerships) be required to attend the September 2022 meeting of the Committee and give a presentation to Members on the completed Career Track development plan;
- (d) in view of the Council's on-going response to Covid-19 the Committee authorises an indefinite delay in carrying out an audit review in relation to the effectiveness of the Council's response to the COVID-19 including a review of the lessons learnt from the Council's response and longer term consequences; and
- (e) in relation to the Council's declared intention to be 'carbon neutral' by 2030 and the reputational risk inherent, the relevant Corporate Director be required to attend a meeting of the Committee in early 2023 to present to Members a two year progress report on the Council's Climate Change Action Plan.

The meeting was declared closed at 3.39 pm

**Chairman**

# Public Document Pack

Resources and Services Overview and  
Scrutiny Committee

30 June 2022

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**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW  
AND SCRUTINY COMMITTEE,  
HELD ON THURSDAY, 30TH JUNE, 2022 AT 7.30 PM  
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors M Stephenson (Chairman), Scott (Vice-Chairman), Allen, Amos, Barry, Codling, Griffiths, Morrison and Skeels
<b>In Attendance:</b>	Keith Simmons (Head of Democratic Services and Elections), Keith Durran (Committee Services Officer), Hattie Dawson-Dragisic (Performance and Business Support Officer) and Taylor Turner (Apprentice (Democratic Services & Elections))

**10. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

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

**11. MINUTES OF THE LAST MEETING**

It was **RESOLVED** that the minutes of the meeting of the Committee held on Tuesday 24 May 2022 be approved as a correct record.

**12. DECLARATIONS OF INTEREST**

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

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

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

**14. TASK AND FINISH GROUP - DELIVERING HIGH QUALITY SERVICES/MINIMISE WASTE: MAXIMISE RECYCLING AND PUBLIC SPACES TO BE PROUD OF IN URBAN AND RURAL AREAS**

The Chairman reminded the Members of the Committee that they had all received a copy of the recommendations from the Task and Finish Group. There were discussions around looking at this topic again after it had been submitted to Cabinet. The Head of Democratic Services and Elections advised the Committee that this will eventually be added to the Recommendations Monitoring Report and this will provide a further opportunity for Members to be aware of developments in this matter. In addition, the Committee was also informed that, on the draft Work Programme, it had been proposed to undertake an enquiry into the specification for the 2026 contract for waste, recycling and litter services. As such this would be a further opportunity to enquire into this topic, provided the Committee agree to add this to the Work Programme for 2022/23.

It was **RESOLVED TO RECOMMEND** to **CABINET**:

*In respect of the recycling elements of the enquiry:*

- 
- (1) That the capacity of the Street Scene Team to undertake a range of engagement and recycling promotion work with school age children, members of community organisations and the public through roadshows, Council Tax Bills etc. be assessed and plans brought forward to support this capacity. The Committee believes that this work is vital to ensure we have a well-informed local population about recycling and the benefits of it and that the capacity of the team should provide for this work to be undertaken systematically and consistently;**
  - (2) That, in addition to the steps in (1) above, available data, or proxies for it, about recycling rates within the District be examined to identify those areas where recycling rates are lowest and that the available resources for promotional activity be targeted to those areas to increase recycling rates there. The Committee is conscious of the need to use data to guide action and that this is an area where finite resources can be directed where the need for action is most required.**
  - (3) That proposals for new style three chamber litter bins to separate out general waste from plastic/can recyclables and card recyclables be examined with a view to these being installed in the centres of towns in the District. The Committee considers that these new style bins would help reinforce the message around recycling and further the Council's commitment to it (and positively reinforce the Council's Community Leadership role);**
  - (4) That the expected standards for cleanliness/removal of broken glass at the recycling bring sites in the District be developed and publicised and, alongside these, deployment response times for the cleaning/clearing of those sites be established for reports of issues at those sites when the standards are not being met. This recording will include each incident of 'fly tipping' at the sites. The Committee believes the recycling bring sites provide a valuable addition to the kerbside recycling collection service and believes that working with the public we can look to keep the sites in the best possible condition by sharing with them the standards they should expect, the means of reporting when those standards are not met and a response regime to those reports that can manage expectations while returning the site to the expected standards as soon as possible; and**
  - (5) That the introduction of an online (MyTendring) form to report a missed bin collection for garden waste collections (Brown bin) be pursued. The Committee regards the availability of a missed bin collection online form for the general waste (Black bin) and recycling boxes (red and green boxes) as positive and that the same 24/7 reporting route should be provided for garden waste where there is a missed collection.**

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***In respect of the public space litter elements of the enquiry:***

- (6) That the proposals for uniquely coloured (purple) bags for those undertaking Community Litter picks (to distinguish these bags from other forms of waste/recycling) be warmly supported;**
- (7) That the large blue litterbins used as part of the Summer Plan along the seafront should be retained throughout the low season to create a year round approach to litter collection in those spaces. The removal of the litterbins means that out of season there is a reduced litterbin service along the seafront. For residents in those areas and local individuals who use the seafront this reduced service is perceived as a lower standard for them than is provided for tourists. Retaining the bins, even with a reduced emptying regime would demonstrate the obvious commitment of the Council to its residents;**
- (8) That consideration be given to a pilot scheme along the stretch of the A120 from Ardleigh Crown to Horsley Cross to install high visibility litter bins in the laybys and evaluate the extent of their use (and any potential consequential fly tipping from their introduction) for a 12 months period (and that the experience be used to inform the approach along this road and the A133 going forward). The Committee believes that the pilot approach will provide the Council with valuable information as to whether litter bins in the laybys of major roads in the District would be advantageous;**
- (9) That the verge litter-picking schedule for the A120 from the new roundabout to the Auction roundabout be increased to six times a year. The current frequency is, in the view of the Committee, demonstrably insufficient to keep the verges concerned clear of litter and this then could encourage further littering to take place by those who see the extent of litter that is not cleared sufficiently frequently to deter it taking place;**

***In respect of future service provision***

- (10) The Committee welcomed the opportunity to input into the specification for the waste, recycling and street cleaning contract that will be the basis of service provision in those areas from 2026.**

**[Note: Further to item (10) in the above recommendations, the Committee proposed the development of proposals for the waste, recycling and street cleaning contract specification from 2026 be included in the work programme of enquiries for the Committee for 2022/23 (Minute 16 refers).]**

**15. SCRUTINY OF PROPOSED DECISIONS**

The Head of Democratic Services and Elections informed the Committee of the publish notice of forthcoming decisions since the agenda for the Committee's last meeting had been published. Under the Overview and Scrutiny Rule 13, no notice of a question on the forthcoming decisions had been given.

In respect of items on the list of forthcoming decisions, the Chairman informed the Committee that the Review of the Beach Hut Strategy would be picked up later in the meeting (Minute 16 refers), he also confirmed that the Committee had recently received off-agenda briefing note on the progress with the Clacton Leisure Centre Artificial Grass Pitch.

It was **RESOLVED** to note the report.

#### **16. WORK PROGRAMME FOR 2022/23 AND REVIEW OF THE YEAR 2021/22**

The Committee had before it a report of the Head of Democratic Services and Elections, which invited Members to consider a draft Work Programme for 2022/23 for recommendation to Council on 12 July 2022. The report also referenced a review of the work that had been carried out in the Year 2021/22 in respect of Overview and Scrutiny (an "Annual Report").

The draft Annual Report in respect of the scrutiny function in 2022/23 was circulated to the Committee at the meeting. It had been prepared in conjunction with the Chairmen of the two Overview and Scrutiny Committees of the Council. The Committee was advised that this report was a reflection of the last year of Scrutiny through this Committee and through the Community Leadership Overview and Scrutiny Committee. The Committee was invited to comment as to what stand out parts it wanted to see reflected in the Annual Report that will go to Full Council on 12 July 2022 (with the Work Programme).

The Committee was advised as to the process for developing Work Programme items for the Committee. This included consultation with a range of stakeholders. The consultation response were set out in Appendix A.

Appendix B to the report was a draft Work Programme for 2022/23, that the Committee were invited to consider and determine what it should recommend to Council on 12 July 2022. There were discussions around the items on the proposed draft Work Programme.

A proposal was made to add an item on the Work Programme to enquire into Health and Wellbeing in relation to travel issues in the District. The Committee was advised that this would be in terms of reference of the Community Leadership Overview and Scrutiny Committee. The Head of Democratic Services and Elections informed the Committee that although Community Leadership Overview and Scrutiny have already agreed on their items for the Work Programme it had also agreed to organise an informal meeting following Full Council and that he could look to adding that item into that process.

The Committee requested a briefing on the Climate Change action plan. The details of the briefing paper, would be developed at the Committee's meeting on 23 August 2022.

Cllr Allen spoke to his proposal, included in Appendix A in relation to a decision made by the Portfolio Holder for Environment and Public Space.



It was **RESOLVED**:

The Head of Democratic Services and Elections be authorised in consultation with the Committee's Chairmen, to finalise the Overview and Scrutiny Annual Report for 2021/22.

It was **RESOLVED TO RECOMMEND** to **FULL COUNCIL** that:

1. The Work Programme set out at Appendix A to these Minutes be approved.
2. That the Annual Report 2021/22 on the Scrutiny function, as finalised in accordance with the delegation from this Committee, be approved.

The meeting was declared closed at 8.53 pm

**Chairman**

**RECOMMENDATIONS TO COUNCIL ON 12 JULY 2022 FROM  
RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE  
FOR ENQUIRIES TO BE UNDERTAKEN IN 2022/23**

Item	Date of Enquiry	Relevant Corporate Plan Theme/Annual Cabinet Priority	Information to be provided in advance	Those to be invited to attend	Articulated value of undertaking the review
Scrutiny of the Council's proposals to review the Beach Hut Strategy Page 46	Commencing Summer 2022	Delivering High Quality Services (Public Spaces to be Proud of)	A copy of the 2013 Beach Hut Strategy and the proposals for the review, which will be subject to consultation with stakeholders.	Portfolio Holder for Leisure and Tourism  Interim Corporate Director - Projects Delivery  Assistant Director, Economic Growth and Leisure	To feed the committees views into the review of the Beach Hut Strategy, prior to consideration by Cabinet.
Planning Enforcement – Review of current powers, policies, procedures, data on the use of current enforcement powers, effectiveness of approach and	Commencing Summer 2022	Delivery of High Quality Services	Current Planning Enforcement Policy. Casework examples (i.e. priority and non-priority cases)	Portfolio Holder for Planning,  Chairman of the Planning Committee,  Director of Planning,	To ensure that the Planning Enforcement Service efficiently prioritises enforcement cases ensuring timely closure of casework.

assessment of how cases should be prioritised.				Assistant Director of Planning	
<p>Cyber Security for the Council. Looking at the threats, our approach to those threats and the future vulnerabilities. There was agreement that this might be a good subject for scrutiny.</p>	Commencing Summer 2022	Strong Finance & Governance	<ol style="list-style-type: none"> <li>1. Copy of All Member Cybersecurity Briefing Presentation 23/02/22.</li> <li>2. Cyber incident log examples explained.</li> </ol>	<p>Deputy Leader, Portfolio Holder for Corporate Finance and Governance,</p> <p>Head of IT &amp; Resilience,</p> <p>Cybersecurity &amp; Systems Manager</p>	To challenge/ better understand the cybersecurity risks, defences and mitigations the council has in place.
<p>Council procurement and Contract Management – using potential exemplars from:</p> <ul style="list-style-type: none"> <li>-The housing maintenance contract awarded to Rapid, its delivery of work and the management of it.</li> <li>- The management of the previous cremator</li> </ul>	Initial informal meeting in the summer to discuss the issues and hear of proposals from Officers and then to reconvene in the winter to look at	<p>Delivery of High Quality Services</p> <p>Effective and positive Governance</p>	<p>The Procurement Strategy</p> <p>Confirmation of procurement and contract management requirements</p> <p>Details of the procurements in the exemplars</p> <p>Details of the contract</p>	Management Team	To ensure that procurement and contract management at the Council is functioning as it should and is fit for purpose.

<p><b>maintenance contract, the need to stop the use of those cremators and the process for securing replacement cremators given the sensitivity around this service and the budgetary implications for the Council while these cremators are out of action.</b></p> <p><b>- The Leisure Centre Investment – specifications, securing contractors and delivery of those works and maintenance of the equipment at the Centres.</b></p>	<p><b>progress with any measures implemented</b></p>		<p><b>management in the exemplars</b></p> <p><b>Details of measures to improve procurement and contract management at the Council</b></p> <p><b>Procurement Project Pipe Line for programming future projects</b></p>		
<p><b>Customer Service</b></p> <p><b>Particularly face to face, telephone and email contact across a range of services</b></p>	<p><b>Autumn 2022</b></p>	<p><b>Delivery of High Quality Services</b></p>	<p><b>Customer Service Commitments</b></p> <p><b>Visitor and Call statistics</b></p>	<p><b>Relevant Portfolio Holders</b></p> <p><b>Relevant Directors</b></p>	<p><b>To provide an opportunity to assess the level of customer service provided against policies and</b></p>

including Council Tax, Waste-Recycling and Leisure			Complaint handling  Ombudsman focus report on equal access		provide recommendations around both of these matters. In addition to ensure reasonable adjustments are in place to reflect the needs of those with disabilities.
Waste, recycling and litter beyond 2026.  To consider how best to balance the expectations of residents, cost and service provision.	Spring 2022	Delivery of High Quality Services	The Specification for the current contracts to 2026.  The key milestones in the development of specification for the service provision beyond 2026.  The budget income, recycling credits and expenditure over the most recent five years.  Relevant comparator data for waste, recycling and litter over time and in other	Relevant Portfolio Holders  Relevant Directors	To identify what a high quality waste, recycling and litter should look like for Tendring District beyond 2026.

<p><b>Carbon Neutral by 2030. The assessment of measures to progress towards the policy unanimously agreed by Full Council and adopted into the Council's Policy Framework. How will these carbon reduction measures affect the Council and its r partners financially (and is there a consequence for job numbers/skills of the individual measures)?</b></p>	<p><b>Off-Agenda Briefing Paper in the Autumn</b></p>	<p><b>Delivering High Quality Services/ A7 - Carbon Neutral by 2030</b></p>	<p><b>comparator councils. To be scoped by the Committee in August 2022</b></p>	<p><b>Not applicable</b></p>	<p><b>To ascertain progress against the Action Plan 2020-2023 prior to the end of the period of the Action Plan and inform a process of informing the development of the Action Plan for the next period towards the 2030 net zero policy objective.</b></p>
<p><b>Post decision scrutiny of the decision of the Portfolio Holder for Environment &amp; Public Space (as follows):</b>  <b>(a) To give</b></p>	<p><b>Not specified</b></p>	<p><b>Not specified</b></p>	<p><b>A link to the decision on the Council's website is here:</b>  <a href="#"><u>Decision - Frinton Summer Theatre - Application for Consent to use Frinton Greensward</u></a></p>	<p><b>Portfolio Holder for Environment and Public Space</b>  <b>Assistant Director – Building and Public Realm</b></p>	<p><b>To review the consultation with all the parties that will be affected by the decision along with the Councillors whose wards will be affected.</b></p>

<p>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</p> <p>(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.</p> <p>The decision followed an application from Frinton Summer Theatre to provide a tented theatre for the production of plays</p>			<p><a href="http://tendringdc.gov.uk">tendringdc.gov.uk</a></p> <p>In addition to the decision itself, the objections received to the application are available at the same link; together with the report of the Assistant Director – Building and Public Realm who advised the Portfolio Holder on the application.</p> <p>The report considered by the Portfolio Holder prior to the decision to authorise the use of the Greensward references issues raised in the consultation undertaken in respect of concerns about residual costs falling on the Council in respect of additional demand for public lavatories, additional parking, remedial work</p>		<p>To determine the residual cost falling on the Council in respect of additional demand for public lavatories, additional parking, remedial work on the Greensward following the end of the Summer Theatre's use of it.</p>
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<p><b>for four weeks on the Greensward at Frinton-on-Sea in the summer of 2022.</b></p> <p><b>The request from the Leader of the Tendring First Group is that the decision made by Portfolio Holder be brought to the Committee to be scrutinised as he believes it was made without a full and thorough consultation with all the parties that will be affected by the decision along with the Councillors whose wards will be affected.</b></p>			<p><b>on the Greensward following the end of the Summer Theatre's use of it.</b></p>		
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**In addition, there will be scrutiny for the 2022/23 Budget proposals and this work is scheduled for 4 and 11 January 20**



# Public Document Pack

Human Resources and Council Tax  
Committee

7 July 2022

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**MINUTES OF THE MEETING OF THE HUMAN RESOURCES AND COUNCIL TAX  
COMMITTEE,  
HELD ON THURSDAY, 7TH JULY, 2022 AT 7.33 PM  
IN THE COMMITTEE ROOM , TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Chapman BEM (Chairman), Griffiths (Vice-Chairman), Amos, Baker, Calver, S A Honeywood and Morrison
<b>Also Present:</b>	Councillor P B Honeywood
<b>In Attendance:</b>	Anastasia Simpson (Assistant Director (Partnerships)), Carol Magnus (Organisational Development Manager), Ian Ford (Committee Services Manager), Katie Wilkins (Human Resources and Business Manager), Debiannne Messenger (Work Based Learning Manager), Karen Hards (Human Resources Advisor) and Keith Durran (Committee Services Officer)
<b>Participated via MS Teams:</b>	Councillor G V Guglielmi (Portfolio Holder for Corporate Finance & Governance) (except items 9 and 10) and Ian Davidson (Chief Executive) (item 10 only)

**1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were no apologies for absence or notices of substitution submitted on behalf of Councillors on this occasion.

**2. MINUTES OF THE LAST MEETING**

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

**RESOLVED** that the minutes of the last meeting of the Committee, held on Thursday 24 February 2022, be approved as a correct record and be signed by the Chairman.

**3. DECLARATIONS OF INTEREST**

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

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

Pursuant to the provisions of Council Procedure Rule 38 Councillor Griffiths asked the following Question on Notice in relation to staff at Brightlingsea and Harwich Sports Centres:-

*“In the event of any changes to the organizational structure or functions, which may lead to a change in role, or conditions of employment, can we have an undertaking that the HR Department will be involved at the start of the process, that any changes will involve consultation, and an undertaking from senior management that colleagues facing any such changes will not be subjected to any confidentiality clauses aimed at stopping*

*discourse with colleagues, or family members relating to potential changes to their employment.”*

The Chairman of the Committee (Councillor Chapman BEM) replied as follows:-

*“Thank you Councillor Griffiths for your question. As outlined in the Authority’s Organisational Change & Redundancy Policy (updated February 2022 and compliant in accordance with employment law and in line with the ACAS Codes of Practice and guidance) as seen and noted by members of the Committee at its meeting on the 24 February 2022, it is recognised that whenever organisational change is necessary, those responsible for restructuring must work with Human Resources to establish a Transition Plan from the old to the new structure, which is clear and transparent and communicated to all involved.*

*The Transition Plan should identify the following elements:*

- *Consultation (direct and with recognised trade unions) at the start of any review phase.*
- *Details of the timescale for the review and how it will be conducted.*
- *The opportunity for employees to be involved in the review process through appropriate consultation.*
- *Regular progress reviews.*
- *Compliance with the National Single Status Job Evaluation Scheme before any final structure is approved.*

*The updated policy was shared with all TDC Staff following the Committee’s meeting and attention drawn to its contents and the requirements within.*

*In response to Councillor Griffiths’ comments regarding confidentiality clauses, this Authority does not use this approach. However, during the consultation phase, employees are asked to treat the information imparted to them with sensitivity and discretion.”*

## **5. CAREER TRACK - ORAL UPDATE**

The Work Based Learning Manager (Debianne Messenger) gave an update to the Committee regarding the Council’s Career Track service. That update covered the following matters:-

- (a) Introduction
  - (1) Work based learning provider delivering apprenticeships programmes to TDC and other local authorities, large and small employers;
  - (2) Role of the Education & Skills Funding Agency and Department for Education (RoATP); and
  - (3) OfSTED Inspection in November 2021.
- (b) OfSTED
  - (1) Education Inspection Framework; and
  - (2) Its five key themes: governance; safeguarding; standards; curriculum; personal development.

- (c) Career Track's Development Plan: OneFile; Curriculum; Governing Board; stakeholder briefings; employer and learner survey & feedback; training and development; resorting; and ESFA.
- (d) What is next? – self assessment report; Quality Improvement Plan 2022/23; Governance meeting; RoAPT response; OfSTED monitoring visit; next OfSTED full inspection; and 40<sup>th</sup> anniversary celebration of success on 7 February 2023.

With the permission of the Chairman, the Portfolio Holder for Corporate Finance & Governance (Councillor G V Guglielmi), whose responsibilities included Career Track, addressed the Committee and highlighted the huge amount of work that had been undertaken in response to the outcome of the OfSTED inspection.

The Organisational Development Manager, the Work Based Learning Manager and the Portfolio Holder then responded to questions asked by Councillors Griffiths and Chapman BEM.

The Committee noted the foregoing.

## **6. APPRENTICESHIPS - ORAL UPDATE**

The Organisational Development Manager (Carol Magnus) gave an update on Apprenticeships to the Committee. That update covered the following matters:-

- (a) Introduction
  - (1) Via Career Track, TDC provides Level (L) 2 & 3 in Customer Service; L3 in Administration and L3 in Public Service Operational Delivery Officer (PSODO);
  - (2) TDC using wide range of specialist apprenticeship providers – leading to professional qualifications such as:-
    - (i) Open University (L6 IT);
    - (ii) UCEM (L6 Surveyor);
    - (iii) CILEX (L6 Legal Executive);
    - (iv) CIPFA (L7 Accountancy);
    - (v) Colchester Institute (L5 CIPD, L3 Digital Marketeer and L3 Assistant Accountant);
    - (vi) SOLACE (L5 Operations/Department Manager);
    - (vii) Lighthouse (L4 Project Management); and
    - (viii) Writtle Cottage (L2 Arborist and L2 Horticulture).
- (b) Finance – levy charge and “co-investment” by the Government.
- (c) TDC Apprenticeship study
- (d) Value for Money
- (e) Planning Apprenticeships
- (f) Successes

With the permission of the Chairman, the Portfolio Holder for Corporate Finance & Governance addressed the Committee and highlighted the huge value for money that apprenticeships provided for the Council and gave the example of Gary Guiver who had started with the Council as an apprentice and was now the Director of Planning.

The Organisational Development Manager then responded to a question asked by Councillor Baker.

The Committee noted the foregoing.

**7. REPORT OF ASSISTANT DIRECTOR (PARTNERSHIPS) - A.1 - WORKFORCE UPDATE**

Members had before them the latest analysis of workforce data that provided them with statistics relating to the staff employed within the Council and how that compared to the Tendring District and national averages. This was a standard report that was periodically provided to the Human Resources and Council Tax Committee and set out relevant data under the following headings:-

- (1) Workforce statistics;
- (2) Age Profile;
- (3) Disability Profile;
- (4) Ethnicity Profile; and
- (5) Sickness Absence.

In relation to Appendix B to the report the Vice-Chairman (Councillor Griffiths) requested that it include, going forward and in order to aid in succession planning, the number of TDC staff aged 61+ broken down by department. The Human Resources & Business Manager (Katie Wilkins) undertook to taken this into consideration for future reports of this nature.

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

**8. REPORT OF ASSISTANT DIRECTOR (PARTNERSHIPS) - A.2 - NEW MENOPAUSE POLICY**

The Committee considered a proposed Menopause Policy, which was intended to be implemented by the Authority. The purpose of this new policy was to ensure that the Council remained compliant with employment legislation (*including the Equality Act 2010*); identified best practice and the Council's Equality and Diversity Policy by ensuring that staff, who were experiencing the menopause were appropriately supported by the Council as their employer.

Members were informed that the policy aimed to provide information about the menopause (*and referenced andropause*) for staff experiencing the menopause; their managers, as well as colleagues and highlighted the support available both from within the Council itself and external agencies. The Policy incorporated guidance from the National Institute for Health and Care Excellence (NICE), was written in accordance with current ACAS guidelines and set out:-

- *A clear definition of what is menopause, peri-menopause, post-menopause and andropause;*
- *An overview of potential symptoms;*
- *Responsibilities of both managers and employees; and*
- *Support available and additional resources for employees, managers, and colleagues.*

The Committee was made aware that, in line with the Council's commitment to Equality and Diversity the policy had been developed to be representative of all sections of society to ensure that all staff felt respected and able to give their best. In addition, it provided specific guidance to support managers' talking to their staff about the menopause and an advice sheet to support staff to talk to their GP about their symptoms and what support was available from the NHS and elsewhere.

Members were advised that Unison had been consulted on the new Menopause Policy and had offered its agreement and support for the implementation of these proposals.

The Committee was further informed that the introduction of a Menopause Policy was only the start of a comprehensive suite of health and well-being activities including information, support and advice that was planned to be cascaded throughout the Council over the coming months. This would include support sessions for those experiencing the menopause, along with information sessions and training for both those experiencing the menopause, line managers and colleagues. The HR Team planned to collaborate with all staff to identify the most appropriate support for staff experiencing menopause, which might include drop-in groups, one-to-one support sessions, and information briefings, as well as the promotion of self-help support and the Employee Assistance Programme.

The Human Resources & Business Manager outlined that section 1.4 of the Policy needed "tweaking" in order to make its wording 'gender neutral'.

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

**RESOLVED** that the Human Resources & Council Tax Committee supports the implementation of the new Menopause Policy, which includes the programme of support for staff experiencing the menopause, subject to the minor textual amendments to section 1.4 of the Policy being made in order to make the Policy 'gender neutral' throughout.

**9. EXCLUSION OF PRESS AND PUBLIC**

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

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

**10. REPORT OF CHIEF EXECUTIVE - B.1 - MARKET FORCES REPORT FOR POSTS WITHIN GOVERNANCE**

**RESOLVED** that the Human Resources and Council Tax Committee agrees that:

- (a) the Market Forces Supplement be applied with immediate effect to the posts within Election Services requiring the professional qualification;
- (b) the Market Forces Supplement continues from its expiry in November 2022 to be applied to posts within Legal Services which are required to be held by qualified solicitors with a current SRA practising certificate and Legal Executives;

- 
- (c) subject to (a) and (b) above, the Market Forces Supplement is discretionary, to be decided by the Deputy Chief Executive, depending upon the post holder's circumstances; and
  - (d) the Supplements be applied for a period of two years, in line with the Council's approved Market Forces Policy, at which point a further review will be undertaken or until the outcome of the Council's pay audit is completed, if earlier.

The meeting was declared closed at 8.36 pm

**Chairman**

# Public Document Pack

Tendring/Colchester Border Garden  
Community Joint Committee

18 July 2022

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**MINUTES OF THE MEETING OF THE TENDRING/COLCHESTER BORDER  
GARDEN COMMUNITY JOINT COMMITTEE,  
HELD ON MONDAY, 18TH JULY, 2022 AT 6.00 PM  
IN THE LAYER SUITE, COMMUNITY STADIUM, UNITED WAY, COLCHESTER CO4  
5UP**

<b>Present:</b>	Councillors Nick Turner (Chairman)(TDC), Tom Cunningham (ECC), Carlo Guglielmi (TDC), David King (CBC), Andrea Luxford-Vaughan (CBC), Lesley Wagland (ECC) and Julie Young (CBC)
<b>Also Present:</b>	Councillors Mark Cory (ECC), Simon Crow (ECC), Gary Scott (TDC) and Ann Wiggins (TDC)
<b>In Attendance:</b>	Lisa Hastings (Deputy Chief Executive & Monitoring Officer - TDC), Gary Guiver (Acting Director (Planning) - TDC), Andrew Weavers (Strategic Governance Manager & Monitoring Officer - CBC), Karen Syrett (Lead Officer (Planning, Housing & Economic Growth) - CBC), Ashley Heller (Head of Transport for Future Communities - ECC), Matthew Jericho (Spatial Planning Manager - ECC), Ian Turner (Principal Transportation & Infrastructure Planner - ECC), Christopher Downes (Garden Communities Manager - ECC), Ian Ford (Committee Services Manager - TDC), Lindsay Barker (Strategic Director (Policy & Place) - CBC), Keith Durran (Committee Services Officer - TDC), Sharon Carter (Communications Manager - TCBGC), Catherine Gardner (Programme Support Officer - TCBGC), Rob Smith (Director - Hyas) and Martin Whittles (Associate - Ringway Jacobs)

**1. ELECTION OF THE DEPUTY CHAIRMAN OF THE JOINT COMMITTEE**

It was moved by Councillor Carlo Guglielmi, seconded by Councillor Julie Young and:-

**RESOLVED** that Councillor David King be elected Deputy Chairman of the Joint Committee for the remainder of the 2022/2023 Municipal Year.

**2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Joint Committee Member Councillor Mike Bush (TDC), TDC's Designated Substitute Member (Councillor Jeff Bray) and CBC's Designated Substitute Member (Councillor William Sunnucks).

Councillor Julie Young submitted apologies on behalf of Councillors Molly Bloomfield and Tim Young, her fellow Ward Members for Greenstead (Borough of Colchester).

**3. MINUTES OF THE PREVIOUS MEETING OF THE JOINT COMMITTEE**

It was moved by Councillor Tom Cunningham, seconded by Councillor Carlo Guglielmi and:-

**RESOLVED** that the Minutes of the inaugural meeting of the Joint Committee held on Monday 28 February 2022 be approved as a correct record and be signed by the Chairman.

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4. **DECLARATIONS OF INTEREST**

There were no Declarations of Interest made by Members of the Joint Committee on this occasion.

5. **REPORT A.1 - DEVELOPMENT PLAN DOCUMENT: REPRESENTATIONS RECEIVED IN RESPONSE TO THE REGULATION 18 CONSULTATION AND NEXT STEPS**

The Joint Committee had before it a comprehensive report (A.1) which reported some of the notable issues raised in the representations received from the public and other interested parties to the consultation on the first draft Development Plan Document (DPD) ('the Plan') for the Garden Community under Regulation 18 of the statutory plan making process.

The report also highlighted, for Members' information, particular issues raised in the representations that might require changes to the Plan to be considered, or the undertaking or commissioning further work or analysis to inform possible changes for the Committee's consideration.

The report was introduced by Mr Gary Guiver, Acting Director (Planning), Tendring District Council.

It was reported that public consultation on the first draft of a Plan for the Garden Community had commenced on 14 March 2022 and had closed on 25 April 2022 during which Officers had held a number of face-to-face engagement events, which had been attended by around 180 visitors.

The Councils had received responses from 193 individuals or organisations, raising approximately 620 comments on different elements of the Draft Plan. All of those representations had been published on the Garden Community engagement website in June 2022 for public view thereby allowing interested parties to see what others had said in full.

Members were aware that, as part of the statutory plan-making process, the Councils were required to take the representations received at the Regulation 18 stage into account when preparing the final version of the Plan for the Regulation 19 stage, when the Plan would be published for a further round of consultation and thence submitted to the Secretary of State in order to begin the independent examination process.

The Joint Committee was informed that the issue of the 'green' buffers between the proposed new development as part of the Garden Community and the neighbouring settlements had been raised as a concern. Almost half of all the responses received, mostly from local residents from the Wivenhoe area, had written in objection to the prospect of development taking place on land south of the A133 as indicated for the expansion of the University of Essex in 'Approach B' in the Draft Plan. However, the representations from both the lead developer, Latimer, and the University had argued that neither Approach A nor Approach B was appropriate and that more land was going to be needed for development, potentially south of the A133. The Community Liaison Group had put forward an alternative approach, and other community related organisations, such as Town and Parish Councils, had also expressed strong views.



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Officers would review and consider the planning issues involved and were not in a position at this stage to recommend any specific changes to the Plan, but would undertake and commission further work in order to ensure that any future decision on this matter was informed by supporting evidence.

Members were also made aware that a notable number of respondents had also objected to Approach B in respect of a potential Knowledge Gateway expansion north of the A133 extending onto the sensitive slopes around Salary Brook. There was, however, a general acceptance from most parties, including the University, the developers and Officers, that the slopes of Salary Brook should be protected from development in any Plan going forward.

It was further reported that a number of residents had called for more protection for Crockleford Heath and the land around Bromley Road. Some had suggested that a 'buffer' zone was required between existing properties and any new development, whilst others had indicated that the boundary of the designated 'Area of Special Character' did not properly reflect the extent of the community that required protection, or that the policy was unclear as to how the area would be protected. Some property and land owners in the Crockleford Heath area had however indicated that they would rather be part of the development than be surrounded by it. Essex Place Services had been commissioned to undertake a character appraisal of Crockleford Heath which would help inform any formal decisions going forward.

The Joint Committee was advised that the proposed Rapid Transit System (RTS) had attracted a fair amount of interest with people keen to understand more detail around how it would operate, what route(s) it would take and how the 'modal shift' would be achieved. The separate report A.3 considered later on in the meeting provided an update to the Joint Committee on progress with the RTS and further work would be needed to fully understand the integration of this important piece of infrastructure into the final proposals.

Members heard that some respondents had argued that the Draft Plan should have been accompanied by an updated Infrastructure Delivery Plan (IDP), viability assessment and other evidence for the consultation to have been meaningful. This evidence-base would continue to be developed to inform decisions going forward as set out in the separate report A.2 considered later on in the meeting.

The Joint Committee was told that other respondents had raised concern about the level of detail contained within the Draft Plan, either that it was too aspirational and lacked key detail; or that it was too detailed and complex for the public to understand. Some had also criticised the general approach to the consultation and, in particular, the quality and limited number of maps and diagrams that had been included. Officers were now considering alternative ways to present and enable effective consultation on the material at the next stage in the process.

There remained a number of respondents who challenged the need for the Garden Community altogether and who argued that the development should not go ahead at all though the majority of comments had been constructive, with people keen to ensure the development was successful and genuinely met Garden Community principles.

It was reported that people were particularly keen that the development was infrastructure led and did not result in existing infrastructure, services and facilities being overwhelmed; that it achieved a high level of energy efficiency; that it delivered high quality architectural and urban design; and that it protected existing historic and natural assets and incorporated high quality open spaces.

Officers were working on responses to each of the representations, to be published as part of the evidence base when the Joint Committee was presented with a new version of the Plan for its approval prior to a final round of consultation and submission to the Secretary of State to begin the process of independent examination.

At this stage, the Joint Committee was requested to note the matters raised through the consultation exercise and to acknowledge that, given the nature of the comments, difficult decisions were likely to be required when it came time to agreeing a final version of the Plan for consultation and submission to the Secretary of State.

Pursuant to the provisions of the Public Speaking Scheme for the Joint Committee, the following persons addressed the Joint Committee on the subject matter of this item:-

Russ Edwards (Latimer by Clarion Housing Group);  
Bill Marshall;  
Sir Bob Russell;  
Professor Anthony Vickers (Crockleford & Elmstead Action Group);  
Chris Oldham (University of Essex);  
Manda O'Connell (Chair of the Community Liaison Group);  
Parish Councillor Adam Gladwin (Elmstead Parish Council);  
Councillor Gary Scott (Tendring District Council); and  
Councillor Mark Cory (Essex County Council).

Gary Guiver, the Acting Director (Planning) (Tendring District Council) responded to the points made by the speakers.

The Joint Committee also took into account a written representation, as circulated to Members prior to the meeting, and which had been submitted by Councillor William Sunnucks, Colchester Borough Council's Designated Substitute Member for the Joint Committee. For the benefit of the public present at the meeting and those watching the live stream the Chairman (Councillor Turner) read out Councillor Sunnucks' statement.

Councillor Andrea Luxford-Vaughan requested that her comments on this report be recorded within the Minutes of this meeting. Those comments were summarised as follows:-

- (i) *Delighted to hear that a decision has been made not to build in Salary Brook but for the same reasons wondered why similar decisions can not be made now for Crockleford Heath and for buffer zones for Elmstead and Wivenhoe. Those could be justified on garden community principles e.g. the avoidance of coalescence;*
- (ii) *The Community Liaison Group's 'approach C' would not be, despite any claims to the contrary, an acceptable approach for the residents of Wivenhoe. Their 'red line' remains no development south of the A133;*
- (iii) *Puzzled at the sudden, huge increase in the amount of land being requested by the University of Essex and would like to see the evidence within the University's*

*business model as to how the University would finance the necessary land purchases;*

- (iv) Felt that Latimer Homes' suggestion that University expansion should be south of the A133 would not necessarily work for the University as there would be no real connection to the campus or the Knowledge Gateway;*
- (v) Felt that there was no justification for increasing employment land;*
- (vi) Felt that Latimer Homes' concerns about potential high housing density would be ameliorated by the fact that extra student accommodation would be high rise though the location of this would be an issue to be resolved; and*
- (vii) Drew attention to Highways' bodies concerns that there would be tailbacks created on the A120 due to the proposed new junction, impinging on the safety of road users and also leading to a deterioration in air quality. She felt that the strategic evidence to support the new road junction should be revisited.*

Following a discussion and debate on matters pertaining to the DPD and questions by Members that were answered, as appropriate by the Acting Director (Planning) (Gary Guiver) and the County Council's Spatial Planning Manager (Matthew Jericho):-

It was moved by Councillor Carlo Guglielmi, seconded by Councillor Tom Cunningham and:-

**RESOLVED** that the Tendring Colchester Borders Garden Community Joint Committee notes -

- (a) the contents of this report (A.1);
- (b) the issues raised in response to the Regulation 18 consultation on the Draft Plan; and
- (c) the various matters that Officers will be seeking to address in working towards a revised version of the Plan for consideration by the Joint Committee at future meetings.

The Chairman adjourned the meeting at this point for ten minutes in order to allow those persons present to have a comfort break and take refreshment. Following that adjournment the meeting resumed as follows:-

**6. REPORT A.2 - THE DRAFT PLAN FOR THE TENDRING COLCHESTER BORDERS GARDEN COMMUNITY EVIDENCE BASE UPDATE**

Members had before them a report (A.2) which provided the Joint Committee with an update on the Evidence Base required for the Tendring Colchester Borders Development Plan Document (DPD) including evidence already gathered and further work that was underway.

The report was introduced by Colchester Borough Council's Lead Officer for Planning, Housing & Economic Growth (Karen Syrett), who informed the Joint Committee that this report related to report A.1 considered earlier on in the meeting report which had highlighted a number of issues where decision-making would need to be informed by more robust information and evidence. The following additional studies were being compiled and would be made available to Members and Officers during the evolution

and finalisation of the Plan. This additional work would consider all relevant issues and provide appropriate justification for the final approach.

#### Approach to Land Use & Type of Place

Various issues and concerns had been raised about the proposed boundary of the Garden Community, the scale and locations of certain land uses, and the nature of place that was being proposed. The following work was being taken forward which would provide additional evidence to enable robust decisions to be taken:

- Strategic Framework/Masterplan & Strategic Design Guide/Code

The approach to the Garden Community would continue to evolve and become more detailed through an on-going master planning process. To date, work on master planning had considered the baseline position (including constraints and opportunities analysis), the overall spatial vision and some initial land use and masterplan options. Going forward additional strategic master planning work would be undertaken by the Councils to illustrate, justify and set the basis for land use proposals to be set out in the Final Plan to be submitted.

It was acknowledged that at this stage of planning for the Garden Community, it was not possible (primarily due to the extent, cost and time required to undertake all of the detailed technical site survey and design work that would be required - which was the responsibility of site developers to inform their planning applications), for further master planning and related policies in the DPD to contain precise details of design, layout and appearance of the new buildings and spaces that would be delivered. Instead, the additional strategic master planning work illustrated how development could be brought forward and provided further direction to developers to enable them to prepare appropriate and more detailed proposals.

The Draft Plan (Policy 1) had included specific wording to require a comprehensive approach to development that met the Councils' high expectations for design and quality and the key principles that underpinned the development of Garden Communities. It set out the requirement for proposals seeking planning permission to adhere to a 'Strategic Masterplan' and 'Strategic Design Code' for the whole site and more specific and detailed 'Neighbourhood Masterplans' and 'Neighbourhood Design Codes' for the relevant neighbourhoods. The draft Plan set out that those Masterplans and Design Codes would need to ultimately be approved by the Councils before planning applications could be approved.

The Councils had commissioned additional work to start to develop additional master planning and design coding/guidance. This was being produced to illustrate more widely how it was envisaged that the Garden Community would be developed and to ensure that there was a robust and sound evidence in support of the DPD. It would need to remain separate to the DPD and be illustrative in nature until such time as conclusions could be drawn from the examination of the DPD as this might result in modifications to policies, land uses or areas. The work could then be reviewed, updated and taken forward for additional consideration, potentially to be adopted as some form of supplementary planning policy to guide the determination of future planning applications.

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- Crockleford Heath Area of Special Character Appraisal

The Draft Plan had identified an 'Area of Special Character' at and around the settlement of Crockleford Heath, aimed at safeguarding its distinctive rural character. The Councils had commissioned additional work to consider this area in more detail and provide the appropriate level of guidance and base line analysis to develop a character appraisal, including landscape, historic and built environment appraisals and a design strategy for Crockleford Heath.

- Land south of A133 assessment

Some focussed work would be undertaken to consider the sensitivity and visual impact of development options south of the A133 both within, and directly adjacent to, the Area of Search, including consideration of the capacity of growth within the existing University of Essex campus.

- Economic Study Update

Further work would be undertaken related to the Economic and Employment Study to update and evolve the advice the Authorities on the potential means of maximising the positive economic and employment generation opportunities at TCBGC and provide an analysis and options for location, format and potential end-users of the employment allocations proposed for the site. Additional related and specialist work would be undertaken to consider the growth potential of the University of Essex, both in terms of student numbers, research potential and wider economic relationships.

#### Approach to Nature & Open Space

Additional work was required to consider elements related to nature and the type/scale of open space. The following work was being taken forward which would provide additional evidence to enable robust decisions to be taken:

- Environmental Audit & Biodiversity Net Gain Assessment

An assessment was being undertaken to consider the potential to secure Biodiversity Net Gain, through a comparison of the habitats within the site prior to development activities (the 'baseline') with those proposed through the proposed spatial approach and land use proposals. The calculation would be undertaken using the 'Defra Metric' Biodiversity Net Gain calculator.

- Tendring and Colchester Councils, Indoor Sport, Playing Pitch and Open Space Strategies

These had been commissioned and would set out an over-arching strategy for the two Council areas individually and collectively, with a particular focus on the sport and open space needs and issues related to the Garden Community. The work would include a review of all facilities in the Councils' areas, including council-owned facilities and privately-owned facilities, where appropriate. In particular, the audit, assessment and recommendations would have regard to the facilities currently available at University of Essex Campus which adjoined the area of

search for the Garden Community, and the potential to create or cooperate on new facilities that could serve both the needs of the university itself and the future residents and other users from the Garden Community itself.

In addition, work on the strategic masterplan and design guidance would consider the overall approach to land uses including suitable protection and enhancement of natural features & assets across the site.

#### Approach to community related matters

Other issues and concerns had been raised about key social and community infrastructure, and the ability to deliver on Garden City principles. The following work was being taken forward which would provide additional evidence to enable robust decisions to be taken on the following topics:

- Health Impact Assessment / Topic Paper

Further work was underway to ensure the TCB Garden Community was designed and delivered in ways that would enhance the quality of people's lives both from the outset and in the long term by positively addressing and innovatively responding to the fundamental elements that influenced the social determinants of health and well-being.

- Stewardship Topic Paper (Update)

Officers would prepare an update to this topic paper, which had been prepared in relation to the examination of Section 1 of the Joint Local Plan. This would provide additional up-to-date information relating to the options for stewardship for the Garden Community, including an overview of the importance of long-term stewardship to the project; a summary of options for long-term stewardship that could be considered; their implications and potential approaches to decision making on any final preferred model/approach.

#### Approach to infrastructure, phasing and viability

A number of issues and concerns had been raised about the overall approach to infrastructure, its phasing and the viability/deliverability of the proposals. Whilst the Draft Plan included a number of specific infrastructure requirements within the separate policies, this work would now need to be updated and drawn together to enable all policy expectations and requirements to be clearly set out and justified. The following work was being taken forward which would provide additional evidence to enable robust decisions to be taken on the following topics:

- Transport Planning

Further work would be required to provide an update on strategic infrastructure works coming forward via the Housing Infrastructure Fund (A120-A133 Link Rd and Rapid Transit System). Additional work was also required to frame the approach to mode share, confirming transport related infrastructure requirements alongside supporting transport measures (on and off site), and identifying wider opportunities and dependencies.

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- Integrated Water Management Strategy Stage 2

A Stage 1 Integrated Water Management Strategy (IWMS) had been carried out to support the Section 1 Local Plan. A Stage 2 IWMS had been commissioned which would specifically identify integrated water management options and strategies for the Garden Community. It would feed into the developing master planning and identify a range of options for how water and flood risk could be managed in an integrated and sustainable way.

- Infrastructure Delivery Plan (& Phasing)

Officers were in the process of drawing together all information on infrastructure requirements and would prepare an Infrastructure Delivery Plan which would show what infrastructure was required and how it would be provided (e.g. co-location, etc); who was to provide the infrastructure; how would the infrastructure be funded and when it would need to be provided to align with the phasing of the Garden Community. The IDP would draw from responses from infrastructure providers in response to the Regulation 18 consultation and would be produced in collaboration with a wide range of stakeholders and strategic infrastructure providers including Essex County Council.

- Viability Study

The site had been subject to detailed consideration of viability via Section 1, and Officers continued to be supported by experts during the preparation of the DPD. The Councils were in the process of commissioning additional expert property consultants to provide an update to the viability work in accordance with the latest information, assumptions national policy and guidance. It was intended that such expertise would be available to support more broadly viability discussions with site developers in due course.

Other evidence studies and background work would also come forward and be updated as the DPD progressed, such as ongoing work on analysing engagement feedback and the evolution of work on the Sustainability Appraisal, Heritage Impact Assessment and others.

Pursuant to the provisions of the Public Speaking Scheme for the Joint Committee, Bill Marshall and Professor Anthony Vickers (Crockleford & Elmstead Action Group) addressed the Joint Committee on the subject matter of this item.

The Lead Officer for Planning, Housing & Economic Growth (Karen Syrett) then responded to points made by the speakers.

Councillor Andrea Luxford-Vaughan requested that her comments on this report be included within the Minutes of the meeting. Those comments were summarised as follows:-

- (i) *Welcomed the report which had picked up most of the points in the feedback from the public consultation and which noted that there was evidence that needed to be updated;*

- (ii) *Asked whether a new Sustainability Appraisal was going to be commissioned with the same objectives as Section 1 of the Local Plan;*
- (iii) *Will the evidence base include details of the classification of any nature reserves and country parks; the ownership of those; the management of them and their funding; and also the status of any green buffer when it is removed from the 'field of search';*
- (iv) *Requested that information on the 'stewardship model' be shared with Members;*
- (v) *In relation to the Gypsy & Travellers Needs Assessment, requested clarification why a site had been proposed within the garden community area given that Tendring District Council's Section 2 Local Plan had stated that there was no present need for extra sites;*
- (vi) *Requested confirmation that residents of the new garden community would be able to use the medical centre at the University given that one would not be provided within the garden community site;*
- (vii) *Requested an investigation into the alleged clearance of trees within the garden community site and whether they were 'protected' trees;*
- (viii) *Requested clarification of what would need to happen if the requested increase in HIF money was not forthcoming; and*
- (ix) *Requested clarification of what would need to happen if the Government funding for the dualling of the A120 was not forthcoming.*

Following a discussion and debate on matters pertaining to this report and questions by Members which were answered, as appropriate, by the Acting Director (Planning) (Gary Guiver), the Spatial Planning Manager (Matthew Jericho) and the Lead Officer for Planning, Housing & Economic Growth (Karen Syrett):-

It was moved by Councillor Carlo Guglielmi, seconded by Councillor Tom Cunningham and:-

**RESOLVED** that the Tendring Colchester Borders Garden Community (TCBGC) Joint Committee notes the update on gathering additional evidence to support the preparation of the Development Planning Document.

## **7. REPORT A.3 - RAPID TRANSIT SYSTEM UPDATE**

The Joint Committee had before it a report (A.3) which updated it on the progress toward delivering a Rapid Transit System (RTS) serving the Tendring Colchester Borders Garden Community and wider Colchester area. Though the Joint Committee's Terms of Reference precluded decision making on the RTS (which was being brought forward by Essex County Council working closely with its partners) it was recognised as an important component of the overall transport infrastructure requirements related to the Garden Community.

The report was introduced by Ashley Heller, Head of Transport for Future Communities, Essex County Council, who was assisted by Ian Turner, Principal Transportation & Infrastructure Planner (ECC) and Martin Whittles, an Associate at Ringway Jacobs.

The Joint Committee was aware that the successful Housing Infrastructure Fund (HIF) bid in 2019 had secured funding for infrastructure works related to the provision of a new RTS for Colchester. A RTS would be in place to connect the Garden Community with the University of Essex, Colchester Town Centre, Colchester Railway Stations,



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Colchester Hospital, Community Stadium, Northern Gateway Sport Park and the existing Park and Ride site in north Colchester. This would provide a high frequency, efficient public transport system with priority over general traffic within the Garden Community. The final route within the Garden Community would be confirmed and agreed with the Councils through the strategic masterplan process.

Members were informed that a key feature of the RTS was the incorporation of Park and Choose facilities (P&C), provision of which had been included in the Draft Plan. The concept for P&C was to be developed as part of, and support for, the RTS being delivered. P&C extended the concept of park and ride (P&R) to include choice and work as a central hub for other modes. Principally this would be cycle or electric cycle hire but in time could be extended to electric scooters, e-cargo, etc. It could also provide space for users to store their own bicycles. Providing choice could appeal particularly to nearby potential users travelling to the University of Essex, but also to those travelling to destinations in Colchester further away from RTS halts and interchanges.

The ultimate aim was to introduce a system akin to a trackless tram. This combined the advantages of light rail with the practicality and flexibility of bus rapid transit. The system could also be built up incrementally, growing alongside future housing and economic growth. It adapted readily to early adoption of autonomous vehicle technology, and, in time, the main trackless trams would co-ordinate with automated pods to take passengers to final destinations.

It was understood that the public transport provision would need to be of a high quality from the outset. Achieving high shares for trips being undertaken by sustainable modes would be crucial in ensuring that growth in the housing supply occurred sustainably. The RTS should offer easy interchange with existing modes of public transport across the town, along with being well-designed to facilitate walking and cycling.

It was noted that electric vehicles were already significantly gaining ground, and electric buses were in service or planned to be so across the UK. The aspiration was that the RTS would be operable with electric vehicles, thereby delivering even greater reductions in emissions of both greenhouse gases and chemicals harmful to health.

For the purpose of delivery, the RTS proposals had been split into four sections as follows:-

#### Section A

This section covered from the existing A12 Park & Ride Site to the Albert Roundabout and included the existing planning permission for a 'segregated busway' adjacent to the Northern Approach Road. The timetable for this included:-

- Planning Consent – Discharge of Conditions to Colchester Council, achieved January 2022;
- Tender Publication – Summer 2022;
- Construction on site start – Spring 2023; and
- Construction Completion – Spring 2024.

#### Section B

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This section covered from the Albert Roundabout to the Greenstead Roundabout through the town centre. Within the centre of Colchester, limitations of space would see a focus of hurry-call (GPS based) priorities on traffic signals, utilisation of existing bus lanes, and measures to reduce traffic within the heart of the town centre. The timetable for this included:-

- Design – Ongoing;
- Tender Publication – Summer 2022;
- Construction Start – Spring 2023; and
- Construction Complete – Summer 2024.

### Section C

This section covered from the Greenstead Roundabout to the future Garden Community connection (location along A133 to be determined). This would see the construction of a new segregated busway between the Knowledge Gateway and the Greenstead roundabout to provide dedicated capacity for the RTS/buses. Additional improvements would be made to the existing cycle network to support improved active travel provisions from the Garden Community, but also from existing suburb areas and the University as well. The timetable for this included:-

- Design – Ongoing;
- Tender Publication – Spring 2023;
- Construction Start – Autumn 2023; and
- Construction Completion – Winter 2024.

### Section D

This section covered the routing within the Garden Community itself and would evolve as the Masterplan developed.

### Operational Model Development

It was reported that detailed work had commenced on establishing the service type to run on the RTS. The fundamental basis of the RTS would be a passenger focused concept of High Quality Public Transport which in effect would provide the basis for future decisions on the operation of the service – recognising that if the RTS was to attract large numbers of passengers and to achieve ‘modal shift’ from cars to public transport, it would need to provide an ‘offer’ which was convenient, reliable, fast, affordable and which was focused on providing the best possible passenger experience. Key activities would be:-

- defining the target service standard (vehicles, frequencies, fares, branding, routes et cetera);
- setting out a business case for achieving the target service standard in phases linked to the anticipated growth of demand for the RTS;
- establishing the role and phasing of Park & Choose linked to the Garden Community; and
- setting out the implementation plan for the RTS service including both the target operating standard and the initial operating standard reflecting a phased roll out of the service.

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Key dates included:-

Outline Business Case – estimated completion by early 2023 for approval; and

Procurement of the RTS service – start by end of 2023 with a view to commence the initial phase of the RTS operations during 2025/26.

#### Mobility Hubs and Halts

The Joint Committee was made aware that the RTS would need a number of ‘access points’ for passengers which would in effect be a hierarchy of stops (or “halts”) which in certain locations would be more substantial ‘mobility hubs’ which could offer a range of transport and other services intended to support overall patronage of the RTS. The County Council was developing a consistent and programmatic approach to optimise benefits and support ongoing management and maintenance and had secured Government funding to:-

- review approaches and evidence elsewhere and decide on objectives;
- develop typologies of Mobility Hubs appropriate to Essex and identify essential and desirable features;
- identify locations with potential for Mobility Hubs to be successful;
- develop high level concepts for Mobility Hubs based on a scalable and modular kit of parts which could be incrementally extended;
- identify implementation, operation, and management options along with cost implications and revenue generation opportunities;
- develop options for a programme of Mobility Hubs;
- define the location, number, and design of halts for the RTS, again reflecting the objectives of the service to promote a high-quality public transport alternative to the car.

It was noted that this work had a significant overlap with the ‘operational study’ in terms of understanding where and how mobility hubs could contribute to achieving a successfully commercially viable RTS. All of those considerations, related work streams and overall progress would inform additional evidence base work related to transport as part of the overall evidence base to be prepared to accompany the final Plan.

Pursuant to the provisions of the Public Speaking Scheme for the Joint Committee, Bill Marshall, Sir Bob Russell and Councillor Gary Scott addressed the Joint Committee on the subject matter of this item.

Ashley Heller, Head of Transport for Future Communities, and Ian Turner, Principal Transportation & Infrastructure Planner then responded to points made by the speakers.

Councillor Andrea Luxford-Vaughan requested that her comments on this report be included within the Minutes of the meeting. Those comments were summarised as follows:-

- (i) *Felt that this report was underwhelming and added no further details to those already previously revealed for example there was no confirmation as to the frequency of services or whether the route would be via Clingoe Hill or Boundary*

*Road. The latter had complications and would probably result in a slower journey time;*

- (ii) Doubted that the proposed prioritisation measures at Clingoe Hill could be made to work; and*
- (iii) Felt that for an individual using a car with free workplace funding would be cheaper than using the RTS unless the RTs was massively subsidised and supported by measures such as congestion charges, the removal of on-street parking and the removal of free workplace parking.*

Following a discussion and debate on matters pertaining to this report and questions by Members which were answered, as appropriate, by the Principal Transportation & Infrastructure Planner (Ian Turner):-

It was moved by Councillor Lesley Wagland, seconded by Councillor Carlo Guglielmi and:-

**RESOLVED** that the Tendring Colchester Borders Garden Community (TCBGC) Joint Committee notes the update on the delivery of the Rapid Transit System infrastructure and operational model.

#### **8. REPORT A.4 - JOINT COMMITTEE PLANNING PROBITY PROTOCOL**

Members considered a report (A.4) which presented to it the proposed Planning Probity Protocol (Appendix A) related to the functions of the Tendring Colchester Borders Garden Community (TCBGC) Joint Committee. The Protocol applied and focused on the functions and responsibilities of the Joint Committee for determining planning applications within the TCBGC area. Executive functions, not connected with the DPD process or otherwise delegated to the Joint Committee, but nonetheless related to the TCBGC would remain with each Council to exercise.

The report was introduced by Lisa Hastings, Deputy Chief Executive & Monitoring Officer (Tendring District Council).

Members of the Joint Committee were expected to observe the requirements and principles as set out in the Protocol at all times when involving themselves in the planning process. The planning system relied on Councillors and Officers acting in a way which was fair and was clearly seen to be fair. This included acting in accordance with planning law in all instances, and paying due regard to national and local policies, in addition to all other "material planning considerations".

It was acknowledged that each of the Councils forming the Joint Committee had their own locally adopted Members' Code of Conduct, which must always be complied with first by the Members from those respective authorities, particularly in respect of declarations of interest.. Those Codes were, however, very similar and based upon the national Nolan Principles.

It was recognised that decision-makers must not fetter their discretion by approaching the decision to determine a planning application with a closed mind. It was a legal requirement to approach the determination of a planning application with an open mind in order to prevent a legal challenge for pre-determination or bias. Decisions needed to be taken in accordance with the Section 1 of the Local Plan and the Development Plan

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Document unless material considerations indicated otherwise. Members should come to a decision only after due consideration of all of the information reasonably required upon which to base a decision.

The Joint Committee was aware that Officers were responsible for carrying out their duties in compliance with the Royal Town Planning Institute Code of Conduct, in particular, that Officers must not make or subscribe to any statements which went against their own professional standards.

Members were advised that care would be needed when there was contact with applicants, developers and objectors. Certain structured meetings could occur where there was transparency, consistency and fairness to all. Members could express any view on the merits or otherwise of the proposal presented, though they should never state how they or other Members intended to vote at a joint committee meeting.

Councillors were further advised that they should explain to those lobbying or attempting to lobby them that, whilst they could listen to what was said, it might subsequently prejudice their impartiality, and therefore their ability to participate in the Joint Committee's decision making, if they made any sort of promise to vote one way or another or expressed such a firm point of view that it amounted to the same thing.

The Joint Committee was reminded that its overriding duty was to the whole of the Garden Community area and not just to the people a specific Ward/Division and that, taking account of the need to make decisions impartially, Members should not improperly favour, or appear to improperly favour, any person, company, group or locality.

It was reported that all Councillors attending pre-application discussions must have first attended a training session on conduct at pre-application discussions. Those training sessions would be organised by the respective Councils' Planning Service on a regular basis in order to ensure that the integrity of the individual Councillor's decision-making role was maintained.

Pursuant to the provisions of the Public Speaking Scheme for the Joint Committee, Bill Marshall addressed the Joint Committee on the subject matter of this item.

Councillor Andrea Luxford-Vaughan requested that her comments on this report be recorded in the minutes of the meeting. Those comments were summarised as follows:-

- (i) The report and the Probity Protocol advocated common sense and was not contentious; and*
- (ii) Sought clarification as to whether a Joint Committee member could represent themselves or another organisation (such as a parish council) as a Ward Councillor at Regulation 19 hearings.*

Following a discussion and debate on matters pertaining to this report and questions by Members which were answered, as appropriate, by the Deputy Chief Executive & Monitoring Officer (Lisa Hastings):-

It was moved by Councillor Tom Cunningham, seconded by Councillor Carlo Guglielmi and:-

**RESOLVED** that the Tendring Colchester Borders Garden Community (TCBGC) Joint Committee Planning Probity Protocol, as attached at Appendix A to report A.4, be agreed and applied by Members and Officers.

The meeting was declared closed at 9.30 pm

**Chairman**

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,  
HELD ON WEDNESDAY, 3RD AUGUST, 2022 AT 10.00 AM  
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Land (Chairman), Steady (Vice-Chairman), Casey and Placey
<b>In Attendance:</b>	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Karen Townshend (Executive Projects Manager (Governance)), Keith Durran (Committee Services Officer) and Debbie Bunce (Legal and Governance Administration Officer)
<b>Also in Attendance:</b>	The following Independent Persons: Clarissa Gosling, David Irvine and Jane Watts

**1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Councillors V E Guglielmi (with no substitute), J Henderson (with no substitute) and Skeels (with no substitute) and Sue Gallone (one of the Council's four Independent Persons).

**2. MINUTES OF THE LAST MEETING**

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

**RESOLVED** that the Minutes of the meeting of the Committee held on Wednesday 6 April 2022 be approved as a correct record and be signed by the Chairman.

**3. DECLARATIONS OF INTEREST**

There were no Declarations of Interest made by Members at this time.

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

No Questions on Notice had been submitted by Members pursuant to Council Procedure Rule 38 on this occasion.

**5. REPORT OF THE MONITORING OFFICER - A.1 - LOCAL GOVERNMENT ASSOCIATION MODEL MEMBERS' CODE OF CONDUCT - EXPLORATION OF THE DIFFERENCES BETWEEN DECLARING INTERESTS**

Further to Minute 30 (6.4.22) the Committee continued its review of the elected Members' Model Code of Conduct ("the Model Code") as authored by the Local Government Association (LGA), in comparison to Tendring District Council's Members' Code of Conduct ("the TDC Code"), for eventual determination as to whether to recommend the Model Code to Full Council for adoption.

The current adopted Members' Code of Conduct, as detailed within Part 6 of the Council's Constitution was attached as Appendix A to the Monitoring Officer's report. The Code set out the standards, values and rules of conduct that elected Members of Tendring District Council were expected to abide by.

The LGA's Model Code was attached at Appendix B to the Monitoring Officer's report. The aim of the Model Code was to provide consistency for Members across Parish, Town, District and County Councils, especially for those Members representing two or more electorates (also known as 'dual or triple hatters'). Guidance issued by the LGA on the Model Code was attached at Appendix C to the Monitoring Officer's report.

The Committee recalled that, at its last meeting held on 6 April 2022 (Minute 30 referred), it had been appraised of the differences between the Rules of Conduct within the TDC Code compared with the Model Code and that the provisions relating to interests would be considered separately at this meeting.

To that end it was reported that the TDC Code had two types of Members' Interests namely Disclosable Pecuniary Interests (DPI) and Personal Interests. The Model Code referred to those as Disclosable Pecuniary Interests, Other Registrable Interests and Non-Registrable Interests. It could appear from first glance that the Model Code either covered interests in more detail or had introduced an additional type; however in essence they were broadly similar as the TDC Code, albeit condensed under its two headings.

Under both the TDC Code and the Model Code, it remained the responsibility of the individual Member to keep their registration of interests complete, up to date and accurate.

The TDC Code stated that Members were required to register details of their Disclosable Pecuniary Interests and their Personal Interests (that a Member was aware of at the time) within 28 days of becoming a Member (or being re-elected or reappointed) or a change in those details, in the Authority's Register of Interests. The Model Code required DPIs and only those personal interests which fell within the categories set out in Table 2, defined as Other Registrable Interests, to be registered.

Within the "Current Position" section of her report, the Monitoring Officer had endeavoured to explain (as summarised below), the differences between the interest provisions within the Codes. Upon review, the main difference to highlight was the impact of Paragraph 9 within the TDC Code being withdrawn from all types of Personal Interests although a test was still applied to those Non-Registrable Interests within the Model Code which 'affected' the interest.

1. DPI provisions within each Code

Whilst the Codes were worded and formatted differently, the requirements therein were based on the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and, therefore, the Monitoring Officer considered that the Model Code did provide additional guidance and if adopted would not change the requirements of the TDC Code.

2. Personal Interests / Other Disclosable Interests



The “Other Registerable Interests” within the Model Code were almost identical to TDC’s definition of Personal Interests however, the TDC Code gave further flexibility to speak on an item subject to the assessment of the Public Interest test, without seeking a dispensation from the Monitoring Officer. The Model Code prohibited a Member possessing an Other Registerable Interest from speaking at the meeting unless the public was permitted to speak at the meeting and if a dispensation had been granted. The Monitoring Officer foresaw that this would have an impact for those Members who were appointed to outside bodies by the Council.

### 3. Model Code Non-Registerable Interests and TDC Personal Interests

Paragraphs 7-9 of the Model Code were again very similar to Paragraph 5(f) of the TDC Code, but made very slight distinctions between ‘*directly relating to*’ and ‘*affecting*’, and it was important to highlight the impact of Paragraph 9 within the TDC Code compared with the Model Code:

#### **The TDC Code: 9. Effect of Personal Interests on participation**

*“9.1 If a Member has a personal interest (not a Disclosable Pecuniary Interest) in any business of the Authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Members’ judgement of the public interest and they are present at a meeting of the Authority at which such business is to be considered or is being considered the Member must:-*

- (a) Declare the existence and nature of the interest in accordance with paragraph 7.1 (but subject to paragraph 12)*
- (b) Withdraw from the room or chamber where the meeting considering the business is being held, immediately after making representations or in any other case when the business is under consideration, unless they have obtained a dispensation from the Authority’s Monitoring Officer.”*

Therefore, under the Model Code, if adopted, a Member possessing a Non-Registerable Interest as defined in Paragraph 7, which directly related to their financial interest or well-being or a financial interest or well-being of a relative or close associate, could ONLY speak on the matter IF members of the public were also allowed to speak at the meeting but otherwise that Member must not take part in any discussion or vote on the matter and must not remain in the room unless a dispensation had been granted.

If the Member possessed a Non-Registrable Interest which affected the financial interest or well-being etc. a similar test in TDC Paragraph 9 was applied.

### 4. Register of Gifts & Hospitality

The value of the gift or hospitality was the same. However, the Model Code did provide further text and guidance which was similar to the TDC Guidance Note, which had been issued separately. Therefore bringing both of those together could be helpful for Members, rather than them having to look at two different documents.

The Committee was made aware that from further conversations between Monitoring Officers across the County, there was still an appetite to adopt the Model Code subject to approval from respective Full Councils. The following Essex local authorities had either recommended the adoption of the Model Code or had adopted the Model Code: Essex County Council, Southend-on-Sea City Council, Basildon Council, Maldon District Council and Castle Point Borough Council.

In addition, Members were advised that, when the current TDC Code had been adopted in 2018, the majority of Town and Parish Councils within the District had adopted the revised Code, to align with TDC. A number of Town and Parish Councils were now adopting or considering adopting the LGA Model Code, and were therefore seeking advice and guidance from this Authority on its position.

The Committee was informed that there was no particular risk to this Authority in terms of the conduct and standards of its Members whether the Committee decided to recommend the adoption of the LGA Model Code or to retain and update the current TDC Code. There was the potential of an element of reputational risk if the LGA Model Code was not adopted i.e. questions would be asked as to why it had not been adopted by TDC when many authorities across the county, along with Town and Parish Councils, had adopted it or were considering doing so. Additionally, the streamlining of authorities would not be in place with differing codes being applicable to individual authorities, which could lead to some confusion, however those risks were minimal and would not affect the day-to-day practice of this Authority.

Should the Model Code be adopted then training would be required for all Members which could be delivered by Officers through dedicated sessions.

The Committee then duly considered and discussed this matter. That discussion included the following:-

- (i) Which local District Councils and Parish/Town Councils had considered adopting the Model Code;
- (ii) The Monitoring Officer's professional opinion on whether to adopt the Model Code or remain with the Tending Code;
- (iii) The flexibility within the TDC Code of speaking at a Committee meeting if a Member had a personal interest whereas this flexibility to speak was removed within the Model Code;
- (iv) The benefits of adopting the Model Code;
- (v) The frequency of applications from Members for dispensations under the current code with regards to speaking at meetings where they had a personal interest;
- (vi) Gifts & Hospitality – the guidance given to Members;

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

**RESOLVED** that the Standards Committee:

- (a) notes the contents of the Monitoring Officer's report and its Appendices;

- (b) confirms its satisfaction of the comparison of the Tendring District Council's Members' Code of Conduct and the LGA's Model Code of Conduct; and
- (c) recommends to Full Council that the LGA Model Code be approved and adopted.

**6. REPORT OF THE DEPUTY CHIEF EXECUTIVE & MONITORING OFFICER - A.2 - INDEPENDENT REMUNERATION PANEL AND INDEPENDENT PERSONS RECRUITMENT**

The Committee considered the Independent Remuneration Panel's and Independent Persons' terms of office, with the aim of exploring alternative options as to future recruitment, with a view to making recommendations to full Council on this matter.

Members were reminded that, at its meeting held on 27 November 2018, full Council had agreed the appointment of Mr David Irvine, Mrs Clarissa Gosling, Mrs Jane Watts and Mrs Sue Gallone as the Council's Independent Remuneration Panel for the purposes of making recommendations to Council on Members' allowances. Those four persons had been also confirmed as the Council's Independent Persons for the purposes of standards arrangements. Those appointments were in place until the Annual Meeting of the Council in May 2023.

The Committee was advised that Full Council had last considered the Members' Allowances Scheme in September 2020 together with the related recommendations from the Independent Remuneration Panel (IRP). It had been highlighted that, if the Council approved a Scheme of Allowances for the following two financial years (being 2021/22 and 2022/23) the next scheduled time for the IRP to review the Allowances Scheme for this Council would be prior to the start of 2023/24 and that therefore this would concern the Scheme of Allowances to be paid following the scheduled elections to this Council in May 2023.

Therefore, without alternative arrangements in place, there would be a need to recruit a new Independent Remuneration Panel and new Independent Persons in time to make new formal appointments at Annual Council in May 2023, whilst simultaneously undertaking a review on the Members' Allowance Scheme, with the support of officers in the late Autumn/early Winter 2022.

**Recruitment and alternative options**

It was reported that with regard to the roles of Independent Persons for the Ethical Standards arrangements, a pool of Independent Persons was available through the Public Law Partnership (which covered Essex, Hertfordshire and Suffolk) that could be called on by any authority, subject to the necessary approvals through formal appointments. Those arrangements were considered to be appropriate to use where capacity or conflicts of interest were an issue. Whilst this Council (TDC) had approved and adopted this flexibility, using the pool had not yet been required due to TDC having four Independent Persons. Therefore, it was still considered prudent for TDC to continue appointing its own Independent Persons whilst retaining the flexibility of a wider pool to call upon if necessary.

It was noted that the Independent Persons and the Independent Remuneration Panel could continue as joint appointments or be separated.

It was suggested that this Council could also look to alternative arrangements such as joint Independent Remuneration Panels with other Councils, either on a flexible or a formal basis. Early research had indicated that a small number of Councils might be interested in a joint approach, but no commitments could be made at this time, therefore, any recruitment undertaken by TDC, would have to reflect some flexibility within its recommendations to Full Council.

Since the previous recruitment undertaken in 2018, the Committee on Standards in Public Life (CSPL) had published its report in January 2019, on the role of the Independent Persons and their recommendations had been responded to by the Government in March 2022. Therefore, it was timely for TDC to review its own approach and give consideration to different options.

The CSPL reported the outcome of their national review in a report published in January 2019, which had included a number of recommendations relating to Local Government Ethical Standards. The report had also included a number of Best Practice recommendations. Those which had related to the role and responsibilities of the Independent Person were:

*Recommendation 8: The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.*

Whilst, it had not translated into a formal recommendation or within the list of best practice, the CSPL report had also stated on page 56 that: *"The terms of multiple Independent Persons should ideally overlap, to ensure a level of continuity and institutional memory"*.

In a letter dated 18th March 2022, from Kemi Badenoch MP (then Minister of State for Equalities and Levelling Up Communities) to Lord Evans, Chair of the Committee on Standards in Public Life, in response to this recommendation it was stated:-

*"The government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The government's view is that it would be more appropriately implemented as a best practice recommendation for local authorities.*

*In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution "fresh" and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council.*

*When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment."*

CSPL Best Practice 7: *Local authorities should have access to at least two independent Persons.*

CSPL Best Practice 8: *An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious or trivial.*

#### Statutory and Constitutional Requirements

Members were reminded that Section 28(6) and (7) of the Localism Act 2011 required the Council to appoint at least one Independent Person to work with the Monitoring Officer within the Standards Framework.

Section 20 of The Local Authorities (Members' Allowances) England Regulations 2003 required that an Independent Remuneration Panel be established in respect of each local authority and that the Panel would consist of at least three people.

The Committee was advised that within TDC's Constitution, the advertisement of vacancies of Independent Person(s) and the Independent Remuneration Panel, the review of applications received, the interview of suitable candidates and the making of recommendations to Council as to who should be appointed, were delegated to the Chief Executive or the Monitoring Officer. However, as both of those independent roles did have strong engagement with Councillors it was considered appropriate that a representative from this Committee was involved in the recruitment process. It was recommended by Officers that the existing Independent Persons' term of office be extended for a year in order to allow the joint working opportunities for the Independent Remuneration Panel to be explored further.

The Committee then duly considered and discussed this matter. That discussion included the following:-

- (i) Keeping the role of Independent Persons and the Independent Remuneration Panel separate as different skills were needed for each role;
- (ii) The idea of a pool of Independent Persons;
- (iii) What would happen to the roles in the event of Local Government Reorganisation?;
- (iv) The advantages of joint working with other Local Councils.

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

**RESOLVED** that the Standards Committee:-

- (a) notes the contents of the Deputy Chief Executive's report;
- (b) recommends to Full Council that alternative arrangements for the Independent Remuneration Panel are explored further in order to maximise options available with other Councils within Essex and to give consideration to the outcome prior to any future recruitment; and

- (c) recommends further to Full Council that the term of office for those Independent Persons, who express an interest in doing so, be extended for a further year without an application process, in order to allow the review within resolution (b) above to be undertaken.

**7. REPORT OF THE HEAD OF DEMOCRATIC SERVICES & ELECTIONS - A.3 - TOWN & PARISH COUNCILS' STANDARDS SUB-COMMITTEE: APPOINTMENT OF TENDRING DISTRICT COUNCIL MEMBERS**

The Committee was reminded that Article 9 (Standards Committee and Town & Parish Councils' Standards Sub-Committee) of the Council's Constitution stated that the Council would have, in place, a Town & Parish Councils' Standards Sub-Committee with the following terms of reference:-

*"To advise and assist Town and Parish Councils and Councillors to maintain high standards of conduct and to make recommendations to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with its Code of Conduct." [Article 9.05]*

It was reported that Article 9.05 also required the Sub-Committee to consist of three members of the Standards Committee and three non-voting co-opted Town & Parish Council members nominated by the Tendring District Association of Local Councils (TDALC). In addition, the nominated Town & Parish Council members would be of an independent standing and they would not have served as a District Councillor or as a County Councillor for a period of four years prior to their nomination.

Members recalled that the Standards Committee, at its meeting held on 9 July 2019 (Minute 9 referred), had appointed Councillors Nicola Overton, Graham Steady and Ann Wiggins to serve on the Town and Parish Councils' Standards Sub-Committee.

However, since that time, Nicola Overton had ceased to be a member of Tendring District Council and Ann Wiggins had not been re-appointed as a member of the Standards Committee at the Annual Meeting of the Council held on 26 April 2022.

Members were informed that the Committee Services Manager (Ian Ford) had contacted TDALC with a view to them confirming their nominations for the Sub-Committee. Dr Benjamin Newman Wright, Lawford Parish Councillor and the Secretary of TDALC, had responded by email on 16 June 2022 as follows:-

*"Two Representatives were unanimously approved by TDALC Representatives at our Annual General Meeting on Wednesday 25th May 2022, namely:*

*Councillor Linda Belgrove (Chair, TDALC) (Representative: Alresford Parish Council); and*

*Councillor Frank Belgrove (Vice Chair, TDALC) (Representative: Alresford Parish Council.*

*The only Representative on your [previous] list serving with the Tendring District Association of Local Councils is Councillor Robert Taylor. He was unable to participate*

*in our AGM. I understand that we will consider formally adding a Third Representative at our next TDALC Meeting.”*

In the light of the above, the Committee was requested to now appoint Tendring District Council's members to serve on the Town and Parish Councils' Standards Sub-Committee for the 2022/2023 Municipal Year.

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

**RESOLVED** that the Standards Committee:-

- (a) appoints Councillors Casey, Placey and Steady to serve on the Town and Parish Councils' Standards Sub-Committee for the 2022/2023 Municipal Year;
- (b) notes, welcomes and endorses that the Tendring District Association of Local Councils (TDALC) has appointed Parish Councillors Frank Belgrove and Linda Belgrove as two of their three non-voting, co-opted members of that Sub-Committee; and
- (c) further notes that TDALC will notify the Council of its third non-voting, co-opted member of that Sub-Committee in due course.

## 8. **QUARTERLY COMPLAINTS UPDATE AND OTHER GENERAL MATTERS**

The Committee had before it the Monitoring Officer's quarterly schedule, which updated it on existing and new conduct complaint cases, along with other matters.

<b>TENDRING DISTRICT COUNCIL MONITORING OFFICER UPDATE JULY 2022</b>				
<b>Council</b>	<b>Complainant</b>	<b>Current status</b>	<b>Final outcome</b>	<b>Comments</b>
<b>Existing Cases from last update:</b>				
TOWN	PUBLIC 2 x TOWN COUNCILLORS	ONGOING	Informal resolution	Matter related to claims of bullying. Informal resolution and governance review with an external company conducted. All Members within Town Council engaged to positive working arrangements going forward. One action outstanding to conclude the matter.
PARISH	PUBLIC	CLOSED	Informal resolution	Complaint related to conduct in a public

			was recommended by the Monitoring Officer; however the complainant withdrew their complaint	meeting. As it was a second complaint of this nature, the complaint was reviewed by Independent Person.
TOWN	PUBLIC	CLOSED	No further action	Matter related to various areas which needed to be identified more clearly. The substance of the complaint did not relate to the Councillor's actions. Independent Person consulted.
<b>New Cases since last update:</b>				
<b>Council</b>	<b>Complainant</b>	<b>Current status</b>	<b>Final outcome</b>	<b>Comments</b>
DISTRICT	PUBLIC	PENDING	PENDING	Further information has been sought from the Complainant. Matters raised may not relate to acting in official capacity and within the remit of the Code.
DISTRICT	PUBLIC	CLOSED	No further action	Matter related to conduct within the Council's Committee Room. Reflective assurances provided to MO. Independent Person was consulted.
<b><u>General Notes – 2022/23 Summary:</u></b>				
2 new cases had been received in 2022/23.				
1 Town Council matter was still on-going from March 2021 but only one action was outstanding and was anticipated to be concluded shortly.				
<b>Requests for dispensations:</b>				
2 sought which related to a personal interest on the same subject matter impacting a				



large area outside of the personal interest and the wider interests of the community and residents who were also impacted upon. The matter was a non-statutory consultation and the role of a District Councillor was to voice the views of persons living in the area.

The Committee noted the foregoing.

The meeting was declared closed at 10.49 am

**Chairman**

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**MINUTES OF THE MEETING OF THE AUDIT COMMITTEE,  
HELD ON THURSDAY, 29TH SEPTEMBER, 2022 AT 10.38 AM  
IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Coley (Chairman), Alexander (Vice-Chairman) and Miles
<b>In Attendance:</b>	Damian Williams (Corporate Director (Operations and Delivery)), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Anastasia Simpson (Assistant Director (Partnerships))(except items 13 and 14), Mark Westall (Head of Customer and Commercial Services)(except items 12 - 14), Craig Clawson (Internal Audit Manager), Ian Ford (Committee Services Manager), Karen Townshend (Executive Projects Manager (Governance)), Clare Lewis (Assurance and Resilience Manager), Debiann Messenger (Work Based Learning Manager)(except items 13 and 14) and Keith Durran (Committee Services Officer)
<b>Also in Attendance:</b>	Aphrodite Lefevre of BDO LLP (the Council's External Auditor) attended the meeting remotely through the use of the Microsoft Teams platform

**7. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Councillors Fairley and Steady. There were no substitutions.

**8. MINUTES OF THE LAST MEETING**

The Minutes of the last meeting of the Committee held on Thursday 30 June 2022 were approved as a correct record and were signed by the Chairman.

**9. DECLARATIONS OF INTEREST**

There were no declarations of interest made on this occasion.

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

No Questions on Notice pursuant to the provisions of Council Procedure Rule 38 had been submitted on this occasion.

**11. REPORT OF THE INTERNAL AUDIT MANAGER - A.1 - PERIODIC UPDATE REPORT ON INTERNAL AUDIT: JUNE 2022 - AUGUST 2022**

The Committee had before it a report submitted by the Council's Internal Audit Manager (A.1) which provided a periodic update on the Internal Audit function for the period June 2022 to August 2022 together with an update on the Internal Audit Charter for approval by the Committee, as required by the professional standards. That report was split into two sections as follows:-

**1) INTERNAL AUDIT PLAN PROGRESS 2022/23**

It was reported that the Housing Strategy audit was the only audit that remained outstanding from the 2021/22 Internal Audit Plan. That audit had originally been delayed due to the sad passing of the Executive Officer for Housing Projects. The service had not been able to recruit to the post since then and were still currently recruiting to that position. Therefore, the audit had been moved into the 2022/23 Internal Audit Plan with a view to completing the audit later in the year.

Members were made aware that a total number of five audits had been completed during June 2022 to August 2022. One report in this period had received an overall opinion of 'Improvement Required' (Depot Operations) with the other four receiving satisfactory assurance opinions with no significant issues being identified.

A further 14 audits from the 2022/23 Internal Audit Plan had been allocated, eight of which were currently at the fieldwork phase.

The Committee was informed that the Internal Audit team were currently in the 'Key Systems' phase of the plan where all financial and core service systems and processes were reviewed. Though, it was unanticipated that there would be any significant issues as historically they had been well managed, it was very important to ensure that those systems and processes continued to work as expected and remained well controlled.

The Chairman asked the following questions relating to the matters above:-

- (1) Will the proposed Recycling and Waste audit look at the waste generated by the Council itself and by its external service providers?
- (2) What will the proposed Freeport East audit be examining?

The Internal Audit Manager (Craig Clawson) responded along the following lines:-

- (1) Yes.
- (2) This audit would at the governance arrangements.

#### Quality Assurance

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

#### Resourcing

The Committee was informed that Internal Audit was currently working with an establishment of 3fte with access to a third party provider of internal audit services for specialist audit days as and when required. The Council had advertised twice for the vacant Audit Technician post, but unfortunately had not been able to appoint to that post.

The Internal Audit Manager was a member of the Essex Audit Group, which was made up of all Heads of Internal Audit across all district and borough councils in Essex including Essex County Council and Southend and Thurrock unitary authorities. All members of this group were finding it difficult to recruit. As a result of this the Internal Audit Manager, with other members of the group, were devising a plan to allow apprentices to work within different Councils across Essex for short periods of time in

order to gain experience that they would not receive working for one organisation. This was to try to provide a better quality of training and experience across the board whilst the apprentice studied.

The Chairman and members of the Committee asked the following questions relating to the matters above:-

- (1) Where and how was the Audit Technician post advertised?
- (2) Would it have been worthwhile to go to the expense of using a specialist recruitment company given the ongoing cost to this Council of using a third party provider of internal audit services plus the cost of moulding an Apprentice into a qualified Audit Technician?
- (3) Is the current establishment sufficient to enable Internal Audit to operate effectively?

The Internal Audit Manager (Craig Clawson) responded to those questions along the following lines:-

- (1) TDC website and online.
- (2) No guarantee of a successful appointment plus an Apprentice can be trained in the Council's "housestyle".
- (3) Yes.

#### Outcomes of Internal Audit Work

The Standards required the Internal Audit Manager to report to the Audit Committee on significant risk exposures and control issues. Since the last report five audits had been completed and the final report issued. The Public Sector Internal Audit Standards required the reporting of significant risk exposures and control issues.

Assurance	Colour	Number this Period	Total for 2022/23 Plan	
Substantial		1	1	
Adequate		3	3	
Improvement Required		1	1	
Significant Improvement Required		0	0	
No Opinion Required		0	1	One consultative engagement in 2022/23 to date

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

Issues arising from audits completed in the period under review receiving an 'Improvement Required' opinion and which required reporting to Committee were:-

#### Depot Operations

Although there was only one significant issue reported within this audit, there were a number of operational issues identified which required management attention across all risk areas identified within the audit. This had a weighted influence on the overall assurance opinion of the report. Those issues would be followed up by Internal Audit with the service in the normal way.

It was noted that many of the findings identified within the audit were longstanding issues that would take time to resolve. The changes currently occurring and planned future changes had an impact on the culture, structure and day-to-day operations of the depot. The service had been working with Internal Audit and would continue to do so going forward. Significant issues identified were:

*1. Lack of Stores Stock Takes*

In order to manage and control stock and check the integrity of the stock system against system error or potential theft, stock takes were necessary to ensure what was recorded on the system matched with the physical stock. An ad-hoc stock take of a few random lines had been undertaken during the audit, which had identified a few discrepancies. Internal Audit had been advised that there were no regular stock takes - either by checking a number of lines or a complete one. A lack of resource had been provided as the main reason due to the manual methodology of other tasks taking time.

Risk:

*"Without regular stock takes, it is problematic to know stock records are correct which would identify any errors in the system or if stock is being removed without authorisation."*

Agreed Action:

*"To actively manage stock, regular stock takes are to be introduced, at a minimum frequency of a month."*

*"Current software to be used to monitor stock, but stocktakes will be continued using any replacement software, following current review of options."*

The Chairman and members of the Committee asked the following questions relating to the matters above:-

- (1) Is there sufficient staff resource now in place to enable regular stock takes to be undertaken?
- (2) What is the current position with regard to the introduction of the new software system?
- (3) Have the staff at the Depot engaged in the implementation of the new systems and procedures?

The Corporate Director (Operations & Delivery) (Damian Williams) responded to those questions along the following lines:-

- (1) This was being rectified through a staff restructure.
- (2) A decision was expected in October 2022 as to which IT system the Council would proceed with. It was hoped to 'go live' with the new system in January 2023.

(3) Yes, they have.

#### Management Response to Internal Audit Findings

The Committee was reminded that there were processes in place to track the action taken regarding findings raised in Internal Audit reports and to seek assurance that appropriate corrective action had been taken. Where appropriate, follow up audits had been arranged to revisit significant issues identified after an appropriate time.

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

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

#### Update on previous significant issues reported

The Corporate Director (Operations and Delivery) provided an update on the progress of agreed actions relating to the Housing Repairs and Maintenance audit, as had been reported at the previous meeting of the Committee.

The Chairman and members of the Committee asked the following questions relating to the matters above:-

- (1) How has the implementation of the agreed actions progressed?
- (2) Has the recent office accommodation review negatively impacted on the amount of storage of equipment etc.?

The Corporate Director (Operations & Delivery) (Damian Williams) responded to those questions along the following lines:-

- (1) Relevant staff have been re-trained. Further progress will be dependent on the new software package.
- (2) No, it has not.

The Head of Customer and Commercial Services also attended the meeting to provide an update on agreed actions previously reported to the Committee arising from an audit of Careline, including updates on staff recruitment and the likely positive outcome of a recent TSA audit.

The Chairman asked the following question relating to the matters above:-

What is the current position relating to recovering debt from Careline customers and is it being closely monitored and pursued?

The Head of Customer and Commercial Services (Mark Westall) responded along the following lines:-

There was £15,000 still outstanding from an external national organisation but fully confident that this would be paid in due course. A change in the allocation of staff duties was being made to ensure that Careline accounts were continually monitored.

## **2) INTERNAL AUDIT CHARTER**

The Committee was aware that a requirement of the Public Sector Internal Audit Standards was for the Committee to review and approve the Internal Audit Charter on an annual basis. The Council's Charter had last been updated and approved in September 2021. As there had been no changes to standards or processes since the last review, it was felt that no amendments were required.

After detailed discussion it was **RESOLVED** that –

- (a) the contents of the report be noted;
- (b) the Internal Audit Charter, as set out at Appendix B to the Internal Audit Manager's report, be approved; and
- (c) the Corporate Director (Operations & Delivery) and the Head of Customer & Commercial Services be required to attend a meeting of the Committee in approximately six months' time in order, respectively, to give further updates relating to the Housing Repairs and Maintenance/Depot Operations audits and the Careline audit.

## **12. REPORT OF THE ASSISTANT DIRECTOR (PARTNERSHIPS) - A.2 - PROGRESS UPDATE FOLLOWING OFSTED INSPECTION OF CAREER TRACK**

Further to Minute 6 (30.6.22), the Assistant Director (Partnerships) provided the Audit Committee with a written progress update on the Council's improvement actions following the Ofsted inspection of Career Track in November 2021, which had resulted in a grading of 'Requiring Improvement'. Following that grading, the Council had implemented a comprehensive Development Plan to address the improvement areas identified by Ofsted.

Members were reminded that an internal Development Group had been established to monitor the progress against the actions identified within the Development Plan. The Development Group was chaired by Councillor Carlo Guglielmi in his role as Portfolio Holder with responsibility for Career Track. Membership of the group also included the Chief Executive, the Assistant Director (Partnerships), the Internal Audit Manager and the Executive Projects Manager (Governance). The Work Based Learning Manager and Organisational Development Manager reported to this group. The Internal Audit Manager and Executive Projects Manager were part of the Development Group as representatives of, respectively, the Section 151 Officer and the Monitoring Officer in their overarching governance roles due to the findings of the Ofsted Report.

It was reported that, to date, the Development Group had met five times and following significant progress it had been able to sign off the Development Plan at its last meeting in June 2022. With the recovery phase / improvement changes now complete, Career Track were returning to Business as Usual and the Development Group had recommended that the membership be revised to align with a governance required by Ofsted for the ongoing provision of all apprenticeships.



The Development Plan (which was attached to the Assistant Director's report) had taken each of the five inspection categories and stated what was being planned to address each area. The document identified the key milestones and progress by using a RAG (Red, Amber, Green) system.

It was reported that initial activity had focussed on setting the foundations and getting them in place. This had involved 'freeing up' the Training Assessment Team Leader to dedicate their time to policy and curriculum development with the introduction of the OneFile system. To enable this to happen, a temporary Training Assessment Officer role had been created (30 hours per week) until the end of July 2022, and then subsequently extended to the end of December 2022 (24 hours per week). That Officer had taken over the apprenticeship caseload from the Training Assessment Team leader. In addition, the services of a specialist company, SDN (Strategic Development Network), had been utilised for their professional help and advice for policy and curriculum development.

That support had enabled Career Track to develop a new curriculum, which fully met the requirements and expectations of Ofsted. The curriculum covered the knowledge, skills and behaviours required by the standards, including personal development, which covered safeguarding, British values, career development and health and wellbeing. Employers were involved in creating the right curriculum for their apprentice(s).

Members were made aware that Career Track would follow the AELP (Association of Employment and Learning Providers) Governance Code, which was based on the following expectations of good governance:

- *Putting the learner, apprentice, and employer first;*
- *promoting high expectations and ambitions for learners, apprentices, and staff;*
- *listening to learners, employers, and staff;*
- *promoting inspirational training, teaching, and learning and assessment;*
- *creating a safe environment for learners and apprentices to train, learn and develop;*
- *providing strong strategic leadership and challenge to the senior team;*
- *demonstrating accountability to all stakeholders, including publishing accurate and timely information on performance;*
- *ensuring the achievement of equality of opportunity, diversity, and inclusion throughout the organisation.*

The Committee was advised that, under the Ofsted Education Inspection Framework, it was a requirement that an apprenticeship training provider followed the further education and skills handbook criteria for governance, as identified in the AELP Governance Code.

Therefore, the aim of the new Tendring District Council (TDC)(Career Track) Apprenticeship Governance Board was to achieve effective governance, that:

- *sets the tone from the top and ensures that delivery matches up with an organisation's values and ethos;*
- *provides strategic direction and control to Career Track by creating robust accountability, oversight and assurance for educational outcomes and financial performance; and*

- *requires confidence and ability to challenge conventional wisdom, ask tough questions and nurture strong relationships.*

Members were informed that Cabinet would continue to hold overall responsibility for the function of Career Track with the relevant Portfolio Holder chairing the Apprenticeship Board thereby creating robust accountability, oversight and assurance for educational outcomes and financial performance.

As previously reported, the service had formally launched OneFile, a training software package for the administration and management of apprenticeships. OneFile was used by at least 50% of all apprenticeship providers as it supported the learners more effectively and enabled the provider to better monitor and ensure effective delivery of the curriculum. Career Track was now able to fully personalise learning, improve quality and increase engagement with their apprentices and employers, using the OneFile eportfolio software.

It was reiterated that the agreement for TDC (under the name of Career Track) to provide apprenticeship training rests with the ESFA. That organisation had an allocated account manager for TDC and the Work Based Learning Manager had had regular monthly meetings with them to discuss actions and progress towards meeting the improvements required by Ofsted. The ESFA account manager had approved the development plan and the meetings had moved from monthly to quarterly as a result of the progress that had been made.

The Development Plan was almost complete, with a small number of activities left to complete and identified by the RAG rating.

As a consequence, a Career Track self-assessment report and its accompanying quality improvement plan had been drafted and would soon replace the development plan as the monitoring tool for quality, progress, development and achievement. This was an expectation of Ofsted and when complete it would be shared with them and the ESFA.

The Chairman asked if the removal of the temporary Training Assessment Officer post at the end of December 2022 would cause a problem to which the Work Based Learning Manager (Debianne Messenger) replied that this would be covered by the return of the Training Assessment Team Leader to their normal duties.

A member of the Committee asked whether the membership of the Apprenticeship Governance Board had been reviewed in order to ensure a good mix of personal qualities, expertise et cetera. The Assistant Director (Partnerships) (Anastasia Simpson) confirmed that this had been done.

After detailed discussion it was **RESOLVED** that –

- (d) the contents of the report be noted; and
- (e) the Committee continues to approve the Development Plan and endorse the actions being taken.

**13. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.3 - CORPORATE RISK UPDATE**

The Committee considered the updated Corporate Risk Register, which had last been submitted to it in March 2022.

Although no changes had been identified as being required at this time, following a recent review, the Corporate Risk Management Framework had been included at Appendix A to the Deputy Chief Executive's report for Members' information.

A full review of the corporate risks within this document had been conducted by the Assurance and Resilience Manager with a view to ensuring that the Council was considering the correct items.

It was reported that a review of the Council's Business Impact Assessments was currently being undertaken by the Assurance and Resilience Manager in order to ensure that the Council identified the operational and financial impacts resulting from any potential disruption of business functions and processes. It would also consider how the Council could recover and continue to provide a service to residents in such circumstances.

Members were aware that the Council was dealing with some ongoing issues relating to Corporate IT that still needed to be resolved but those were moving forward at a reasonable pace, to ensure that the Council was not put at risk of cyber attack and was geared towards identifying the weaknesses throughout the authority which could make the Council vulnerable. This included stopping staff accessing TDC emails on their personal devices.

The Committee was reminded that the Council was experiencing difficulty in recruiting in some areas of the Council. The risk score had been increased to reflect this. It was hoped that this would be resolved in the next 6 months.

Given the various issues that continued to emerge from major changes / events within the national and global 'landscape', it was timely to undertake a wider review of the Corporate Risk Register heading into 2023/24. This would be undertaken by senior Officers, in consultation with Members, during the coming months. The changes to the Corporate Risk Register set out in this report therefore reflected a limited number of changes.

The table set out below detailed all amendments to the Risk Register since it had last been considered by the Committee in March 2022:-

<b>Risk Register Item</b>	<b>Amendments / Comments</b>
New Risks Identified	None
Risks Removed	None
Risk Scores Amended	<b>Item 4a – Loss of Key Staff</b> – residual and inherent risk changed from 12 to 16. Due to the difficulties in council

	<p>recruiting.</p> <p><b>Item 4b – Lack of Capacity to deliver core services</b> - residual and inherent risk changed from 12 to 16. Due to the difficulties in council recruiting.</p>
Risk number changed	None
Risks Amended	<p><b>Item 1b - Catastrophic IT network failure</b> – change in main wording relating to infrastructure response and controls.</p> <p><b>Item 1c - Ineffective communication / management of information</b> – update on main wording relating to cybersecurity.</p> <p><b>Item 1d - Ineffective Cyber Security Physical and Application (software) Based Protection Management</b> – updates to main wording relating to cyber security initiatives.</p> <p><b>Item 2b – Community Leadership Projects</b> – changes to main wording relating to working within the health structure.</p> <p><b>Item 2e – Essex Family/Family Solutions</b> - main wording changed to reflect that additional funding has been obtained for additional family solutions post in Harwich.</p> <p><b>Item 2f – Garden Communities</b> – current action updated relating to the development plan and providing a more detailed framework.</p> <p><b>Item 3a – Member Conduct</b> – main text updated relating to the training provided for members and the code of conduct requirements.</p> <p><b>Item 3b – Failure to comply with legislative requirements</b> – update to current actions. Addition of court claims for damages to service delivery.</p> <p><b>Item 3c – Health and Safety</b> – main wording changed to reflect risk assessment review being completed and review of lone worker devices.</p> <p><b>Item 3d – Fraud and Corruption</b> – current action amended to relating to fraud awareness training.</p> <p><b>Item 4a – Loss of Key Staff</b> – current action updated to explain the difficulties in recruiting.</p>

	<p><b>Item 4b – Lack of capacity to deliver core services</b> - current action updated to explain the difficulties in recruiting.</p> <p><b>Item 6a – Loss of sensitive and/or personal data</b> – update to main wording relating data breaches reporting arrangements.</p> <p><b>Item 6b - Disconnection from PSN Network</b> - change in wording to reflect the improvements being undertaken in cybersecurity.</p> <p><b>Item 7a – Local Plan</b> – main text updated relating to review of plan.</p> <p><b>Item 9a - Ineffective Emergency Planning</b> – change to main text to reflect the increase in emergency planning incidents.</p> <p><b>Item 9b – Ineffective Business Continuity Planning</b> – update to main text relating to changes in the responsibilities of business continuity and the actions taken.</p>
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The Committee was advised that the Fraud and Risk Team continued to oversee the Council's Risk Management supported by the Council's Internal Audit Team. The table below set out the work currently being undertaken:-

Agreed Action	Current Position
Management Team to promote the importance of operational risk management within the organisation and ensure that Senior Managers implement a process for identifying and mitigating risks in coordination with the Assurance and Resilience Manager (formally Corporate Fraud and Risk Manager)	<i>"The Assurance and Resilience manager (formerly the Fraud and Risk Manager) continues to work with Management Team to effectively promote the importance of operational risk management within the Council and continues to attend management team meetings (via Teams) on a quarterly basis and provides monthly updates for any urgent matters identified."</i>
One to one meeting will continue to take place between Senior Managers and the Assurance and Resilience manager (formally Corporate Fraud and Risk Manager) to identify and record key operational risks within their service areas. Support to be provided by Internal Audit if required	<i>"This task is now completed, and the review of the corporate risk register is now complete. Due to changes in responsibilities a review is now being undertaken with all services relating to their business continuity plans."</i>

**Follow Up Item**

Arrange Risk Management training for all departments across the Council.	<i>"No suitable Risk Management training has been identified at this time, but this will be given priority and implemented by March 2023."</i>
Review carried out relating to the effectiveness of the current control measures in place to identify inherent risk.	<i>Review complete.</i>

The Chairman asked for an update on the risks relating to Cyber Attacks. The Assurance and Resilience Manager (Clare Lewis) replied that restrictions had been placed on the use by staff of their personal devices to access Council emails and documents et cetera. The Assistant Director (Finance & IT) also replied that the National Cyber Assessment Framework was being looked at and also that that a Member Task and Finish Working Group was also scrutinising the issue of cyber security.

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

**14. REPORT OF THE ASSISTANT DIRECTOR (FINANCE & IT) - A.4 - TABLE OF OUTSTANDING ISSUES**

The Committee had before it a report on the progress of outstanding actions identified by the Committee along with general updates on other issues that fell within the responsibilities of the Committee (report A.4).

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

Members also heard that updates were set out against general items and the Annual Governance statement within Appendices A and B respectively and that to date there were no significant issues arising from the above, with work remaining in progress or updates provided elsewhere on the agenda where appropriate.

**Other issues****Statement of Accounts 2020/21**

It was reported that the Statement of Accounts 2020/21 remained subject to the conclusion of the work of the External Auditor. At the time of this meeting, the associated report of the External Auditor was yet to be received as they continued their necessary audit work.

Aphrodite Lefevre, representing the Council's External Auditor, BDO LLP, attended the meeting via Microsoft Teams.

The Chairman reminded Members that the responsibilities of the Audit Committee included:-

- approving the Council's Statement of Accounts;
- providing Independent Assurance of the Adequacy of the Risk Management Framework; and
- considering the work and recommendations arising from both internal and external audit reports.

The Chairman also stated that the External Auditor was now a year behind in providing its view and opinion on the Council's 2020/2021 Statement of Accounts and its Financial Strategy. He felt that the Audit Committee now needed clear advice on how it could discharge its responsibilities in those circumstances, given the lack of clear, documented reports from the External Auditor, which had been sorely missed.

Ms Lefevre responded by stating that she sincerely regretted the position that this Council was in, but that the delay had been substantially caused by issues outside of her control and ability to influence. A substantial amount of work on the Statement of Accounts had been completed which was now undergoing the required 'quality control' process. No substantial issues or weaknesses had been discovered to date. Unfortunately, the Auditor working on the Accounts had left BDO and there had been a delay in finding a replacement. There was now a new Auditor in place but they were inexperienced and therefore required a lot of 'hands on' guidance at this time. Ms Lefevre continued to hold regular meetings with the Council's Management Team and expected to be able to submit a final report to the next meeting of the Committee. Ms Lefevre also undertook to give an assurance in writing that there were no substantial issues with the Council's Accounts for 2020/2021.

The Assistant Director (Finance & IT) (Richard Barrett) informed Members that an update on the Council's financial position would be submitted to the next meeting of the Cabinet on 7 October 2022.

#### RIPA – Regulatory Investigatory Powers Act 2000

The Committee was informed that this Authority had not conducted any RIPA activity in the last quarter and it was rare that it would be required to do so.

#### Redmond Review

Members were informed that as further progress was announced by the Government, updates would be provided to future meetings of the Committee, which would hopefully set out the necessary practical steps to implement the recommendations made as part of the Review.

#### Planning Enforcement Policy

The Committee was advised that the draft Planning Enforcement Policy had been presented to the Planning Committee at its meeting held on 1 September 2022 and had been subsequently adopted, subject to some minor amendments. The Planning Committee had also resolved that performance against the Planning Enforcement Policy be reported to it on a regular basis. The Executive Projects Manager (Governance) (Karen Townshend) reported an update provided by the Planning Manager (John Pateman-Gee).

The Chairman stated that:-

- a) he had concerns as to whether the staffing resources would be adequate to implement the Planning Enforcement Policy;
- b) he felt that an audit should be carried out of the planning enforcement service; and
- c) he had concerns as to whether the Policy had, in fact, been formally adopted given the amendments made and the decision made by the Planning Committee on 1 September 2022.

The Assistant Director (Finance & IT) (Richard Barrett) responded that he would take those matters up at Management Team level and with the Planning Portfolio Holder (Councillor Bray).

After discussion, the Committee **RESOLVED** that it noted the progress made against the actions set out in Appendices A and B of item A.4 of the Report of the Assistant Director (Finance & IT).

The meeting was declared closed at 11.52 am

**Chairman**



# Public Document Pack

Planning Policy and Local Plan Committee

10 October 2022

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**MINUTES OF THE MEETING OF THE PLANNING POLICY AND LOCAL PLAN COMMITTEE,  
HELD ON MONDAY, 10TH OCTOBER, 2022 AT 6.01 PM  
IN THE COMMITTEE ROOM , TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Turner (Chairman), Allen, Bush, Chapman BEM, Chittock, Davidson, Harris and Winfield
<b>Also Present:</b>	Councillors Coley (except item 23) and White (Chairman of the Planning Committee)
<b>In Attendance:</b>	Gary Guiver (Acting Director (Planning)), Ian Ford (Committee Services Manager) and Mark Wilson (Development Technician - Technical)

**17. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Councillor Fowler (with Councillor Davidson substituting) and Councillor Fairley (with Councillor Harris substituting).

**18. MINUTES OF THE LAST MEETING**

It was **RESOLVED** that the Minutes of the last meeting of the Committee held on 31 May 2022 be approved as a correct record and signed by the Chairman.

**19. DECLARATIONS OF INTEREST**

In relation to Agenda Item 7 – Report of Acting Director (Planning) – A.2 – Conservation Area Character Appraisal and Management Plans, Councillor Bush declared for the public record that he was both the Ward Councillor for The Oakleys and Wix Ward and a member of Great Oakley Parish Council.

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

Councillor Coley had submitted the following question on notice pursuant to Council Procedure Rule 38 in relation to directional signs and advertising boards for planning developments:-

*“Would it result in a greater level of general compliance if Planning Officers drew all developers’ attention to their legal requirements regarding the placing of advertising signs etc., and make compliance with all aspects of these regulations standard Planning Conditions?”*

*The Secretary of State can suspend or remove permanently, Deemed Consent, in a particular area, on a request from a Local Authority. Should TDC not consider such an application in respect of sensitive conservation areas at least?”*

Context supplied by Councillor Coley to his Question

“At the end of July this year, Mistley Parish Council asked my opinion concerning yellow Directional Advertising Signs, which had been placed by a large Housing Developer, on

a Parish Council owned green space, affixed to a light standard, a few feet from a War Memorial, in a Conservation Area, directly opposite a Grade One Listed Monument.

I advised the Parish Council to carefully remove the signs and return them to the owning developers. The Parish Council notified the developer of their actions and asked where the signs should be delivered. This resulted in the developer aggressively threatening the Parish Council with legal action and claims for compensation. To say that I was enraged is an understatement in the extreme. I have taken the developer to task over this.

I was since advised by our Planning Department, that the yellow directional arrow signs that were placed around the area would potentially have had 'deemed consent', under Section 11 of the Advert Consent Legislation set out by the government. Except that the developers missed key points, which means the Parish or District Councils would be able to remove them, quite legally.

It seems that although developers have legal obligations regarding these signs they never comply with the requirements and our Council never bothers to ensure compliance. See below:

Class 11: directional advertisements:

Permits housebuilding firms to put up temporary directional signs, telling potential house buyers and other visitors how to reach a site where new residential development is taking place. The rules for Class 11 are:

- Signs must not exceed 0.15 of a square metre in area
- No sign may exceed 4.6 metres above ground level, or 3.6 metres in an Area of Special Control of advertisements
- Any lettering or other information on the sign must not be less than 40 millimetres or more than 250 millimetres high
- Retroflective material and illumination must not be used
- The sign must not look like an official traffic sign
- The sign must be near to, but not on, highway land and not within 50 metres of an official traffic sign facing in the same direction
- No sign may be more than two miles from the main entrance to the housebuilding site
- 14 days before any sign is put up, the local planning authority must be told where it is to be displayed and from what date
- No sign may continue to be displayed after development of the housebuilding site is completed; or for more than two years.

I have noted that many of these directional advertising signs have been in place for over 4 years. I have found that some are more than 5 miles from the relevant development site.

Another common and casual breach by developers is the erection of huge advertising boards and flagpoles. These require planning consent, but it seems rarely are these applied for and as a Council, we take no action unless a Member actually complains. Then a cosy chat with the developer results in a belated, begrudged and retrospective planning application being submitted.

I have two of these live applications in my Ward currently. One for 18 flagpoles and two huge illuminated advertising boards on a site building 485 homes. The other for 10 flagpoles and two huge advertising boards on a site building 235 homes.

The Town and Country Planning (Control of Advertisements) Regulations 2007, Class 7(B) permits the display of advertising flags at housebuilding sites and where new houses remain available for sale.

The 7(B) Rules state that:

- Each flag must be on a single vertical flagstaff
- A site where 10 houses or less are built, may have one flag.
- A site where 11 to 100 houses are to be built, may have two flags
- A site where over 100 houses are to be built, may have three flags.
- The flagstaffs may not exceed 4.6 metres in height.
- The flags must not exceed 2 square metres in area.
- The flags and flagstaffs must be removed at the end of one year after the last dwelling has been completed.

So why are these applications not routinely refused by Planning Officers?

Members, you may think that this is a minor issue and hardly worth your consideration. However, I liken this to the 'Broken Window Syndrome'.

"The broken windows theory is a criminological theory that states that visible signs of crime, anti-social behaviour, and civil disorder create an urban environment that encourages further crime and disorder, including more serious crimes."

The analogy is that unless you concern yourselves with the minor transgressions, then the offender considers you to be a soft touch, lacking the will or determination to ensure compliance with more serious transgressions. This leads to a casual and persistent failure to comply with legal obligations.

In our Ward, we have battled with developers consistently breaching numerous and various planning rules and obligations over the last four years. Seemingly, because they know they can.

Our Ward is undergoing a huge amount of housing development and will do over the next eight to ten years. There are several developers involved in these works. Signs, hoardings, flags and direction boards are invading every open space.

In almost all cases these signs and flags have been erected without compliance with any of the legal requirements. If the impression given by this Council is that we don't care, then why should any of the developers care, about any compliance?"

The Chairman of the Planning Policy & Local Plan Committee (Councillor Turner) replied as follows:-

*"The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and Circular 03/07: Town and Country Planning (Control of Advertisements) (England) Regulations 2007 detail the advert regulations. On this basis deemed consent is available across the District for adverts and this includes those available to*

developers who may wish to advertise the routes to get to their site and on-site advertising of their development.

*In respect of question 1. Failure to comply with the requirements of the advertisement regulations can be reported to our enforcement team for them to investigate. This would include enforcement of the 5 standard conditions under said regulations that would apply in all cases. In summary, these refer to ownership, endangerment of the highway, visual amenity, maintained in condition not to endanger the public, and restoration of sites. Making developers more aware of advert regulations when dealing with planning applications for other development maybe helpful to applicants/developers, perhaps as further informative notes. Further awareness could be a consideration for the future web site review and pre application discussions. It would not be reasonable or possible to condition adverts when they are not part of the proposal before the Local Planning Authority to consider and/or not part of the application site to reasonably control in some cases.*

*However, it is often a need to control construction management of a development site to protect amenity and this may include understanding routing options for construction development. It may be possible to add to the standard condition for said management for the inclusion of directional signs and that may be reasonable.*

*In respect of question 2. The Secretary of State can restrict deemed consent for adverts in an area. Government guidance is available on this point, but in summary: "it must be clear that one or more of the deemed consent provisions has had such adverse effects on the amenity or public safety of the area that there is no prospect of an improvement in the quality of advertising in the locality, unless the local planning authority are given the power to control that particular type of advertisement." Accordingly, it is unlikely that blanket restriction would be successful and evidence for certain areas in these terms would be needed. Historic interests in respect of Conservation Areas are not a specific criteria in this matter, but it is noted conservation areas already means adverts are restricted in those areas. In addition, the Secretary of State must publicise a local planning authority's proposal for any restriction, allow an opportunity for representations to be made and taken into account. This may result in publication of the proposal and a public hearing to examine the proposal and any representations. If successful, the details of the direction must be published and those owners / occupiers displaying advertisements which are affected by the direction in the area(s) must be notified. Accordingly, there is a process for such request, but resource, evidence and reasonable justification would be required to seek such a restriction and such evidence is not considered to be available at this time.*

*In summary therefore:-*

*Q1: Making developers more aware of advert regulations when dealing with planning applications for other development maybe helpful to applicants/developers, perhaps as further informative notes. Further awareness could be a consideration of the future web site review and pre-application discussions. It would not be reasonable or possible to condition adverts when they are not part of the proposal before the Local Planning Authority to consider and/or not part of the application site to reasonably control in some cases.*

*Q2: The Secretary of State can restrict deemed consent for adverts in an area. Government guidance is available on this point, but in summary "it must be clear that*

*one or more of the deemed consent provisions has had such adverse effects on the amenity or public safety of the area that there is no prospect of an improvement in the quality of advertising in the locality, unless the local planning authority are given the power to control that particular type of advertisement.” There is a process for such request, but evidence and reasonable justification would be required to seek such a restriction and such evidence is not considered to be available at this time.”*

With the permission of the Chairman, Councillor Coley then asked a supplementary question in which he sought clarification of the advice given in answer to Question 1 and specifically with regards to enforcement.

The Acting Director (Planning) then responded to that supplementary question.

## **21. PUBLIC SPEAKING**

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

Bill Marshall made a statement regarding the matters contained in report item A.1 – Updated Housing Supply Position and Housing Trajectory (Agenda Item 6). He felt that small to medium sized developers were concerned that, since the adoption of the new Local Plan (Section 2) and the greater level of control, that it had given to this Council, the pipeline of small development sites that might be of interest to local builders had been stifled and proposals such as the Fox Street (Ardleigh) Deliverable Residents' Proposal Plan had been hindered.

The Acting Director (Planning (Gary Guiver) responded to Mr Marshall's points during his oral presentation of item A.1 of his report.

## **22. REPORT OF ACTING DIRECTOR (PLANNING) - A.1 - UPDATED HOUSING SUPPLY POSITION AND HOUSING TRAJECTORY**

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

- the number of new homes built in Tendring during the 2021/22 financial year and the up-dated year-by-year 'trajectory' for future housebuilding; and
- the current housing land supply position (the 'five-year' supply).

### **Key Points**

It was reported that 777 (net) new homes had been built in the 2021/22 financial year, which meant that the annual housing requirement of 550 homes a year in the Local Plan had been achieved for the sixth year running. More homes had been completed in 2021/22 than had been expected in last year's housing trajectory.

Members were informed that there was sufficient land allocated for housing development in the adopted Local Plan, along with sites that already had planning

permission, to comfortably achieve the District's housing requirement up to 2033 without the need to consider the release of additional sites.

The Committee was advised that the Council could demonstrate a **6.89 year supply** of deliverable housing sites against the Government requirement to demonstrate a 5 year supply. This meant that the Council remained in a strong position to resist speculative and unwanted housing developments that fell outside of the settlement development boundaries of the Local Plan unless there were material benefits that might exceptionally justify a departure from Local Plan policy.

#### Housing Requirement

Members were aware that Section 1 of the Local Plan set out the 'objectively assessed housing need' (OAN) for Tendring of 550 homes a year, and the housing requirement for the period of the Local Plan 2013-2033 was therefore 11,000 homes. With approximately 5,000 homes already built between 2013 and 2022, the remaining requirement between now and 2033 stood at approximately 6,000 and the historic shortfall in housing delivery had now been addressed.

#### Housing Completions and Future Trajectory

It was reported that Officers had updated the Council's 'Strategic Housing Land Availability Assessment' (SHLAA) which contained a trajectory for future housing building up to 2033. Information from developers as well as officers' own monitoring of building sites had informed the forecast for the coming years.

#### Five Year Housing Supply and Decision Making

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

Taking into account the future trajectory set out in the SHLAA, the Council can demonstrate a 6.89 years supply of deliverable housing sites. Around 4,000 homes were expected to be built within the five years 2022/23 – 2026/27, against a five year requirement of approximately 2,900 homes.

Having considered and discussed all of the information contained in the Officer report (A.1):-

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

**RESOLVED** that the Planning Policy and Local Plan Committee both endorses the contents of this report and notes that the new Strategic Housing Land Availability Assessment demonstrates an up-to-date housing land supply position for the purposes of determining planning applications and contesting planning appeals.

### **23. REPORT OF ACTING DIRECTOR (PLANNING) - A.2 - CONSERVATION AREA CHARACTER APPRAISAL AND MANAGEMENT PLANS**

Earlier on in the meeting, as reported under Minute 19 above, Councillor Bush had declared for the public record that he was both the Ward Councillor for The Oakleys and Wix Ward and a member of Great Oakley Parish Council.

The Committee gave consideration to a comprehensive report of the Acting Director (Planning) (A.2) which reported to it the third tranche of 'Conservation Area Appraisal and Management Plans' prepared for the Council by Essex Place Services, and requested that the Committee agreed a recommendation to Cabinet that they be published for consultation purposes.

Members were presented with the next two draft Conservation Area Appraisals, namely:-

Great Oakley Conservation Area; and  
Kirby-le-Soken Conservation Area.

#### Alterations to Boundaries

After a detailed assessment, the boundary of the Great Oakley Conservation Area would remain unchanged.

For Kirby-le-Soken minor changes to the boundary were recommended.

Additions: The Conservation Area boundary should include the gardens of the properties within the Conservation Area. They formed the domestic curtilage and contribute to the understanding of land use, layout and an indication of the area's development.

It was recommended to include the Oxborrows Yard, Maltings Lane. The site had historically been a service yard as noted on the Tithe Apportionment (1841). Therefore, it was considered to contribute to the Conservation Area's historic development and character. The site had been formerly occupied by Oxborrow Engineering but at the time of the assessment was vacant. The Oxborrow Family, Blacksmiths and Engineers, had a long-standing association with Kirby-le-Soken and Tendring dating from 1812. The early nineteenth century forge had been demolished for residential development in 2004. The property was visible from within the Conservation Area and was an attractive nineteenth century industrial building, unique within the area, contributing to local character and appearance.

Reductions: It was proposed to remove the back land development behind Number 44-64 The Street as it undermined, and was inconsistent, with the historic grain of development. The development was of a low scale, however, it was visible in the skygaps between the properties fronting The Street; this detracted from appreciation of Kirby-le-Soken as an isolated settlement. The quality of the development did not positively respond to the character and appearance of the Conservation Area.

#### Designated Heritage Assets

The appraisals made note of the listed buildings, scheduled monuments and registered parks and gardens in each Conservation Area.

#### Proposed Non-designated heritage assets

Those buildings had been identified as they were either considered to be good examples of their type or architectural style; were prominent local landmarks, demonstrated use of local materials or design features, or were connected to local historical events, activities or people, and were all relatively complete in their survival.

At Great Oakley these were:

- The Three Cups, High Street
- Mill House Cottages (2 – 5 High Street)
- Cambria House, High Street
- Apple Tree Cottage and No. 2, High Street
- Pillbox outside Apple Tree Cottage, High Street
- Romaric, Queen Street
- The Maybush Inn, Farm Road

For Kirby-le-Soken these were:

Number 57, The Street was a one and a half storey weather-boarded dwelling with a slate roof. The property sat perpendicular to the road, gable ended with decorative barge boards and a finial painted white. There was a single storey porch entrance to the east elevation and a lean to on the west elevation, both covered in red clay pantiles. There was a slender red brick chimney to the rear. The small scale and attractive detailing made it a noticeable dwelling within the street scene. The property did have a larger modern extension to the rear, however, this did not visibly detract from the original scale and historic core of the property.

Waterloo House (Number 34, The Street) was a large, detached and double piled dwelling of two-storeys and rendered elevation. The frontmost pile sat under a slate roof and the rear was covered in red clay tiles. It was one of the larger dwellings running parallel to The Street, making it a visually prominent within the streetscene. The single storey outbuilding to the west of the property was present of the first edition Ordnance Survey map (1897) and could be contemporary with the principal dwelling. The first floor had six over six sash windows; the windows to the ground floor windows and central entrance appeared to be modern alterations.

#### Heritage at Risk

Neither of the Conservation Areas contrailed buildings or structures at risk. The Conservation Areas themselves were also not at risk.

#### Archaeology

Throughout those Conservation Areas there was the potential for a multitude of below-ground heritage assets yet to be discovered. In general, the appraisals promoted a cautious approach to development which might disturb or destroy those assets.

#### Assessment of significance

A detailed assessment of significance of each of the Conservation Areas had been carried out. Many of the Conservation Areas were split into distinct character areas. Each assessment considered the following features:



- Layout
- Building materials and boundary treatments
- Listed buildings and non-designated heritage assets
- Other buildings
- Landscaping and open spaces
- Views

#### Opportunities for Enhancement

This section of each appraisal identified the issues facing the Conservation Areas which had been reviewed. A large number of the issues were common to all Conservation Areas, but where they were unique, that had also been highlighted, such as:

- *Both of the Conservation Areas could benefit from enhancement to car parking including planting trees and a review of hard landscaping to ensure its historic appropriateness.*
- *For both areas, on-street parking detracted from the historic character of the Conservation Area.*
- *Kirby suffered from empty properties which could have a detrimental impact on the character of a place over time.*
- *Both Conservation Areas suffered from the loss of, or inappropriate use of, architectural detailing such as UPVC windows and doors, rainwater goods and external paintwork.*
- *In the Conservation Areas modern development usually resulted in a negative or neutral impact on the area as a whole.*
- *The Conservation Areas suffered from some poor maintenance of buildings.*

For Great Oakley a couple of specific issues had been highlighted namely:

A number of buildings within the Conservation Area had been fitted with solar panels on their roofs, including several modern buildings at the eastern end of the High Street. While solar panels were an important element in the move towards sustainable energy sources, they were a modern intervention which could be visually intrusive, introducing large expanses of dark, reflective surfaces onto the traditional roofscape of the Conservation Area which were at odds with its vernacular character and appearance. Some traditional roofscapes, such as thatched roofs and those on listed buildings, were unsuitable for solar panels. Generally, solar panels should be confined to rear roof slopes or secondary roof pitches which faced away from the main thoroughfares or placed on outbuildings, to reduce their impact on the character of the Conservation Area.

The Convenience Store at 9-10 High Street had suffered some unsympathetic alterations, most noticeably the overpainting of the red brick façade, leading to loss of historic detailing and lack of coherence with its neighbours. The large plastic signage blocked the lower part of one of the first floor windows, whilst the ground floor shop window was obscured with vinyl signage. Those features detracted from the character of the Conservation Area. Removal of the paint from the brickwork elevation, removal of the vinyl stickers and installation of a smaller painted timber sign would improve its appearance. This should be in line with the Essex County Council's Shopfront Guidance.

There was also an area-specific issue at Kirby-le-Soken:

The Red Lion Public House had a large, tarmacked car park to the side stretching to Maltings Lane. The large expanse of hardstanding did have an urbanising effect, which detracted from the rural character and appearance of the Conservation Area. There was an opportunity to soften the appearance of the carpark through the addition of boxed planters or a gravel surface. Any changes to the carpark, however, should not undermine the openness of this section of the Conservation Area.

### Management Proposals

As outlined above, there were a wide range of issues facing each of the Conservation Areas, many of which shared common themes. This section recommended management proposals which addressed those issues in both the short and long term.

- The preparation a Local Heritage List of non-designated heritage assets was suggested for both Conservation Areas.
- The Council was encouraged to use its enforcement powers to prevent inappropriate development within both of the Conservation Areas.
- Joint working between different Council departments to promote public realm improvements was also suggested.
- The monitoring of trees and additions to tree planting within public open space was recommended.
- Publishing guidance for homeowners and businesses in Conservation Areas could help owners identify appropriate alterations to their properties within Conservation Areas.
- The timely renewal of those Conservation Area Appraisals could help to monitor change within the Conservation Areas more accurately.
- Wayfinding could help with legibility.

### Funding Opportunities

- Heritage lottery fund
- S106 Agreements
- Partnership Schemes in Conservation Areas

At the invitation of the Chairman, Councillor White, present in his capacity as Chairman of the Planning Committee, spoke of his positive experience and involvement with the review of the St Osyth Conservation Area and he encouraged Councillor Bush and other relevant Members to fully engage in the consultations around their own, specific Conservation Areas.

The Chairman (Councillor Turner) then read out the following statement:-

*"I am pleased that this Committee and our Officers are progressing so well with the review of our Conservation Areas, with the rest to come by the end of this Municipal Year. I am also pleased that we have been able to write specifically to the properties in each of the respective areas to promote these important consultation activities.*

*Despite this, it strikes me from things I have seen both in my Ward and other areas, that there are still many residents and businesses with properties in our Conservation Areas who may be completely unaware of their location in an area of special architectural and historic character and the fact that there are certain responsibilities and controls placed upon them in respect of development, alterations and trees.*

*As we have demonstrated that it is possible to identify the properties that lie within each Conservation Area and we are aiming to have undertaken consultation in each of the 20 areas by the time our Council Tax bills go out in 2023, I would like to suggest to the Cabinet that we prepare a simple leaflet on Conservation Areas and their purpose and their implications and that this is printed in time to go out with the Council Tax Bill to all properties in those Conservation Areas. Communication and information is a key part of this Council's adopted Heritage Strategy and I think this leaflet will support the objectives of that strategy."*

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

It was moved by Councillor Bush, seconded by Councillor Chapman BEM and:-

**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 meeting was declared closed at 7.19 pm

**Chairman**

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# Public Document Pack

Human Resources and Council Tax  
Committee

11 October 2022

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**MINUTES OF THE MEETING OF THE HUMAN RESOURCES AND COUNCIL TAX  
COMMITTEE,  
HELD ON TUESDAY, 11TH OCTOBER, 2022 AT 7.30 PM  
IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Chapman BEM (Chairman), Griffiths (Vice-Chairman), Amos, Baker and Morrison
<b>Also Present:</b>	Councillor G L Stephenson
<b>In Attendance:</b>	Anastasia Simpson (Assistant Director (Partnerships)), Carol Magnus (Organisational Development Manager)(except item 20), Ian Ford (Committee Services Manager), Katie Wilkins (Human Resources and Business Manager)(except item 20) and Keith Durran (Committee Services Officer)
<b>Also in Attendance</b>	Michelle Kirk (Director) and Katy Frith (HR Consultant) both from the East of England Local Government Association participated in the meeting via MS Teams (except item 20)

**11. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Councillors Calver and S A Honeywood. There were no substitutes.

**12. MINUTES OF THE LAST MEETING**

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

**RESOLVED** that the Minutes of the last meeting of the Committee, held on Thursday 7 July 2022, be approved as a correct record and be signed by the Chairman.

**13. DECLARATIONS OF INTEREST**

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

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

No Questions on Notice pursuant to Council Procedure Rule 38 had been submitted on this occasion.

**15. REPORT OF ASSISTANT DIRECTOR (PARTNERSHIPS) - A.1 - DEFENCE EMPLOYER RECOGNITION SCHEME UPDATE REPORT**

The Committee gave consideration to a report of the Assistant Director (Partnerships) (A.1) which updated it work that had been undertaken to date, and activities planned, to support the armed forces/veteran community; including Tendring District Council's (TDC) participation in the Defence Employer Recognition Scheme (ERS).

Members were aware that the ERS encouraged employers to support Defence personnel and to inspire others to do the same. The scheme encompassed bronze, silver and gold awards for employer organisations that pledged, demonstrated or advocated support to Defence and the armed forces community, and aligned their values with the [Armed Forces Covenant](#) (*the Armed Forces Covenant was a promise by the nation ensuring that those who served or who had served in the armed forces, and their families, were treated with fairness and respect in the communities, economy and society they served or had served with their lives*).

Councillor Chris Amos had been appointed as TDC's Armed Forces Member Champion in 2017 and he attended meetings of the Civil Military Partnership Board (Essex).

The Committee was reminded that TDC had renewed its commitment to the Armed Forces Covenant in February 2022, in a decision made by the Leader of the Council; which had recognised the value serving personnel, reservists, veterans (*including our Chief Executive*) and military families brought to the Authority and local community. The covenant focussed on helping members of the armed forces community to have the same access to Government and commercial services and products as any other citizen. This support was provided in a number of areas including:

- *Education and family well-being;*
- *Having a home;*
- *Starting a new career;*
- *Access to healthcare;*
- *Financial assistance; and*
- *Discounted services.*

Members recalled that, at the last update provided to this Committee in February 2019, the Council had held ERS Bronze award status, and was working with the Armed Forces Development Officer at Colchester Borough Council to attain Silver status; which this Authority had been successful in achieving in Summer 2019.

Since then this Council had continued to demonstrate its commitment in this regard, and in July 2022 TDC had received Gold status in the ERS scheme. Gold criteria were more stringent than for Silver, including promoting the scheme to other employers. It included:-

- *must have signed the [Armed Forces Covenant](#);*
- *the employer must have already stated their intent to be supportive by using the ERS website to register at the Bronze level;*
- *the employer must proactively demonstrate that service personnel/armed forces community are not unfairly disadvantaged as part of their recruitment and selection processes;*
- *the employer must actively ensure that their workforce is aware of their positive policies towards defence people issues. For example, an employer nominated for support to the Reserves must have an internally publicised and positive HR policy on Reserves;*
- *within the context of Reserves the employer must have demonstrated support to mobilisations or have a framework in place. They must demonstrate support to training by providing at least five days' additional unpaid/paid leave (wherever possible not to Reservist employees' financial disadvantage); and*

- *the employer must not have been the subject of any negative PR or media activity.*

To achieve Gold award status, awarded to the Council in July 2022, the Authority had had to demonstrate that:

- *it had signed the [Armed Forces Covenant](#);*
- *an existing relationship with their National Account Manager/REED/appropriate defence representative;*
- *it was already demonstrating support by holding a valid ERS Silver Award;*
- *it could proactively demonstrate their forces-friendly credentials as part of their recruitment and selection processes. Where possible, it should be engaged with [Career Transition Partnership](#) (CTP) in the recruitment of service leavers and have registered for the [Forces Families Jobs](#) (FFJ) portal;*
- *it actively ensures the workforce is aware of their positive policies towards defence people issues. For example, an employer nominated for support to the Reserves must have an internally publicised and positive HR policy on Reserves;*
- *it must be an exemplar within their market sector, advocating support to defence people issues to partner organisations, suppliers and customers with tangible positive results;*
- *within the context of Reserves it must have demonstrated support to mobilisations or have a framework in place. They must provide at least ten days' additional leave for training, fully paid, to the Reservist employee;*
- *it must not have been the subject of any negative public relations or media activity.*

To achieve this a revised Reserve Forces Training Mobilisation Policy had been adopted by TDC in April 2022 which granted Reservists ten days' additional paid leave for training, up from the five days that been offered previously.

It was reported that TDC was one of just 38 local government organisations to hold Gold status, and one of 48 organisations altogether in the East Anglia region.

Officers were keen to continue this work, not only to support the priorities outlined in the Armed Forces Covenant; but also the Council's recruitment priorities. Colchester Barracks discharged around 400 highly trained and skilled military personnel each year, a number of whom remained in the local area; and the Council was keen to tap into this talent pipeline. Being an ERS Gold Award holder added to the organisation's employer brand, and the opportunity to be seen as an employer of choice by potential applicants, particularly from that cohort.

Other activity taken to support the Council's objectives and the ERS Gold status, included:

- *Regular annual civic events including services for Remembrance Sunday, Armed Forces Day, the Veterans' Tea Dance and other services or flag raisings (all in conjunction with the Clacton Royal British Legion);*
- *In addition the Council had supported the Chairman of the Council in staging a Veterans' Day event in early August 2022;*
- *Attendance by the Armed Forces at the Tendring Jobs and Skills Fair (2019), and the 2022 Tendring Skills Fair;*
- *Continued links to the Career Transition Partnership;*

- *Continued priority given to ex-forces personnel within their housing band for those on the social housing register;*
- *Ran an event in week one of the 2022 Tendring4Growth Business Fortnight to promote the Armed Forces Covenant, ERS, and general benefits of employing Armed Forces personnel, to local employers – this built upon a similar event held in March 2019;*
- *An Armed Forces discount was available on leisure services;*
- *Workshops held for staff to raise awareness of the signing of the Armed Forces Covenant and possible benefits;*
- *TDC had signed up to the Essex Family Friendly Employer scheme – this supported in particular those who had partners in the military; and*
- *Established a buddy scheme where existing TDC staff who were from an Armed Forces background could support any new starters from the same background to help with their transition.*

The Committee placed on record its gratitude for all of the dedication and commitment demonstrated by those Officers who had played their part in enabling this Council to achieve a Gold Award under the Defence Employer Recognition Scheme.

Having considered the contents of the update report:-

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

**RESOLVED** that the contents of the Assistant Director (Partnerships)'s report be noted.

**16. REPORT OF ASSISTANT DIRECTOR (PARTNERSHIPS) - A.2 - UPDATED WORK PLACEMENT PROCEDURE**

The Committee considered a report of the Assistant Director (Partnerships) (A.2) which presented it with the revised Work Placement Procedure. The intention of that procedure was primarily to detail the Authority's work placement arrangements in order to ensure that the Council remained compliant with legislation and adhered to best practice.

Members were made aware that the purpose of updating the Work Placement Procedure was to ensure that the procedure was clear and covered all legislative requirements to support an effective work placement arrangement for Tendring District Council.

The procedure aimed to provide information about Tendring District Council's work placement process and what measures were put in place to assess the risk and ensure that all safeguarding measures were in place. It was also designed to provide the framework to enable a positive work placement.

The Procedure set out:-

- *a clear description of the Council's commitment and definition towards Work Placements;*
- *an overview of Tendring District Council's Work Placement scheme;*
- *risk assessment and safeguarding requirements; and*
- *supporting documentation for the procedure.*



In addition, it provided specific guidance to support managers who wished to take on a Work Placement individual.

The Committee was informed that UNISON had been consulted on the revised Work Placement Procedure and had offered its agreement with, and support for, the revision of this procedure.

In order to ensure that the Council maintained its high standard of procedures that supported local young people in gaining valuable experience and understanding of a work environment:-

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

**RESOLVED** that the Human Resources and Council Tax Committee notes and endorses the updated Work Placement Procedure.

**17. EXCLUSION OF PRESS AND PUBLIC**

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

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Items 8, 9 and 10 on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 3 and 4 of part 1 of Schedule 12A, as amended, of the Act."

**18. EXEMPT MINUTE OF THE LAST MEETING**

It was moved by Councillor Griffiths, seconded by Councillor Amos and:-

**RESOLVED** that the Exempt Minute of the last meeting of the Committee, held on Thursday 7 July 2022, be approved as a correct record and be signed by the Chairman.

**19. REPORT OF ASSISTANT DIRECTOR (PARTNERSHIPS) - B.2 - SALARY AND MARKET REVIEW: REPORT COMMISSIONED FROM EELGA**

**RESOLVED** that the Committee -

- (a) notes the findings of the EELGA report; and
- (b) notes that it may be asked to support market forces requests for the roles highlighted to which this has not yet been applied.

**20. REPORT OF THE CHIEF EXECUTIVE - B.1 - MARKET FORCES REPORT FOR POSTS WITHIN THE HUMAN RESOURCES TEAM**

**RESOLVED** that -

- (a) the Market Forces Supplement be applied with immediate effect to the posts within Human Resources requiring either the Advanced Diploma or the Associate Diploma in People Management qualification(s);

- (b) the application of the Market Forces Supplement is discretionary and will be decided by the Assistant Director (Partnerships), in consultation with the Chief Executive as the Head of Paid Service; and
- (c) the Supplement be applied for a period of up to two years.

The meeting was declared closed at 8.31 pm

**Chairman**

**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW  
AND SCRUTINY COMMITTEE,  
HELD ON MONDAY, 17TH OCTOBER, 2022 AT 7.30 PM  
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors M Stephenson (Chairman), Allen, Amos, Codling, Griffiths, Morrison and Skeels
<b>In Attendance:</b>	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Damian Williams (Corporate Director (Operations and Delivery)), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Andy White (Assistant Director (Building and Public Realm)), Keith Simmons (Head of Democratic Services and Elections) and Keith Durran (Committee Services Officer)

**1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

An apology for absence was received from Councillor Barry (with no substitution).

**2. MINUTES OF THE LAST MEETING**

It was **RESOLVED** that the minutes of the meeting of the Committee held on Tuesday 9 September 2022 be approved as a correct record.

**3. DECLARATIONS OF INTEREST**

Declarations of Interest were received from Councillor Amos, in relation to Item 6 A.2 - Scrutiny of the Decision to Give Consent for an Event by Frinton Summer Theatre, as he worked in a shop on Connaught Avenue and from Councillor Allen, in relation to Item 6, A.2 - Scrutiny of the Decision to Give Consent for an Event by Frinton Summer Theatre, as he was a ward and town Councillor for Frinton.

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

There were none on this occasion.

**5. REPORT OF HEAD OF DEMOCRATIC SERVICES AND ELECTIONS - A.1 - WORK PROGRAMMING-INCLUDING MONITORING OF PREVIOUS RECOMMENDATIONS AND SUMMARY OF THE FORTHCOMING DECISIONS.**

The Head of Democratic Services and Elections provided the Committee with an update on its approved Work Programme for 2022/23 (it included progress with enquiries set out in its Work Programme), feedback to the Committee on the decisions in respect of previous recommendations from the Committee in respects of enquiries undertaken and a list of forthcoming decisions for which notice had been given since publication of the agenda for the Committee's last meeting.

At the Committee's meeting on 30 June 2022 (Minute 14 refers) the Committee submitted recommendations to the Cabinet Meeting on 15 July 2022 (Minute 37 refers). The Portfolio Holder for Environment and Public Spaces comments were as follows:

*"Colleagues, this report from the Resources and Services Overview & Scrutiny Committee is far too good to just note as it is bursting with intelligent ideas. I want the chance for each to be examined in detail and properly costed, with a view to trying to encompass the report's ideas. Damian Williams organised a meeting for me yesterday with Andy White and Jonathan Hamlet present. I said that only having received the report a week ago, this was not enough time to present a considered answer at this Cabinet meeting, but that I wanted a detailed answer to be prepared with costs included for the next Cabinet meeting."*

The Portfolio Holder of the Environment and Public Spaces, who was in attendance, thanked the Committee for its great work on Waste and Recycling and that there would be a full report produced to the next Cabinet meeting on 4 November 2022, to address the Committees recommendations.

The Committee **noted** the contents report.

**6. REPORT OF THE ASSISTANT DIRECTOR (BUILDING & PUBLIC REALM) - A.2 -  
SCRUTINY OF THE DECISION TO GIVE CONSENT FOR AN EVENT BY FRINTON  
SUMMER THEATRE**

The Assistant Director of Building and Public Realm submitted a report to support the enquiry. It attached the full 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.

The Members of the Committee were advised that:

The Council was the freehold owner of The Greensward at Frinton. That Frinton Summer Theatre, Registered Charity No: 1170429, applied to erect a 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 and 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, in consultation with the Portfolio Holder, he agreed to make the decision.

Consultation with the Ward Councillors 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, indicated that there were a number of Town Councillors and businesses in Frinton who were in support of the revised application. So were relevant Portfolio Holders at Essex County Council and the Leisure Portfolio Holder at the District Council.

The Portfolio Holder outlined the extent to which he considered matters around the revised application and determined that the use of the Greensward was appropriate in this case. The decision is set out above.

Upon payment of all charges by the Theatre Company, there would be no residual cost to this Council arising from the authorised use of the Greensward by the Theatre Company as a consequence of the decision 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 assisted the Committee with its enquiry and answered an extensive range of questions from the Committee's Members. During the discussion, the Committee's Chairman, and a number of other Councillors indicated that the evidence presented indicated that the Portfolio Holder had considered relevant facts and the decision reached appeared to be appropriate.

After an in-depth discussion it was **RECOMMENDED** that Cabinet:

1. 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
2. gives serious consideration to any future requests of proposed events, which are to be held on the Frinton Greensward, as this event has had as serious and detrimental effect to Frinton's residents, its infrastructure, and its businesses.

[Note: (a) above was approved unanimously and (b) above was approved by 2 votes for, 0 votes against and with 6 abstentions]

**7. REPORT OF THE ASSISTANT DIRECTOR (FINANCE & IT) - A.3 - FINANCIAL OUTTURN 2021/22**

The Committee was provided with a report from the Assistant Director of Finance and IT that gave an overview of the Council's financial outturn for the year 2021/22 and the allocation of the associated General Fund Variance for the year.

Members heard that on 15 July 2022 Cabinet considered the Financial Outturn 2021/22 and it was resolved that Cabinet:

- (a) *notes the financial outturn position for 2021/22, as set out in the Portfolio Holder's report and its appendices;*
- (b) *approves the financing of General Fund capital expenditure for 2021/22, as detailed in Appendix D to the Portfolio Holder's report;*
- (c) *approves the movement in uncommitted and earmarked General Fund reserves for 2021/22, as set out in Appendix E to the Portfolio Holder's report;*

- 
- (d) notes the requested carry forwards totalling £17.890m (£12.948m Revenue, COVID Funding £1.077m (net) and £3.865m Capital), as was set out in Appendix K to the Portfolio Holder's report;*
  - (e) authorises the Section 151 Officer, in consultation with the Portfolio Holder for Corporate Finance and Governance, to approve the carry forwards with the outcome to be reported to Cabinet in September 2022;*
  - (f) in respect of the HRA, approves the movement on HRA balances for 2021/22 including any commitments set out within Appendices H and/or I to the Portfolio Holder's report, along with recharges to the HRA from the General fund of £2.543m for the year and the financing of the HRA capital expenditure set out in Appendix I to the Portfolio Holder's report;*
  - (g) approves the use of £0.050m from HRA General Balances to meet the cost of additional improvements to the Council's Housing Repairs and Maintenance system in 2022/23;*
  - (h) notes the various COVID 19 grant funding amounts set out in Appendix K (ii) to the Portfolio Holder's report and approves the use of the funding as set out in that same Appendix and main body of the report and authorises the Portfolio Holder for Corporate Finance and Governance to agree further allocations from this funding where it supports the on-going recovery from the COVID19 pandemic;*
  - (i) approves the overall General Fund Outturn Variance for the year of £0.252m being transferred to the existing contingency budget for further consideration as part of the updated Financial Forecast and Quarter 1 position for 2022/23 that will be presented to Cabinet in September 2022;*
  - (j) approves the use of £0.900m from the funding received from Local Health Partners to deliver the improvements set out in the Portfolio Holder's report, and authorises the Corporate Director (Operations and Delivery), in consultation with the Portfolio Holder for Housing, to implement the associated schemes and projects;*
  - (k) approves an additional exemption from procurement rules to regularise the additional cost of £0.033m to deliver the Octopus Ahoy sculpture trail in 2021/22;*
  - (l) delegates approval of the identification of the necessary additional funding to support the delivery of the new artificial pitch at Clacton Leisure Centre to the Portfolio Holder for Corporate Finance and Governance; and*
  - (m) authorises the Council's Section 151 Officer, in consultation with the Corporate Finance and Governance Portfolio Holder, to adjust the outturn position for 2021/22 along with any corresponding adjustment to earmarked reserves as a direct result of any recommendations made by the Council's External Auditor during the course of their audit activities relating to the Council's 2021/22 accounts.*

The Committee expressed its gratitude to the Finance team and recognised their hard work in these uncertain times.

After some discussion the Committee **NOTED** the contents of the report.

The meeting was declared closed at 9.15 pm

**Chairman**

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**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,  
HELD ON WEDNESDAY, 26TH OCTOBER, 2022 AT 10.00 AM  
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Land (Chairman), Steady (Vice-Chairman), Casey, V E Guglielmi, Placey and Skeels
<b>In Attendance:</b>	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Ian Ford (Committee Services Manager) and Debbie Bunce (Legal and Governance Administration Officer)
<b>Also in Attendance:</b>	The following Independent Persons: David Irvine and Jane Watts

**9. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

An apology for absence was submitted on behalf of Councillor J Henderson.

**10. MINUTES OF THE LAST MEETING**

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

**RESOLVED** that the Minutes of the meeting of the Committee held on Wednesday 3 August 2022 be approved as a correct record and be signed by the Chairman.

**11. DECLARATIONS OF INTEREST**

There were no Declarations of Interest made by Members at this time.

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

No Questions on Notice had been submitted by Members pursuant to Council Procedure Rule 38 on this occasion.

**13. REPORT OF THE MONITORING OFFICER - A.1 REVIEW OF THE MONITORING OFFICER PROTOCOL**

The Committee was reminded that, in March 2017, it had reviewed the Monitoring Officer's Protocol and having considered its contents, it had resolved that it was satisfied and therefore it did not wish to make any amendments at that time.

As part of its work programme for 2022-23, the Standards Committee had agreed to review the Monitoring Officer's Protocol and, if any changes were felt to be required, to recommend those to Full Council for formal approval and adoption.

Members were aware that the Protocol only covered dealing with matters arising from the Standards Framework relating to Members' interests and complaints, and did not cover the wider responsibilities of the Council's Monitoring Officer as detailed within the Constitution.

As highlighted in the overarching principles of the Protocol, the Monitoring Officer was not the legal adviser for, or to, Town and Parish Councils and the role only extended to those councils in relation to the promotion and maintenance of high standards of conduct. If a complaint identified criminal conduct or breach of other regulation by any person, the Monitoring Officer was under an obligation to notify and/or refer the matter to the Police or other regulatory agencies.

The Committee recalled that this Protocol operated in conjunction with the terms of reference of the Standards Committee, its Sub-Committee, the Complaints Procedure and the Independent Person's Protocol. The Complaints Procedure provided an in depth compulsory process in which alleged breach of Members' Code of Conduct complaints were dealt with and included a number of actions to be carried out by the Monitoring Officer.

The Complaint Procedure was a staged process and the initial stage of determination of a complaint was delegated to the Monitoring Officer. The Monitoring Officer would then take various factors into consideration, as detailed within the Complaints Procedure including, when reaching a decision in respect of how to progress the complaint, taking account of the following factors where appropriate:-

- *Was the Member acting in their official capacity?*
- *Was the Member in office at the time of the alleged misconduct?*
- *Is the complaint of a very minor or trivial nature?*
- *Is the complaint vexatious or malicious?*
- *Are there historical matters?*
- *Is there a potential breach of the Code?*
- *Assessment of public interest?*
- *Is additional information required prior to making a decision?*

Following consideration of a complaint, the Monitoring Officer would issue a Decision Notice setting out the matters taken into account and the reasons for their decision. The Monitoring Officer provided anonymised updates regarding complaints to the Standards Committee at each of its scheduled meetings.

Although, the Protocol referred to the Complaints Procedure and had its own overarching principles, the Monitoring Officer felt that the Protocol could be strengthened, thus further reflecting and supporting the Complaints Procedure, by expanding some of the actions in some instances.

Section 1(j) of the Protocol stated: "The Monitoring Officer will consult with one of the Independent Persons on complaints received and throughout the process in accordance with the Complaints Procedure". The Monitoring Officer felt that this could be enhanced with the following inclusion from the Complaints Procedure:

*"Section 4.1 – The Monitoring Officer will review every complaint received and, may consult with one of the Independent Persons before taking a decision as to whether the complaint:*

- 4.1.1 Merits no further action*
- 4.1.2 Merits early informal resolution or mediation*
- 4.1.3 Merits further investigation"*

The decision as to how the complaint was to be progressed would normally be taken within 15 working days of receipt of the complaint and would be considered in accordance with the Assessment Criteria included at Annex D of the Complaints Procedure. There was no right of appeal for a complainant or Member against a decision of the Monitoring Officer or of the Standards Committee, but a complaint could be made to the Local Government and Social Care Ombudsman. The Monitoring Officer considered that this paragraph from the Complaints Procedure could be included within the Protocol and, in addition, the Monitoring Officer suggested that the Protocol should make reference to a Decision Notice being issued to publicly record the outcome.

Members were informed that the Overarching Principles of the Protocol at paragraph 1(m) currently referred to, in providing information, in any manner at any stage in the process, that the Monitoring Officer must be satisfied that they had the legal power to do so and that the requirements of the Data Protection Act 1998 and Freedom of Information Act 2000 had been considered, as reflected in the Council's Constitution.

The legislation had since changed and the Monitoring Officer recommended that the above should be now amended to read:-

*“(m) In providing information, in any manner at any stage in the process, the Monitoring Officer must be satisfied that they have the legal power to do so and the requirements of the Data Protection Act 2018 and the UK General Data Protection Regulation (GDPR), and Freedom of Information Act 2000 have been considered, as reflected in the Council's Constitution.”*

In addition, the Monitoring Officer proposed an amendment to paragraph 4(d) of the Protocol, which referred to the “Deputy Chief Executive”. In this instance, as this would now also be undertaken by the Deputy Monitoring Officer, in the Monitoring Officer's absence, the Monitoring Officer proposed replacing “Deputy Chief Executive” with “Deputy Monitoring Officer” within the aforementioned paragraph 4(d).

The Committee then duly considered and discussed this matter. During that discussion Members complimented the Monitoring Officer and her Team for all of the work that they undertook in the course of their duties.

It was moved by Councillor V E Guglielmi, seconded by Councillor Skeels and:-

**RESOLVED** that, having reviewed the Monitoring Officer's Protocol, the Committee agrees that the suggested proposed amendments to that Protocol, as set out in the Monitoring Officer's report, be submitted to Full Council for formal approval and adoption.

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

The Monitoring Officer presented a guidance update on conduct complaint decisions and actions taken nationally.

The Monitoring Officer's external case review covered the following:-

“Clear frustration” within Councils on limited powers remaining

- The Committee on Standards in Public Life (CSPL) had called upon the Government to reconsider its position on the powers of local authorities to sanction councillors for poor behaviour.
- The Chair of the CSPL, Lord Evans had written to then Levelling Up Secretary of State, Simon Clarke, stating that he was very disappointed that many of its careful recommendations had not been accepted.
- The local government sector had backed the call to strengthen the arrangements in place to support high ethical standards.

#### Common factors in recent auditor interventions nationally

- Grant Thornton in its update report September “Lessons from Public Interest Reports” had found weaknesses in council cultures (e.g. poor behaviours, lack of transparency); and weaknesses in governance (e.g. a circumvention of governance procedures, poor quality review and decision making).
- Failure to address and resolve relationships difficulties between senior officers and Members.
- Intimidating cultures, culture of secrecy and in some cases, an overuse of confidential or delegated action reports, which reduced openness and trust in leadership and corporate culture.
- Limited understanding of declarations of interest and of gifts and hospitality registers, not being monitored.
- Lack of appreciation of the Nolan principles and the requirements of the Members’ Code of Conduct.
- Lack of understanding in how complaints against Members should be handled.
- Failure to adequately support whistle-blowers also suggested a council that is not open to challenge, Grant Thornton argued.
- Number of recommendations suggested in relation to culture and governance.

#### Civility and Respect Pledge launched for Local Councils by the NALC

- “There were growing concerns about the impact of bullying, harassment and intimidation on local councils, councillors, clerks and council staff and the effectiveness of local councils. By signing the pledge the relevant Council “agrees that the council will treat councillors, clerks, employees, members of the public, and representatives of partner organisations and volunteers with civility and respect in their roles” ... with a package of actions.”

#### Council meetings & the passing of HM Queen Elizabeth II

- National Mourning Guidance
- Did local government legislation prevent councils holding meetings or affect the ability to give notice of meetings?
- The period of public mourning was declared by the Earl Marshall, the Duke of Norfolk
- A day could be declared as a bank holiday, by the King by proclamation, but only the day of the funeral was so declared
- NALC took a different view to the LGA as to the notice period and holding of meetings during the period of National Mourning

#### Pre-action protocol letter (for a potential Judicial Review) contesting breach finding

- A Councillor alleged that a District Council's Code of Conduct assessments regarding comments he had made online amounted to a "clear serious breaching" of his human rights.
- Eden Council found that the Councillor had breached the Code of Conduct over posts on Twitter & his blog.
- However, the Councillor had argued that the content of the Twitter post was: "not aligned to my role as a councillor and was a personal expression of a view and opinion".

#### Welsh Councillor disqualified from holding office for 3 years

- Found to have breached the code of conduct; 5 separate incidents concerning false accusations and posting misinformation online about fellow Councillors.
- A tribunal, convened by the adjudicator for Wales, had found no basis for the statements and that they had wilfully misinformed people and discredited colleagues in a harmful way.
- Wales has a different sanctions regime to England.

#### Welsh Councillor disqualified for 2 years

- Town Councillor barred from holding office for two years after he declared he was eligible to stand for election even though he had a criminal record, which disqualified him from running under the Local Government Act 1972.
- The Ombudsman's report alleged that the former Councillor (he had resigned once a national newspaper had published a news story referencing the conviction) had misled the council as to his eligibility to be a councillor and that his dishonesty, both when signing the declaration of acceptance of office and during the time he acted as councillor (a period of two years), was a serious abuse of office.

The Committee thanked the Monitoring Officer for her presentation and duly noted the foregoing.

### **15. QUARTERLY COMPLAINTS UPDATE AND OTHER GENERAL MATTERS**

The Committee had before it the Monitoring Officer's quarterly schedule, which updated it on existing and new conduct complaint cases, along with other matters.

<b>TENDRING DISTRICT COUNCIL MONITORING OFFICER UPDATE OCTOBER 2022</b>				
<b>Council</b>	<b>Complainant</b>	<b>Current status</b>	<b>Final outcome</b>	<b>Comments</b>
<b>Existing Cases from last update:</b>				
TOWN	PUBLIC 2 x TOWN COUNCILLORS	CLOSED	Informal resolution	Matter related to claims of bullying. Informal resolution and governance review with an external company conducted. All Members within Town Council engaged to positive working

				arrangements going forward. Final action outstanding as at last meeting now actioned to conclude the matter.
DISTRICT	PUBLIC	CLOSED	No further action	Matter related to conduct within the Council's Committee Room. Reflective assurances provided to MO. Independent Person was consulted.
DISTRICT	PUBLIC	PENDING	PENDING	Further information has been sought from the Complainant, matters raised may not relate of acting in official capacity and within the remit of the Code. No response received since the last meeting. Will be closed as no further action to be taken.
<b>New Cases since last update:</b>				
<b>Council</b>	<b>Complainant</b>	<b>Current status</b>	<b>Final outcome</b>	<b>Comments</b>
DISTRICT	PUBLIC	CLOSED	No further action	Matters raised do not relate to acting in official capacity and within the remit of the code.
<p><u>General Notes – 2022/23 Summary:</u></p> <p>Overall, 3 cases had been received in 2022/23. The Monitoring Officer had attended the All Member Briefing in September 2022 to present an introduction to the report to Full Council regarding the Standards Committee's recommendation to adopt the LGA Model Code.</p>				
<p>Requests for dispensations:</p> <p>There had not been any requests for dispensation since the last meeting of the Committee.</p>				

The Committee noted the foregoing.

The meeting was declared closed at 10.51 am

**Chairman**

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## COUNCIL

22 NOVEMBER 2022

### REFERENCE FROM CABINET

#### **A.4 THE LOCAL COUNCIL TAX SUPPORT SCHEME, DISCRETIONARY COUNCIL TAX EXEMPTIONS / DISCOUNTS / PREMIUMS FOR 2023/24 AND ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT 2023/24**

(Report prepared by Ian Ford)

#### **PART 1 – KEY INFORMATION**

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

The Council is asked to consider the recommendations submitted to it by the Cabinet in respect of the Local Council Tax Support Scheme 2023/2024, Council Tax Exemptions, Discounts and Premiums for 2023/2024 and the Annual Minimum Revenue Provision Policy Statement 2022/2023.

##### **EXECUTIVE SUMMARY**

At its meeting held on 4 November 2022 (Minute 73 refers), the Cabinet had considered a joint report of the Housing Portfolio Holder and Corporate Finance & Governance Portfolio Holder (A.6) which had sought its agreement for recommending to Full Council the following:

- Local Council Tax Support Scheme 2023/24 (LCTS) (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 to Cabinet 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 Tendring claimants. It had therefore been 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 had been informed that the associated exceptional hardship policy had also been subject to annual review and that it was not proposed to make any changes from the scheme operating in 2022/23 and so it 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 had been further informed that the Annual Minimum Revenue Provision Policy Statement had also been reviewed for 2023/24 with no changes proposed.

Cabinet was advised at that meeting 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 this meeting of the Full Council, 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 had not been proposed to formally refer it for scrutiny to the Resources and Services Overview and Scrutiny Committee, on the grounds that it would be considered by Full Council at this meeting.

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 had been:-

***“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.”*

A copy of the published Housing Portfolio Holder and the Corporate Finance and Governance Portfolio Holder’s joint report (and its appendices) to the Cabinet meeting held on 4 November 2022 is attached to this report.

## RECOMMENDATIONS

That Council approves that –

- (a) the LCTS scheme for 2023/24 remains the same as the current year, as set out as Appendix A to item A.6 of the joint report of the Housing Portfolio Holder and Corporate Finance & Governance Portfolio Holder as submitted to the meeting of the Cabinet held on 4 November 2022 with the maximum LCTS award being 80% for working age claimants [APPENDIX 2];
- (b) the Assistant Director (Finance and IT), in consultation with the Housing Portfolio Holder be authorised to undertake the necessary steps to implement the LCTS scheme from 1 April 2023;
- (c) the Council Tax Exceptional Hardship Policy, as set out in Appendix B to the aforementioned joint report as submitted to the meeting of the Cabinet held on 4 November 2022 be approved [APPENDIX 3];
- (d) the locally determined council tax discounts, as set out in Appendix C to the aforesaid joint report as submitted to the meeting of the Cabinet held on 4 November 2022 be approved [APPENDIX 4];
- (e) the council tax discount policy for young people leaving care, as set out in Appendix D to the above mentioned joint report as submitted to the meeting of the Cabinet held on 4 November 2022 be approved [APPENDIX 5];
- (f) the discretionary council tax premiums, as set out in Appendix E to the aforementioned joint report as submitted to the meeting of the Cabinet held on 4 November 2022 be approved [APPENDIX 6];
- (g) the Assistant Director (Finance and IT), in consultation with the Housing Portfolio Holder, be authorised to undertake the necessary steps to implement the council tax exemptions, discounts and premiums from 1 April 2023; and
- (h) the Annual Minimum Revenue Provision (MRP) Policy Statement for 2023/24, as set out in Appendix F to the aforesaid joint report as submitted to the meeting of the Cabinet held on 4 November 2022 be approved [APPENDIX 7].

## BACKGROUND PAPERS FOR THE DECISION

Published Minutes of the meeting of the Cabinet held on 4 November 2022.

## APPENDICES

**APPENDIX 1** = Published A.6 Joint Report (and its appendices – see below) of the Housing Portfolio Holder and the Corporate Finance and Governance Portfolio Holder for the meeting of the Cabinet held on 4 November 2022

**APPENDIX 2** = A.6 Appendix A Proposed Local Council Tax Support Scheme (summary) 2023/24

**APPENDIX 3 = A.6 Appendix B Council Tax Exceptional Hardship Policy**

**APPENDIX 4 = A.6 Appendix C Council Tax Discounts and Exemptions 2023/24**

**APPENDIX 5 = A.6 Appendix D Care Leavers Council Tax Discount Policy**

**APPENDIX 6 = A.6 Appendix E Council Tax Premiums 2023/24**

**APPENDIX 7 = A.6 Appendix F Annual Minimum Revenue Provision Policy Statement 2023/24**

## **A.4 APPENDIX 1**

### **CABINET**

**4 NOVEMBER 2022**

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

##### **PART 1 – KEY INFORMATION**

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

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

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

###### **EXECUTIVE SUMMARY**

- This report outlines the proposed Local Council Tax Support (LCTS) scheme and council tax exemptions, discounts and premiums for 2023/24.
- Given the impact on residents from welfare reforms, including universal credit along with the on-going impact from COVID19 / cost of living challenges, it is proposed to continue with the principle of providing financial stability wherever possible to Tendring claimants. It is therefore proposed to keep the 2023/24 LCTS scheme the same as this year, which provides for a maximum discount of 80% for working age claimants.
- The associated exceptional hardship policy has also been subject to annual review and it is not proposed to make any changes from the scheme operating this year and so remains available to support eligible claimants. Additional financial support remains 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 is not proposed to make any changes for 2023/24, with the same levels applying as in 2022/23.
- The Annual Minimum Revenue Provision Policy Statement has also been reviewed for 2023/24 with no changes proposed.
- If it is agreed that no changes are necessary to the proposed LCTS scheme, there will be no need for public consultation. However, if any amendments are proposed and approved at Full Council in November 2022, then public consultation will be required before the final scheme can be agreed and adopted. Consequently, if consultation is

## **A.4 APPENDIX 1**

required, this Council will have to notify the precepting authorities that the final council tax base will be delayed and not available until late in the budget cycle.

- Given the recommendation to continue with the existing LCTS scheme, it is not proposed to formally refer it to the Resources and Services Overview and Scrutiny Committee, but it will be considered by Full Council on 22 November 2022.

### **RECOMMENDATION(S)**

**It is recommended:**

- a) That Cabinet 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) that Cabinet agrees the Council Tax Exceptional Hardship Policy as set out in Appendix B;
- c) that Cabinet agrees the discretionary Council Tax exemptions, discounts and premiums for 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 subject to c) above, delegation be given to the Assistant Director Finance and IT in consultation with the Housing Portfolio Holder to undertake the necessary steps to implement the council tax exemptions, discounts and premiums from 1 April 2023; and
- d) that Cabinet recommends to Council that the Annual Minimum Revenue Provision (MRP) Policy Statement for 2023/24 as set out in Appendix F be approved.

### **REASON(S) FOR THE RECOMMENDATION(S)**

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.

## A.4 APPENDIX 1

### **ALTERNATIVE OPTIONS CONSIDERED**

Considerations relating to the implementation of the various elements included within the recommendations above are set out within the main body of this report

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

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

### **OUTCOME OF CONSULTATION AND ENGAGEMENT**

Not applicable at this stage as no amendments to the LCTS scheme for 2023/24 are being currently being proposed.

### **LEGAL REQUIREMENTS (including legislation & constitutional powers)**

<b>Is the recommendation a Key Decision (see the criteria stated here)</b>	<b>Yes</b>	<b>If Yes, indicate which by which criteria it is a Key Decision</b>	<input type="checkbox"/> <b>Significant effect on two or more wards</b> <input checked="" type="checkbox"/> <b>Involves £100,000 expenditure/income</b> <input type="checkbox"/> <b>Is otherwise significant for the service budget</b>
		<b>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)</b>	This item has been included within the Forward Plan for a period in excess of 28 days.

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

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

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

## **A.4 APPENDIX 1**

The Local Government Finance Act 1992 (as amended) sets out relevant council tax exemptions and discounts (mandatory and discretionary). The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 (as amended) sets out the various class of properties for the purpose of exemptions and discounts. Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 amended the Local Government Finance Act 1992 in respect of the Council Tax premium that can be charged on long term empty properties (unoccupied for at least 2 years) as follows:

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

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

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

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

The Government have proposed the following two changes to the premiums that can be charged which are set out within the Levelling Up and Regeneration Bill that is progressing through Parliament:

- Enable Local Authorities to charge a 100% premium when a property remains empty for a 1 year, so extending the range covered in the first bullet point above to 1 to 5 years
- Enable Local Authorities to charge a 100% premium on second homes.

Although subject to the associated legislation being enacted, it is not currently proposed to introduce the above two changes in 2023/24, but the position will be kept under review going forward.

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

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

Local authorities can also vary the methodologies that they use to make prudent provision during the year. If they do so they should present a revised MRP statement to the next full



## **A.4 APPENDIX 1**

Council or equivalent. Where a change in MRP methodology would impact on the value for money assessment of non-financial investments, the updated statement should summarise this impact.

Yes	<b>The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:</b>
-----	--

There are no additional comments over and above those set out in the main body of this report.

### **FINANCE AND OTHER RESOURCE IMPLICATIONS**

#### **LCTS scheme for 2023/24**

As at the end of September 2022, the total estimated annual 'cost' of the LCTS scheme in 2022/23 is **£12.098m**, which is broadly in-line with the 'base' position budgeted for. Approximately 10% of this amount (**£1.200m**) falling to TDC with the remainder being met by the major preceptors. It is also worth highlighting that for every 5% decrease / increase in the discount the council would gain / lose approximately **£50,000** per year.

As the LCTS scheme is accounted for as a discount against the full council tax amount that would otherwise be payable on a domestic property, the estimated cost of the scheme forms part of the council tax property base calculations that are undertaken when developing the following year's budget. This will therefore be considered as part of the long term forecast and budget setting work currently underway for 2023/24, but it is important to highlight that it is not proposed to reduce the discount rate as part of balancing the long term forecast as the scheme remains an important mechanism to provide financial support to Tendring residents.

#### **Council Tax Hardship Scheme**

The cost of the exceptional hardship scheme is met by contributions from TDC and the major preceptors based on their respective proportion of the overall council tax bill. Therefore TDC is required to meet approximately 10% of the cost of any award up to an annual aggregate total, which for 2022/23 is **£24,323**. For any awards over and above this annual amount, 100% of the cost is met by TDC.

As no changes are proposed to either the LCTS Scheme or Hardship Policy in 2023/24, no additional underlying costs over and above those included within existing budgets or long term forecast are expected. The Council Tax Collection fund continues to operate whereby any changes against the budget during the year will be 'rolled' forward and included in the following year's budget setting process.

The existing hardship budget was subject to a one-of increase in 2021/22 due to the impact of COVID 19, with £157,868 remaining in the associated budget at the start of this year. Support to households is via the application of the existing hardship policy, with **£93,723** being paid out to eligible households at the end of September 2022.

#### **Council tax exemptions, discounts and premiums for 2023/24**

Similarly to the position for the LCTS Scheme above, as no changes are proposed to council tax discounts for 2023/24, including the policy for young people leaving care, no adjustments to existing budgets / long term forecast are expected.

## **A.4 APPENDIX 1**

As discussed as part of the introduction of the policy to support young people leaving care last year, the cost of this was expected to be minimal. As at the end of September 2022, the total cost of this scheme is £10,302, which can be accommodated within the wider calculation of the council tax base, each year.

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

<b>Period Empty</b>	<b>Premium Due</b>	<b>Number of Properties Affected @ the start of 2022/23</b>	<b>Number of Properties Affected @ the end of September 2022</b>	<b>Total Value (based on September's Position)</b>
2 to 5 Years	100%	195	161	£253,239
5 to 10 Years	200%	43	38	£117,263
Over 10 Years	300%	25	18	£84,912

The above indicates the continuing trend of properties being brought back into use within the district.

In terms of collection performance, the following sets out the latest position against the 217 properties currently attracting a premium:

Bill stage – 145

Reminder Stage – 26

Second Reminder Stage – 6

Summons Stage – 40

The above position will be kept under review going forward.

The premium will be chargeable to relevant properties within the HRA. Work remains on-going to reduce the level of long term housing voids and any impact to the HRA from council tax premiums, which will be considered as part of the wider HRA Business Planning Process.

### **Minimum Revenue Provision Policy Statement (MRP)**

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

<b>Yes</b>	<b>The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:</b>
------------	---

## **A.4 APPENDIX 1**

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**

The decisions set out in this report are required to be made in advance of the Final Budget Proposals being considered by Cabinet / Full Council in early 2023. This enables the associated calculations that support the budget to be completed, which also need to be communicated to the Preceptors in a timely way so they can be reflected in their own budget setting processes.

### **ASSOCIATED RISKS AND MITIGATION**

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

The annual review process therefore seeks to balance such issues along with the Council's overall financial position and as highlighted, it is not proposed to make any changes to the LCTS scheme in 2023/24, which supports the financial stability of residents, especially during the continuing roll-out of the Government's welfare reforms and the on-going impact of the COVID 19 pandemic / cost of living challenges.

### **EQUALITY IMPLICATIONS**

These form part of the wider considerations and discussions within the main body of the report.

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

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

## **A.4 APPENDIX 1**

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

### **SOCIAL VALUE CONSIDERATIONS**

These form part of the considerations and discussions within the main body of the report.

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

N/A

### **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.

<b>Crime and Disorder</b>	Please see comments above
<b>Health Inequalities</b>	
<b>Area or Ward affected</b>	

## **PART 3 – SUPPORTING INFORMATION**

### **PROPOSED LCTS SCHEME 2023/24**

There are two parts to the LCTS scheme;

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

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

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

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

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

In previous years, one argument put forward was as the LCTS was supported by the Revenue Support Grant, any reduction in this grant should be 'passported' across to the LCTS scheme and therefore reduce the support available in line with those reductions. However, this Council has not applied such an approach to date and it does not intend to do so in 2023/24 either. The Council recognises the on-going impact on residents from welfare reforms, including universal credit and cost of living challenges, so it is proposed to maintain the maximum discount at 80% for working age claimants. In terms of the overall scheme, no significant changes are proposed with the scheme remaining primarily the same as 2022/23.

## **A.4 APPENDIX 1**

One small change made relates to the disregard of income when calculating financial support under the scheme. During the year it is recognised that the Government may ask Council's to disregard certain unearned income items, so a generic reference is now made to reflect this situation to enable the Council to react timely to any such changes during the year when instructed to do so by the Government via regulations or other means.

The scheme for 2023/24, that reflects the minor amendment highlighted above (last bullet point on page 20 under the sub heading ***“Unearned Income that is not counted”***) is set out as **Appendix A**.

When the LCTS scheme was considered in previous years, it was hoped to be able to consider alternative options for a redesign of the scheme given the potential increased administrative workload of operating the current one. This is mainly due to the means tested approach and that the information required in the past being collected as part of jointly administering Housing Benefit. As Housing Benefit continues to be phased out and the Department of Works and Pensions (DWP) are unable to share with us the information that they collect to administer Universal Credit, the Council will have to continue to ask claimants for the same information independently - in effect duplicating what is required from claimants. However, this revised approach remains a key aspiration and work will resume as soon as practicable.

***For information, statistics relating to the LCTS scheme in 2022/23 are set out below:***

As at the end of September 2022:

There are currently 12,346 household receiving LCTS.

The total working age households receiving support is 6,312

The total pensioner households receiving support is 6,034

### **Council Tax Hardship Scheme**

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

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

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

## **A.4 APPENDIX 1**

It is not proposed to amend the existing scheme for 2023/24.

### **PROPOSED COUNCIL TAX DISCOUNTS, EXEMPTIONS AND PREMIUMS 2023/24**

#### **Discounts and Exemptions**

There are a number of mandatory exemptions and discounts available, with only a limited number of classes of dwelling where there is local discretion as to the amount of discount that is awarded. These relate to 4 classes of unoccupied dwelling and for 2023/24 it is proposed to keep the level of discount at the same level as 2022/23 as set out in **Appendix C**.

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

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

A council tax policy was introduced last year to support young people leaving care. It is proposed to continue with an unchanged policy going into 2023/24, which is set out in **Appendix D**.

#### **Premium on Long Term Empty Properties**

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

The premiums set out in **Appendix E** were agreed by Full Council last year and have been chargeable since the 1 April 2022. It is proposed to continue with the existing level of premiums for 2023/24.

#### **Other Considerations**

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

## **A.4 APPENDIX 1**

### **Annual Minimum Revenue Provision Policy Statement (AMRP)**

Attached as **Appendix F** is the proposed Annual MRP policy statement for 2023/24 that sets out how assets funded by borrowing are accounted for, which is required to be approved by Full Council each year.

The policy sets out how the Council will make provision for the eventual repayment of any borrowing undertaken to finance capital expenditure. The policy, which is unchanged from 2022/23, proposes that where new borrowing is undertaken in accordance with the prudential code, and is therefore not supported by Central Government via the formula or specific grant, the provision is calculated on a straight line method over the initial life expectancy of the asset.

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

The timing of approval of the MRP is to enable it to be taken into account when setting the budget for 2023/24 over the coming months.

### **PREVIOUS RELEVANT DECISIONS**

N/A

### **BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

None

### **APPENDICES**

**Appendix A** Proposed Local Council Tax Support Scheme (summary) 2023/24

**Appendix B** Council Tax Exceptional Hardship Policy

**Appendix C** Council Tax Discounts and Exemptions 2023/24

**Appendix D** Care Leavers Council Tax Discount Policy

**Appendix E** Council Tax Premiums 2023/24

**Appendix F** Annual Minimum Revenue Provision Policy Statement 2023/24

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## **Local Council Tax Support Scheme (LCTS) 2023/24**

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



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## Introduction

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

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

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

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

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

### The LCTS scheme for working age persons

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

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

#### Class A

To obtain support the individual must:

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

#### Class B

To obtain support the individual must:

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





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

### What LCTS will be payable to working age person?

If a person matches the criteria in Class A, including that their *income* is less than their *applicable amounts*, that person qualifies for a reduction on their council tax liability. The Council has decided that for 2023/24, the maximum council tax liability used in the calculation of LCTS, will be a Council agreed percentage of council tax the person is liable to pay.

If a person matches the criteria in Class B, it will mean the person's *income* is greater than their *applicable amount*. Twenty per cent of the difference between the two will be subtracted from the maximum council tax liability allowed. The Council has decided that for 2023/24, the maximum council tax liability used in the calculation of LCTS, will be a Council agreed percentage of council tax the person is liable to pay.

### Protection for certain working age persons

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

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

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

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

#### Class A

To obtain support the person must:

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

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

#### Class B

To obtain support the person must:



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

### Class C

To obtain support the person must:

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

### What LCTS will be payable to Pension Age persons?

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

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

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

### How LCTS works

#### Who can claim?

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

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

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

Most full-time students are not entitled to LCTS.



### **How much LCTS can I get?**

Maximum LCTS depends on:

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

### **How is maximum LCTS calculated for the Working Age Scheme**

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

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

### **How is maximum LCTS calculated for the Pension Age Scheme**

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

### **Extended Payments**

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

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

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

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

And you have been getting one of the following benefits:

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

**and**

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

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



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

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

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

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

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

**Capital**

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

**Absences from home**

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

**Going away**

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

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

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

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

**How to claim**

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

All claims will need to be supported by evidence of your circumstances and this will need to be





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

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

### **Appointees**

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

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

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

### **Information and evidence**

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

### **How long will it take to decide your claim for LCTS**

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

### **Date of claim**

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

### **If you change your address**

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

### **Backdating a claim (Pension Age Scheme only)**

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

### **Start of LCTS**

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



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

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

### **Start of LCTS where a claimant acquires a partner**

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

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

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

### **End of LCTS**

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

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

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

### **People who live with you - non-dependants**

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

### **Non-dependants for Pension Age Scheme**

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

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

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





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

They do not count as part of your household.

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

### Non-dependant deductions from LCTS for Pension Age Scheme

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

A deduction will not be made from your LCTS if:

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

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

### Working out the amount of LCTS

The maximum amount of LCTS depends on:

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

### How is maximum LCTS calculated for the Working Age Scheme

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

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



### How is maximum LCTS calculated for the Pension Age Scheme

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

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

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

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

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

### Second Adult Discount (SAD) for Pension Age Scheme

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

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

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

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

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

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

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

<b>Second Adult</b>	<b>Alternative Maximum LCTS</b>
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(a) Where the second adult or all second adults are in receipt of income support, maximum Universal Credit, an income-related employment and support allowance or state pension credit or are persons on an income-based jobseeker's allowance;	25 per cent of the Council Tax due in respect of that day;
(b) where the gross income of the second adult or, where there is more than one second adult, their aggregate gross income disregarding any income of persons on income support maximum Universal Credit, an income-related employment and support allowance, state pension credit or an income-based jobseeker's allowance	<p>Gross Income is less than £222.00 per week; 15 per cent of the Council Tax due in respect of that day;</p> <p>Gross Income is not less than £222.00 per week but less than £288.00 per week; 7.5 per cent of the Council Tax due in respect of that day;</p> <p><i>(Above are 2022 rates which will be subject to a 2023 uplift by the Govt.)</i></p>
(c) If the dwelling is occupied by a second adult/adults on state pension-credit, income-related jobseeker's allowance, maximum Universal Credit, income-related employment and support allowance or income support, living with a full-time student(s).	100 % of the Council Tax due in respect of that day.

### **Income less than applicable amount (see "Living Allowances or Applicable Amounts" below)**

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

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

### **Income greater than applicable amount (see "Living Allowances or Applicable Amounts" below)**

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

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

### **Calculating your needs**

Your needs are known as your living allowance or applicable amount and this is an amount that is set each year. For the Pension Age scheme this is set and approved by Parliament. For the Working Age scheme this is set by the Council. Your applicable amount takes into account the size of your family, your age and extra needs you may have. It is made up of personal allowances and





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

### Living Allowances or Applicable Amounts

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

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

### Personal allowance

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

### Personal allowances for children

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

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

### Premiums for your family

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

### Your children

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

### Premiums or components for disabilities

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

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

### Disabled child premium

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

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

### Disability premium

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

- either of you is registered blind; or





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

### **Qualifying benefits**

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

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

### **Severe disability premium**

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

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

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

*If you have a partner*

You may get the severe disability premium if you both:

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

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

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



### **Enhanced Disability Premium**

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

### **Work Related Activity Component**

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

### **Support Component**

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

### **Carer Premium**

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

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

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

The carer premium continues for eight weeks after caring ceases.

### **Calculating your resources**

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

#### **Income**

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

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

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

#### **Income from employment**

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



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

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

Earnings from employment do not include:

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

### **Net earnings**

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

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

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

### **Self-employed earnings**

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

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

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



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

### **Child-minders**

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

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

### **Earnings and earnings disregards**

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

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

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

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

**When £20 is not counted** - £20 per week of your earnings will not be counted if your applicable amount includes:

- the disability premium; or
- the severe disability premium; or the carer premium (where the carer is working).

If both you and your partner are carers, the total disregard cannot be more than £20. The carer premium and this earnings disregard can continue for a further eight weeks after caring ceases.

If you have a partner, your earnings are added together when your LCTS is worked out.

If you cannot get the £20 disregard under the above categories, you may still be able to get it if you are:

- a part-time fire-fighter; or
- an auxiliary coastguard; or
- a part-time member of a crew launching or manning a lifeboat; or
- a member of the Territorial Army or the Reserve Forces.

### **Additional disregard**

If you work on average 30 hours a week or more you will usually be able to get an extra earnings disregard. In certain circumstances you can also qualify for the higher earnings disregard if you work 16 hours or more e.g. if you are a lone parent or disabled. This is the same amount as the 30-hour tax credit in your Working Tax Credit (WTC)

### **Childcare charges**

In certain circumstances, average childcare charges of up to £175 (for one child) or up to £300 for 2 or more children per week per family can be offset against your earnings. This disregard, which



is in addition to the other earnings disregards, is available to:

- lone parents who are working 16 hours or more per week;
- couples where both are working 16 hours or more per week;
- couples where one member is working 16 hours or more per week and, generally, the disability premium, or, in certain circumstances, the higher pensioner premium, is included in the applicable amount on account of the other member's incapacity or the other member is in hospital or in prison.

It applies where formal childcare is provided by, for example, registered child-minders or day nurseries for children until the first Monday in September following their 15th birthday (or the 16th birthday for children who are entitled to Disability Living Allowance or who are registered blind).

In certain circumstances, help with childcare costs can be given while you are on maternity leave or paternity or adoption leave or you are sick. The authority will be able to give you more details.

In some other cases explained here, different amounts of your earnings are not counted.

If you are in receipt of Pension Credit Guarantee, Income Support, income-based Jobseeker's Allowance or income related Employment and Support Allowance then any earnings you get will not be counted again in working out LCTS.

### **Notional Earnings**

If you have done some work and you seem to have been paid very little for it, then the Council will estimate what that work is worth. If you have a good reason for the pay being so low – for example, if you worked for someone who had very little money – then you should let the Council know. If necessary, the Council may check your statement of earnings by asking your employer.

### **Other income**

Other income is all the other money you have coming in apart from earnings from employment or self-employment. It is sometimes called unearned income. In some cases none of your unearned income is counted. Sometimes part of it is counted, and in other cases it is all counted.

### **State benefits**

The following benefits are counted in full as income for LCTS:

- Contribution-based Jobseeker's Allowance
- Contribution-based Employment and Support Allowance
- Universal Credit
- State Pension
- Incapacity Benefit
- Severe Disablement Allowance
- Carer's Allowance
- Industrial Injuries Disablement Benefit
- Industrial Death Benefit
- Working Tax Credit
- Child Tax Credit (ignored if you or your partner are pension age)
- Savings Credit of Pension Credit
- Bereavement Benefits (ignored if you or your partner are pension age).



### **Unearned income that is not counted**

The following types of income are not counted by the Council when it works out your LCTS:

- any income you get if you are getting the Guarantee Credit of Pension Credit, Income Support, income related Employment and Support Allowance (ESAIR) or income-based Jobseeker's Allowance (JSA);
- Disability Living Allowance (DLA)/ Personal Independence Payment (PIP);
- Attendance Allowance (AA) or Constant Attendance Allowance (CAA);
- Attendance allowances paid as part of a War Disablement Pension or Industrial Injuries Disablement Benefit;
- Child Benefit;
- Child Maintenance (spousal maintenance is taken into account in part or in full depending on whether you have a child);
- money you get which takes the place of DLA, AA, CAA, or Income Support;
- war pensioners' mobility supplement;
- any money you get from the Social Fund;
- Guardian's Allowance;
- money you get as a holder of the Victoria Cross, the George Cross, or any comparable award;
- any grants or allowances you get from your local education authority if you have a dependent child who continues in education after school leaving age;
- any training premium and any refunded travelling expenses or living away from home allowances when you are on a Department for Education and Employment Training Scheme training course or at an employment rehabilitation centre;
- any money such as interest or dividends from savings or investments;
- any expenses you get from an employer that you need to carry out your work;
- any expenses you get from a charity so that you can carry out unpaid work;
- any income in kind (where you are given something other than money);
- any income you have which has been held back outside this country, as long as it remains held back, and it is not within your control;
- any money you get for fostering a child;
- any money you get for looking after an elderly or disabled person temporarily (community boarding out schemes);
- any money you get from a local Social Services Department to help keep a child at home instead of putting them into care;
- any Council Tax Benefit you have received;
- special payments made with your War Widow's Pension if you have been designated as a pre-1973 war widow;
- any charitable or voluntary payments which are made regularly;
- payments made under the Employment Department's 'Access to Work' scheme for disabled people; or
- War Disablement Pension or a War Widow's/Widower's Pension, or any similar payment from another country (Local Scheme)
- Payment(s) made via regulations or other means, that the Government instructs the Council to disregard during the year

Some types of income may be counted as capital.

### **Unearned income that is counted in part**

The following are the types of unearned income that are only partly counted.

- the first £15 of Widowed Mother's Allowance or Widowed Parent's Allowance;
- the first £20 of any money from sub-tenants; or
- the first £20 then 50% of the excess of money you receive from a boarder is ignored. The





balance is treated as income.

### **Notional income**

The council may think that there is income, which you could get, but you are not claiming it. This is known as notional income because you do not actually receive that income. The Council may take this into account for LCTS purposes

### **Parental contributions to students**

If you are making a parental contribution to a student then part of your income is not counted to take account of this.

### **Capital**

Your capital includes savings and investments held by yourself in any form (for example, bank and building society accounts, investment trusts, and shares) from any source (for example, inheritance, redundancy payments, and irregular payments from a charitable or voluntary source). It will normally also include the net sale value of land and housing that you do not occupy, after deducting 10% for expenses of sale.

If you have a partner, capital belonging to your partner is treated as yours for the purposes of LCTS

### **Capital outside the United Kingdom**

If you have capital – in the form of liquid or fixed assets – outside this country, the Council will need to know how soon it can be transferred and how much it is worth. If the capital cannot be brought into this country, enquiries will be made about how easily it can be sold, and whether a willing buyer can be found. If no willing buyer can be found, it may not be counted.

### **Capital for Working Age**

The first £6,000 of capital is not counted. Capital over £6,000 up to £16,000 will be taken into account at £1 a week for each £250 (or part of £250) of capital over £6,000. Actual interest payments or dividends are not counted as income but as capital.

### **Capital for Pension Age**

The first £10,000 of capital is not counted. Capital over £10,000 up to £16,000 will be taken into account at £1 a week for each £500 (or part of £500) of capital over £10,000. Actual interest payments or dividends are not counted as income but as capital.

For customers who receive the Guarantee Credit of Pension Credit there is no upper limit on the capital you can have.

For the Pension Age scheme if you have capital over £16,000, you may still be entitled to Second Adult Discount, as your income and savings are not taken into account. However, the actual income received from the second adult's capital will be taken into account.

### **Personal possessions**

Personal possessions – for example, a car, furniture and fittings in your house, and family belongings – are usually not included in the calculation of capital. However, this may not be the case where the Council has good reason to believe that something has been bought to reduce your capital in order to gain or increase entitlement to benefit. If the Council decides that you deliberately disposed of capital just so that you can get LCTS, it may assume that you have



notional capital to the value of the capital you disposed of.

### **If you own your home**

The value of your property (including the house, garage and outbuildings) is not counted unless any part of the property could reasonably be sold off separately. Loans raised on the property will be counted as capital.

### **Property you own but do not occupy**

The value of this property is counted as capital but you may be able to get LCTS even if the value of the property means that your savings are more than £16,000. This is because the value of the property may be ignored when your savings are worked out, in certain circumstances.

If the property is occupied by an elderly or disabled relative as their home, its value is not taken into account for as long as it is so occupied.

If you have recently acquired the property and you intend to occupy it as your home, its value may not be counted for 26 weeks, or for a longer period if reasonable, from the date you acquired it.

If you are trying to sell the property, its value may not be counted for the first 26 weeks after you start doing this. It may not be counted for longer than this if you are finding it difficult to sell the property.

If you are carrying out essential repairs or alterations so that you can live in the property, its value may not be counted for a period of 26 weeks from the date you first arranged for repairs to be carried out. It may not be counted for longer than this if you are finding it difficult to finish the work.

If you are taking legal action so that you can live in the property, its value may not be counted for the first 26 weeks after you start doing this. It may not be counted for longer than this if legal action is continuing and you cannot live in the property.

If you have left the property after the breakdown of a relationship, and it is occupied by your former partner, its value may not be counted for the first 26 weeks after you left. If the property is occupied by your former partner and they are a lone parent, the property will not be counted for as long as it continues to be so occupied.

### **Deposits on your accommodation**

Sums that have to be deposited with a housing association as a condition of your tenancy are not counted.

### **Earmarked capital**

If capital from the sale of a house is kept for a house purchase, it is not counted for up to six months, or longer if:

- major repairs or adaptations are needed for you to occupy your home; or
- the completion of the purchase of your new home is unavoidably delayed.

Compensation received for a burglary or for damage to or loss of a house is also not counted for six months, as long as it is to be used for repair or replacement

### **Valuation of property**

Property will be valued at the price it would be expected to fetch on the open market, less any outstanding mortgage or legal charges on the property. Ten per cent of the current market value will also be deducted to take into account the cost of the sale.





If you have property outside Great Britain and there is no restriction on transferring money to this country, your property will be valued at its local sale value. If there is a restriction, its notional value will be the value of a sale to someone in the UK. In both cases, any outstanding mortgage or legal charges will be deducted, together with 10% of the total to cover the cost of the sale.

### **National Savings Certificates**

National Savings Certificates of the current issue are valued at purchase price. Certificates of a previous issue are valued as if they were purchased on the last day of that issue.

### **Life assurance policies**

The surrender value of life assurance policies is not taken into account when assessing LCTS.

### **Arrears of benefits**

Any arrears of Disability Living Allowance, Attendance Allowance, Pension Credit, Income Support, income-based Jobseeker's Allowance, Personal Independence Payment, Universal Credit, Working Tax Credit and Child Tax Credit that you get are not counted for up to 12 months.

### **Lump sum payment of deferred State Pension**

The gross amount of lump sum, or an interim payment made on account of a final lump sum, paid at the end of the period of deferring State Pension will be disregarded as capital for the life of the recipient.

### **Compensation payments**

For LCTS purposes, compensation payments will normally be counted in full as capital. Capital will not be counted if it is held in trust or by the 'Court of Protection' as a result of a personal injury payment – for example, a criminal injury payment or a vaccine damage payment. For persons of Pension Age compensation payments made as a result of personal injury are ignored whether or not placed in a trust.

### **Business assets**

Business assets of a self-employed earner are not counted while engaged in that business. Nor are they counted in certain other circumstances, but any shares owned will be treated as capital.

### **Notional Capital**

The council may think that there is capital which you could get but which you do not have. This is known as notional capital because you do not actually possess that capital.

- Capital you have disposed of - You will be treated as having notional capital if you have disposed of capital in order to get LCTS or to get more LCTS.
- Capital you could have got - If you have the right to money held in a private trust, then that is actually your capital, and will be taken fully into account.

If the Council has decided to treat you as possessing notional capital they will reduce the amount of this capital on a regular basis by a set calculation. This calculation reduces your notional capital by the amount of support you have lost as a result of deprivation.

### **How LCTS is paid**

If you are liable to pay the Council Tax, the Council will normally send you a Council Tax bill from which your LCTS has already been deducted. You will then have to pay only the reduced amount. This means that you will not actually receive any money, but your Council Tax bills will be reduced.



### How you will be notified about your LCTS

The Council will reach a decision on your entitlement to LCTS as soon as possible after our claim and all supporting evidence is received.

### How can I appeal?

If you disagree with the decision you will need to write to the Council stating the reasons. The Council has two months to reply to you. If the Council agrees with your appeal then the LCTS will be amended and you will receive another Council Tax bill showing the revised amount.

If the Council does not agree with your appeal or you do not receive a response within two months, you may appeal to the Valuation Tribunal. This is an independent tribunal who will hear your case (either in person or in writing). If the Valuation Tribunal agrees with you they will instruct the Council to amend your LCTS accordingly.

Throughout the appeal you will still be required to make payment of your Council Tax liability as determined by the Council.

### Changes of circumstances

You must notify your Council immediately if there is a change in anything that might affect your right to or the amount of LCTS.

This will include:

- where you live; or
- who you live with; or
- your income, savings and investments; or if you stop getting Pension Credit, Income Support, income-based Jobseeker's Allowance, Universal Credit or Employment and Support Allowance; or
- if you get a job; or
- if you or your partner go into hospital; or
- if there is any other change in your circumstances which you might reasonably be expected to know might affect your right to LCTS

The changes must be notified in writing although in certain circumstances the Council may accept this by telephone or electronically

Most of these changes will affect your LCTS in the following support week, but changes in the amount of Council Tax payable will affect your LCTS from the day on which the change occurs.

### Students

LCTS is not normally available for students. The exceptions are:

- vulnerable students, such as disabled students and lone parents;
- part-time students; and
- couples where one partner is not a student.

Students who are liable to pay the Council Tax may claim Second Adult Discount (SAD) if they are of pension age.

### Loan and grant income

The grant money you get is generally paid to cover the period you are studying. If it does not cover this period the Council, or Student Awards Agency for Scotland, will tell you the period it does



cover.

If you are eligible for a loan or have been awarded a grant the Council will assume that these amounts are paid, whether they are actually paid or not.

The money you receive in your loan is your income for the period between the beginning of September and the end of June and is divided by the number of weeks in that period to give a weekly amount.

If you receive a dependant's grant this will be taken into account over the same period as your loan unless you also receive, or only receive, a grant towards your personal maintenance.

Because much of your loan is meant for essential educational items, some of the grant is ignored when working out your income for LCTS. The following elements of your loan or grant are not counted:

- tuition and examination fees;
- any disability allowance in your grant;
- the cost of term-time residential study away from your college;
- the Two Homes Grant – given when you have to maintain another home away from college;
- an allowance for books and equipment; and
- travel expenses.

### **Students and partners**

Your grant may have been reduced to allow for your partner's income because your partner can make a contribution to your expenses. An amount – equal to that contribution – is then ignored when the Council works out your joint income for LCTS. If a student is required to contribute to his own grant income, an equivalent amount is disregarded from the income used to assess that contribution.

### **Other income**

This will be treated in the same way as grant income if it is intended for expenditure that is needed on the course. If the income is not intended for expenditure on the course, it is treated under the normal rules for income.

### **Loans from the Student Loans Company**

The maximum loan available to you will be taken into account regardless of whether you have borrowed up to your limit or not. The loan will be divided by the number of weeks between the beginning of September and the end of June to arrive at a weekly figure for assessment purposes. Up to £10 a week of the loan may be ignored.

### **Access funds**

These are discretionary payments made by educational establishments to students who are facing financial hardship.

The amount of the payment to be taken into account will depend on how it is to be paid and what the payment is for. Some payments from the funds can be disregarded in full.

### **Information and information sharing**

The Council will use information provided by the Department of Work and Pension and Her Majesty's Revenues and Customs for the purposes of LCTS, council tax liability, billing, administration and enforcement



The Council may receive and obtain information and evidence relating to claims for LCTS from—

- a. persons making claims for LCTS;
- b. other persons in connection with such claims;
- c. other local authorities; or
- d. central government departments including the DWP and HMRC

The Council may verify relevant information supplied to, or obtained for, LCTS purposes.

### **Counter Fraud and Compliance**

In order to protect the finances of the Council and also in the interests of all Council Taxpayers, the authority will undertake such actions as allowed by law to;

- a. Prevent and detect fraudulent claims and actions in respect of LCTS;
- b. Carry out investigations fairly, professionally and in accordance with the law; and
- c. Ensure that sanctions are applied in appropriate cases.

## **Localised Support for Council Tax Exceptional Hardship Policy**

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## **1.0 Background**

1.1 An Exceptional Hardship Fund (EHF) has been set up by the Council to assist Council Tax payers who are facing 'exceptional hardship'. Although it is envisaged that the majority of recipients will be in receipt of local council tax support (LCTS), in exceptional circumstances, applications will also be considered from council tax payers who do not qualify for LCTS.

1.2 The main features of the fund are as follows:

- The operation of the Fund will be at the total discretion of the Council;
- The Fund will be operated by the Revenues and Benefits section of the Council;
- There is no statutory right to payments from the fund although the Council will consider all applications received;
- Exceptional Hardship Fund payments are not payments of Council Tax Support (as defined within S13a of the Local Government Finance Act 1992);
- Exceptional Hardship Fund payments will only be available from 1<sup>st</sup> April 2013 and **will not be available for any other debt other than outstanding Council Tax**;
- Where an Exceptional Hardship Payment is requested for a previous period, Exceptional Hardship must have been proven to have existed throughout the whole of the period requested;
- Exceptional Hardship Payments are designed as a short-term help to the applicant and it is expected that payments will be made for a short term only to give applicants time to explore sustainable / alternative solutions; and
- All applicants will be expected to engage with the Council and undertake the application process.

## **2.0 Exceptional Hardship Fund and Equalities**

2.1 The creation of an Exceptional Hardship Fund facility meets the Council's obligations under the Equality Act 2010.

2.2 This policy has been created to ensure that a level of protection and support is available to those applicants most in need. It should be noted that the Exceptional Hardship Fund is intended to help in cases of **extreme** financial hardship and not to support a lifestyle or lifestyle choice. Whilst the definition 'Exceptional Hardship' is not exactly defined by this policy, it is accepted that sudden or unexpected changes to individual circumstances may cause temporary financial hardship with any support made under this policy being at the total discretion of the Council. However exceptional hardship should be considered as 'hardship beyond that which would normally be suffered'

### **3.0 Purpose of this policy**

- 3.1 The purpose of this policy is to specify how the Council will operate the scheme, to detail the application process and indicate a number of factors, which will be considered when deciding if an Exceptional Hardship Fund payment can be made.
- 3.2 Each case will be treated on its own merits and all applicants will be treated fairly and equally in gaining accessibility to the Fund and also in respect of the decisions made on each application.

### **4.0 The Exceptional Hardship Fund Process**

- 4.1 As part of the process of applying for additional support from the Exceptional Hardship Fund, all applicants must be willing to undertake **all** of the following:
- Make a separate application for assistance;
  - Provide full details of their income and expenditure;
  - Accept assistance from either the Council or third parties such as the CAB or similar organisations to enable them to manage their finances more effectively including the termination of non-essential expenditure;
  - Identify potential changes in payment methods and arrangements to assist the applicant;
  - Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted; and
  - Maximise their income through the application for other welfare benefits, cancellation of non-essential contracts and outgoings and identifying the most economical tariffs for the supply of utilities and services generally.
  - Where applicable, explain actions they are currently exploring to find a sustainable response to their current circumstance if it is expected that exceptional hardship may continue for a longer period of time.
- 4.2 Through the operation of this policy the Council will look to
- Support those in exceptional hardship;
  - Allow a short period of time for someone to adjust to unforeseen short-term circumstances and to enable them to “bridge the gap” during this time, whilst the applicant seeks alternative solutions;
  - Enable long term support to households in managing their finances;
  - Help applicants through personal crises and difficult events that affect their finances;
  - Help those applicants who are trying to help themselves financially; and
  - Encourage and support people to obtain and sustain employment.
- 4.3 It cannot be awarded for the following circumstances:
- Where full Council Tax liability is being met by Council Tax Support;
  - For any other reason, other than to temporarily reduce Council Tax liability;



- Where the Council considers that there are unnecessary expenses/debts etc. and that the applicant has not taken reasonable steps to reduce these;
- To pay for any overpayment of Council Tax Support caused through the failure of the applicant to notify changes in circumstances in a timely manner or where the applicant has failed to act correctly or honestly;

## **5.0 Awarding an Exceptional Hardship Fund Payment**

5.1 The Council will decide whether or not to make an Exceptional Hardship Fund award, and how much any award might be up to a maximum of the amount of Council Tax outstanding, with each decision being reviewed by a senior manager to demonstrate fairness and consistency.

5.2 When making this decision the Council will consider:

- Whether the applicant has engaged with the Exceptional Hardship Payment process;
- All capital, income received & expenditure of the applicant, their partner and any member of their household irrespective of whether the income is included or not as household income under the Council Tax Support scheme
- How **reasonable** expenditure exceeds income;
- The difficulty experienced by the applicant that prohibits them from being able to meet their Council Tax liability, and the length of time this difficulty will last.
- The personal circumstances, age and medical circumstances (including ill health and disabilities) of the applicant, their partner any dependants and any other occupants of the applicant's home;
- Other debts outstanding for the applicant and their partner;
- The exceptional nature of the applicant and/or their family's circumstances that impact on finances;
- The length of time they have lived in the property; and
- If a Discretionary Housing Payment has already been awarded to meet a shortfall in rent;

5.3 The above list is not exhaustive and other relevant factors and special circumstances will be considered.

5.4 An award from the Exceptional Hardship Fund does not guarantee that a further award will be made at a later date, even if the applicant's circumstances have not changed.

## **6.0 Publicity**

6.1 The Council will make a copy of this policy available for inspection and will be published on the Council's website.

## **7.0 Claiming an Exceptional Hardship Fund payment**

- 7.1 An applicant must make a claim for an Exceptional Hardship Fund award by submitting an application to the Council, preferably via email to [benefitsmail@tendringdc.gov.uk](mailto:benefitsmail@tendringdc.gov.uk).
- 7.2 If it is not possible to make a claim via email or if any further help is required, assistance is available at the Council Tax Office, Pier Avenue, Clacton.
- 7.3 Where the Revenues and Benefits Service identify a household that is failing to clear previous years Council Tax but are paying current Council Tax with best endeavours, then their ability to pay arrears maybe considered for help through the hardship fund. This clause is not intended to cover those taxpayers who have not paid or have failed to pay until a summons has been issued.
- 7.4 In most cases the person who claims the Exceptional Hardship Fund award will be the person liable to pay Council Tax, however, a claim can be accepted from someone acting on another's behalf, such as an appointee, if it is considered reasonable.

## **8.0 Changes in circumstances**

- 8.1 The Council may revise an award from the Exceptional Hardship Fund where the applicant's circumstances have changed.

## **9.0 Duties of the applicant and the applicant's household**

- 9.1 A person claiming an Exceptional Hardship Fund payment is required to:
- Provide the Council with such information as it may require to make a decision;
  - Tell the Council of any changes in circumstances that may be relevant to their ongoing claim; and
  - Provide the Council with such other information as it may require in connection with their claim.

## **10.0 The award and duration of an Exceptional Hardship Payment**

- 10.1 Both the amount and the duration of the award are determined at the discretion of the Council, and will be done so on the basis of the evidence supplied and the circumstances of the claim.
- 10.2 The start date of such a payment and the duration of any payment will be determined by the Council. In any event, the maximum length of the award will not exceed the end of the financial year in which the award is given.

## **11.0 Award of the Exceptional Hardship Fund payment**

- 11.0 Any Exceptional Hardship Fund payment will be made direct onto the customer's Council Tax account, thereby reducing the amount of Council Tax payable.

## **12.0 Overpaid Exceptional Hardship Fund Payments**

- 12.1 Overpaid Exceptional Hardship Fund payments will generally be recovered directly from the applicant's council tax account, thus increasing the amount of council tax due and payable.

**13.0 Notification of an award**

- 13.1 The Council will notify the outcome of each application for Exceptional Hardship Fund payments in writing. The notification will include the reason for the decision and advise the applicant of their appeal rights.

**14.0 Appeals**

- 14.1 Exceptional Hardship Fund payments are not part of Council Tax Support, and are therefore not subject to the statutory appeal process.
- 14.2 If the applicant is not satisfied with the decision in respect of an application for an Exceptional Hardship Fund payment, a decision to reduced amount of Exceptional Hardship Fund payment, a decision not to backdate an Exceptional Hardship Fund payment or a decision that there has been an overpayment of an Exceptional Hardship Fund payment, the Council will look at the decision again.
- 14.3 An officer, other than the original decision maker, will consider the appeal by reviewing the original application and any other additional information and/or representation made, and will make a decision within 14 days of referral or as soon as practicable. This decision will be final.
- 14.4 Any request for an appeal must be made within one month of the date of the notification letter confirming the original decision.
- 14.5 The outcome of the appeal will be set out in writing, detailing the reasons for the decision or upholding the original decision.

**15.0 Fraud**

- 15.1 The Council is committed to protect public funds and ensure funds are awarded to the people who are rightfully eligible to them.
- 15.2 An applicant who tries to fraudulently claim an Exceptional Hardship Fund payment by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.
- 15.3 Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

**16.0 Complaints**

- 16.1 The Council's Complaints Procedure (available on the Council's website) will be applied in the event of any complaint received about this policy.

**17.0 Policy Review**

- 17.1 This policy will be reviewed at least every year and updated as appropriate to ensure it remains fit for purpose. However, the review may take place sooner should there be any significant changes in legislation.

<p><b>Under the Council Tax (Prescribed Classes of Dwellings) regulations the following discretionary discounts will apply for the 2023/2024 financial year:-</b></p>
<p><b>Class A</b> – Unoccupied and furnished dwellings with a planning restriction preventing occupation for at least 28 days.</p> <p><b>0% discount</b> (on the days when the property cannot be used due to a planning restriction a statutory exemption is allowed under Class G).</p>
<p><b>Class B</b> – Unoccupied and furnished dwellings without a planning restriction preventing occupation for at least 28 days.</p> <p><b>0% discount</b></p>
<p><b>Class C</b> – Unoccupied and substantially unfurnished dwellings.</p> <p><b>0% discount</b></p>
<p><b>Class D</b> – Unoccupied and unfurnished requiring major repairs or alterations.</p> <p>(a) which satisfies the requirement set out in the regulations unless it has been such a dwelling for a continuous period of twelve months or more ending immediately before the day in question;</p> <p>(b) the requirement referred to in paragraph (a) is that the dwelling is vacant and—</p> <ul style="list-style-type: none"> <li>(i) requires or is undergoing major repair work to render it habitable, or</li> <li>(ii) is undergoing structural alteration; or</li> <li>(iii) has undergone major repair work to render it habitable, if less than six months have elapsed since the date on which the alteration was substantially completed and the dwelling has continuously remained vacant since that date;</li> </ul> <p>(c) For the purposes of paragraph (b) above “major repair work” includes structural repair work.</p> <p><b>100% discount up to 12 months</b></p>

## **Care Leaver's Council Tax Discount Policy**

### **Introduction**

This policy utilises the discretionary power available to billing authorities arising from S13A(1)(c) of the Local Government Finance Act 1992 to reduce, or further reduce, the amount of council tax a care leaver is liable to pay with effect from 1 April 2023.

### **Definitions**

For the purpose of this policy, a 'care leaver' is defined as:

A person aged up to 21, who has either

- (a) been looked after by Essex County Council 'Essex' for at least 13 weeks since the age of 14; and who was looked after by the local authority at school-leaving age or after that date; or
- (b) who is entitled to leaving care support from Essex.

The Children Act 1989 defines the categories of children entitled to leaving care support as:

'Eligible children' are those young people aged 16-17 who are still in care and have been 'looked after' for a total of 13 weeks from the age of 14 and including their 16th birthday;

'Relevant children' are those young people aged 16 and 17 who have already left care, and who were 'looked after' for at least 13 weeks from the age of 14 and have been 'looked after' at some time while they were 16 or 17;

'Former relevant children' are those young people aged 18, 19 or 20 who have been eligible and/or relevant.

### **Policy statement**

For the purpose of calculating the amount of discretionary council tax reduction to apply, care leavers and those in their household are required to take steps to minimise their liability for council tax by claiming discounts, exemptions and council tax reduction.

After all discounts, exemptions and council tax reduction have been claimed the Council will reduce the council tax liability so that the liability of the household is the same that it would have been had the care leaver been a 'disregarded persons' (such as students) as detailed in s11 and Schedule 1 of the Local Government Finance Act 1992

### ***For example:***

*A care leaver joining an existing household with a single person discount in place will be given sufficient discretionary relief to ensure that the council tax liability does not increase as a result of their presence.*

*A household where only care leavers are liable to pay council tax will be given sufficient discretionary relief to extinguish the council tax liability completely.*

*A care leaver in a property, which would otherwise be exempt from council tax, will be given sufficient discretionary relief to ensure that no council tax continues to be payable.*

<b>Council Tax Premiums to apply for the 2023/24 financial year:-</b>	
<b><i>From 1 April 2023, the following additional amounts of council tax (a premium) will be charged when a property has been empty for two years or more:</i></b>	
Properties that are empty for two years, but less than five years, will attract a premium of 100%, and therefore charged 200% of the set council tax.	
Properties that are empty for five years, but less than ten years, will attract a premium of 200%, and be charged 300% of the set council tax.	
Properties that are empty for ten years or more will attract a premium of 300%, and be charged 400% of the set council tax.	

***The above premiums will apply to the property, so a change of ownership or tenancy will not affect the premium.***

## **ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT for 2023/24**

The Council is required to have a policy on providing a prudent minimum revenue provision which must be approved by Full Council each year.

Unlike a mortgage where amounts of principal are repaid each month, the borrowing undertaken by this Council may be repayable on maturity at an agreed future date. To reflect this, the minimum revenue provision (MRP) exists which is a concept whereby an amount is charged to revenue each year in order to have sufficient monies set aside to meet the future repayment of principal on any borrowing undertaken.

The regulations require Local Authorities to set aside as its annual MRP an amount that it considers to be “prudent”. The aim of the regulations is that the period over which an MRP is calculated closely relates to the life of the asset.

However in the case of the Housing Revenue Account (HRA) it has been the Council’s policy not to make any MRP charge to the HRA because the level of borrowing relating to the HRA is significantly less than the value of the housing stock. Following the implementation of the new self financing arrangements from April 2012, the structure of the borrowing to fund the associated HRA debt settlement was based on principal being repaid over the 30 years of the HRA business plan. Therefore this principal is in effect the amount set aside to repay debt and will therefore be treated as HRA MRP. In terms of MRP for ‘old’ HRA debt, this will be kept under review as part of future HRA business planning processes.

The options applicable in calculating MRP are as follows:

### ***Where Capital Expenditure is financed by Government Supported Borrowing***

- **Regulatory Method** – This is where borrowing is supported by the Government through the Formula Grant and Local Authorities can continue to use the existing approach as set out in the old regulations.
- **Capital Financing Method** – Similar to the above, Local Authorities can continue to set aside 4% of their General Fund capital expenditure financed by borrowing each year as MRP. The difference compared with the regulatory method is that it excludes a transitional adjustment that relates to the regulations that were applicable before the current regulations. As this adjustment does not apply to TDC, the two approaches are essentially the same.

### ***Where Capital Expenditure is financed by Prudential Borrowing***

- **Asset Life Method** – Two alternatives are provided within the guidance. The first is that MRP can be calculated by taking the amount borrowed and dividing it by the associated assets useful life – equal instalment method. The second is based on a more complicated annuity basis although based on the same principle.
- **Depreciation Method** – This requires that an MRP is made in accordance with current rules for depreciation accounting whereby an amount would be charged equal to the annual depreciation of the specific asset which could differ from the previous options given the alternatives for calculating depreciation.

A significant advantage of the asset life method over the depreciation method is that MRP does not have to start until the year the related asset becomes operational which may be different to the year in which depreciation would be charged.



It is important to note that subject to the type of asset acquired there may be a significant impact on the revenue budget, which would need to be taken into account in any future spending / borrowing decisions.

Having reviewed the position for 2023/24, no changes compared to 2022/23 are proposed. Therefore the Annual Minimum Revenue Provision Policy Statement for 2023/24 is as follows:

**In accordance with the Local Authorities (Capital Finance and Accounting)(England)(Amendment) Regulations 2008, the Council's policy for the calculation of MRP for 2023/24 shall be the Capital Financing Requirement Method for supported borrowing and the Asset Life (equal instalment) Method for prudential borrowing.**

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## COUNCIL

22 NOVEMBER 2022

### REFERENCE FROM THE STANDARDS COMMITTEE

#### **A.5 PROPOSED FORMAL ADOPTION OF THE LOCAL GOVERNMENT ASSOCIATION'S MODEL MEMBERS' CODE OF CONDUCT**

(Report prepared by Ian Ford)

#### **PART 1 – KEY INFORMATION**

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

To enable the Council to consider the recommendation of the Standards Committee in relation to the formal adoption of the Local Government Association's Model Members' Code of Conduct as Tendring District Council's code as regards the conduct, which is expected of all elected Councillors, voting co-opted members and appointed members (Sections 27 & 28, Localism Act 2011).

##### **EXECUTIVE SUMMARY**

The Standards Committee ("the Committee"), at its meeting held on 6 April 2022 (Minute 30 refers), had considered a detailed report of the Monitoring Officer which had enabled it to review part of the elected Members' Model Code of Conduct ("the Model Code"), as authored by the Local Government Association (LGA), i.e. the rules of conduct in comparison to Tendring District Council's (TDC) Members' Code of Conduct ("the Code"), for eventual determination as to whether to recommend the Model Code to Full Council for adoption. The Committee had been aware that it had previously been proposed that implementation of the Model Code, if adopted, would not take effect until the new municipal period following the 2023 Council elections.

Having duly considered all of the information and advice contained in the Officer report and its appendices the Standards Committee had resolved that it:-

*"(a) notes the contents of the Monitoring Officer's report and its Appendices;*

*(b) confirms its satisfaction of the comparison of the Tendring District Council's Members' Code of Conduct and the LGA Model Code of Conduct; and*

*(c) requests the Monitoring Officer to present in more detail the implications of the differences in Declarations and Registration of Interests, for the Committee to consider prior to agreeing its recommendations to Full Council."*

Subsequently, that Committee, at its meeting held on 3 August 2022 (Minute 5 refers), had considered a comprehensive report of the Monitoring Officer which had enabled it to continue its review of the elected Members' Model Code of Conduct as authored by the LGA, in comparison to TDC's Members' Code of Conduct particularly in regards to the provisions relating to the declarations of interests.

Having duly considered all of the information and advice contained in the Officer report and its appendices the Standards Committee had unanimously resolved that it:-

*"(a) notes the contents of the Monitoring Officer's report and its Appendices;*

*(b) confirms its satisfaction of the comparison of the Tendring District Council's Members' Code of Conduct and the LGA's Model Code of Conduct; and*

*(c) recommends to Full Council that the LGA Model Code be approved and adopted."*

A copy of the published report (minus appendices) of the Monitoring Officer to the meeting of the Standards Committee held on 3 August 2022, is attached as Appendix 1 to this report. The LGA's Model Councillors' Code of Conduct is attached as Appendix 2 to this report.

## **RECOMMENDATIONS**

**That Council approves:-**

- (a) the adoption of the Local Government Association's Model Members' Code of Conduct, as set out in Appendix 2, for the purposes of Sections 27 & 28 of the Localism Act 2011, with a commencement date of the Annual Meeting of the Council in May 2023;**
- (b) that all Town and Parish Councils in the Tendring District be invited by the Monitoring Officer to adopt the same Code for their own Councils;**
- (c) that all the duly elected Tendring District Council members at the Council's elections in May 2023 attend mandatory training sessions on the new Code of Conduct; and**
- (d) that the new Code of Conduct be incorporated into Part 6 of the Council's Constitution in due course.**

## **BACKGROUND PAPERS FOR THE DECISION**

Published Minutes of the meeting of the Standards Committee held on 6 April 2022.

Published Report of the Monitoring Officer for the meeting of the Standards Committee held on 6 April 2022 (Report A.1).

Published Minutes of the meeting of the Standards Committee held on 3 August 2022.

Tendring District Council's current adopted Members' Code of Conduct – link found here:-

[TDC Code of Conduct.pdf \(tendringdc.gov.uk\)](https://www.tendringdc.gov.uk/TDC%20Code%20of%20Conduct.pdf)

Guidance on the LGA's Model Code – link found here:-

[LGA Guidance on Model Code.pdf \(tendringdc.gov.uk\)](https://www.tendringdc.gov.uk/LGA%20Guidance%20on%20Model%20Code.pdf)

## **APPENDICES**

Appendix 1 = Published Report (minus Appendices) of the Monitoring Officer for the meeting of the Standards Committee held on 3 August 2022 (Report A.1)

Appendix 2 = The Local Government Association's (LGA) Model Councillors' Code of Conduct

## **A.5 APPENDIX 1**

### **STANDARDS COMMITTEE**

**3 AUGUST 2022**

#### **REPORT OF THE MONITORING OFFICER**

##### **A.1 LOCAL GOVERNMENT ASSOCIATION MODEL MEMBERS' CODE OF CONDUCT – EXPLORATION OF THE DIFFERENCES BETWEEN DECLARING INTERESTS**

(Report prepared by Karen Townshend and Lisa Hastings)

#### **PART 1 – KEY INFORMATION**

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

For the Standards Committee to continue their review of the elected Members' Model Code of Conduct (the Model Code) as authored by the Local Government Association (LGA), in comparison to Tendring District Council's Members' Code of Conduct (the TDC Code), for eventual determination as to whether to recommend the Model Code to Full Council for adoption.

##### **EXECUTIVE SUMMARY**

In 2018 the Standards Committee recommended to full Council that the Council adopted the Members' Code of Conduct as detailed within Part 6 of the Constitution and attached as Appendix A. The Code sets out the standards, values and rules of conduct that elected Members are expected to abide by.

In May 2021, a final version of the Members' Model Code of Conduct was authored and released by the LGA. The aim of the Model Code is to provide consistency for Members across Parish, Town, District and County Councils, especially for those Members representing two or more electorates (also known as 'dual or triple hatters').

As part of its work programme, the Standards Committee is requested to review the TDC Code in comparison with the Model Code, together with associated guidance, and recommend to Full Council as to whether the Model Code should be adopted, to review and retain the existing TDC Code or amend it. Should the Committee wish to recommend that the Model Code be adopted, it has previously been proposed that implementation would not take effect until the new municipal period following the 2023 elections.

The Model Code is attached at Appendix B.

At the Committee's last meeting in April 2022, Members were appraised of the differences between the Rules of Conduct within the TDC Code compared with the Model Code. The provisions relating to interests would be considered separately and are the purpose of this report. The TDC Code has two types of Members' Interests (Disclosable Pecuniary Interests (DPI) and Personal Interests. The Model Code refers to these as Disclosable Pecuniary Interests, Other Registrable Interests and Non-Registrable Interests. It may appear from first glance that the Model Code either covers interests in more detail or an additional type; however in essence they are broadly similar as the TDC Code, albeit condensed under its two headings.

## **A.5 APPENDIX 1**

Under both the TDC Code and the Model Code, it remains the responsibility of the individual Member to keep their registration of interests complete, up to date and accurate.

The TDC Code states that Members are required to register details of their Disclosable Pecuniary Interests and their Personal Interests (that a Member is aware of at the time) within 28 days of becoming a Member (or being re-elected or reappointed) or a change in those details, in the Authority's Register of Interests. The Model Code requires DPIs and only those personal interests which fall within the categories set out in Table 2, defined as Other Registerable Interests, to be registered.

Although the Committee at its last meeting suggested receiving a visual comparison of the two Codes on a "side-by-side" basis, due to the way the two Codes have been produced, attempts on this approach were confusing, therefore the Monitoring Officer has endeavoured to explain below (within current position), the differences between the interest provisions within the Codes. Upon review, the main difference to highlight is the impact of Paragraph 9 within the TDC Code being withdrawn from all types of Personal Interests although, a test is still applied to those Non-Registerable Interests within the Model Code which 'affects' the interest.

### **Current Position**

The current TDC Code was adopted in 2018 and has served well to uphold and promote the high standards of conduct in public life for all elected Members, voting co-opted Members and appointed members. Trust and confidence in public office holders and institutions are important for the functioning of local authorities and it is each Members' responsibility to comply with the provisions of the Code.

Should the Model Code be adopted then training will be required for all Members which may be delivered by Officers throughout dedicated sessions. Guidance issued by the LGA on the Model Code is attached at Appendix C.

From further conversations between Monitoring Officers across the County, there is still an appetite to adopt the Model Code subject to approval from Full Council. At the time of writing, the following authorities have either recommended the adoption of the Model Code or have adopted the Model Code; Essex County Council, Southend-on-Sea City Council, Basildon Council, Maldon District Council, Castle Point Borough Council, Chelmsford City Council and Rochford District Council.

When the current TDC Code was adopted in 2018, the majority of Town and Parish Councils adopted the revised Code, to align with its District Council. A number of Town and Parish Councils are adopting or considering adopting the LGA Model Code, and are therefore seeking advice and guidance from this authority on its position.

### **THE MODEL CODE**

**"Protecting your reputation and the reputation of the local authority**

#### **9. Interests**

**As a councillor:**

## **A.5 APPENDIX 1**

### **9.1 I register and disclose my interests.**

“Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained

You should note that failure to register or disclose a Disclosable Pecuniary Interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

A detailed table setting out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and is attached at Appendix B.”

### **Appendix B Registering Interests**

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”.

“Disclosable Pecuniary Interest” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### **Non participation in case of Disclosable Pecuniary Interest**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in Table 1, you must disclose the interest, not participate in

## **A.5 APPENDIX 1**

any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a Disclosable Pecuniary Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.  
Insert the beginning part of Appendix B – registering from the Model Code

### **The TDC Code**

Part 2 of The TDC Code focuses on Members' Interests. Paragraph 4 of The TDC Code detailed below refers to Disclosable Pecuniary Interests:

- 4.1 Disclosable Pecuniary Interests (DPIs) are defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (attached as Appendix C for the purposes of this report). It is important that Members understand what amounts to a DPI, that they identify clearly all DPIs relevant to them and that they take the necessary action required by law. Breach of the requirements related to DPIs is a criminal offence and are referred to the Police.
- 4.2 A Member will have a Disclosable Pecuniary Interest in any business of their Authority if it is of a description set out in Appendix B (of the TDC Code) and is either:
- a) their own interest,
  - or that of a Relevant Person being:
  - b) an interest of their spouse,
  - c) and interest of their civil partner, or
  - d) an interest of a person with whom they are living with as a spouse or civil partner,
- and in the case of paragraphs 4.2(b)-(d) the Member is aware that the Relevant Person has the interest.

The Effect of Disclosable Pecuniary Interests on participation are set out in paragraph 8 of the TDC Code but not repeated within the body of this Report.

### **Comparison Summary of the differences between the DPI provisions within each Code:**

Whilst the Codes are worded and formatted differently, the requirements are based on the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 therefore, the Monitoring Officer considers the Model Code does provide additional guidance and if adopted would not change the requirements of the TDC Code.

### **PERSONAL INTERESTS DETAILED WITHIN THE TDC CODE ARE DEFINED AS FOLLOWS:**

#### **5. Personal Interests**



## **A.5 APPENDIX 1**

*5.1 A Member will have a Personal Interest in any item of business of the Authority where it relates to or is likely to affect –*

- a) any person or body who employs or has appointed them;
- b) any existing contract for goods, services or works, which has not been fully discharged or has expired within the last 2 years, and made between the Authority and
  - (i) the Member,
  - (ii) a Related Person;
  - (iii) a body in which the Member has a Disclosable Pecuniary Interest; or
  - (iv) a person or body of the description specified in paragraphs 5.1 (c)-(d) below;
- c) any body of which the Councillor is a member or in which they hold a position of general control or management and to which they are appointed or nominated by the Authority;
- d) any other body of which the Councillor is a member or in which they hold a position of general control or management –
  - (i) exercising functions of a public nature; or
  - (ii) directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
- e) the interests of any person from whom the Member has received a gift or hospitality with an estimated value of at least £50
- f) a decision in relation to that business which might reasonably be regarded as affecting the financial position or wellbeing of:
  - (i) the Member or
  - (ii) a Related Person (if the Member is aware of its existence)

to a greater extent than that of the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, affected by the decision;

5.2 Related Person is defined as:

- a member of the Councillor's family; or
- any person with whom the Councillor has a close business or personal association.

In the case of a Related Person, a Councillor is only required to declare those interests which they are aware or ought reasonably to be aware of the existence.

### **THE MODEL CODE - APPENDIX B – REGISTERING INTERESTS:**

You should also register details of your other personal interests which fall within the categories set out in Table 2 (Other Registerable Interests)

You have a personal interest in any business of your authority where it relates to or is likely

## **A.5 APPENDIX 1**

to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

### **Disclosure of Other Registerable Interests**

6. Where a matter arises at a meeting which directly relates to one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. *You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.* If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### **Comparison Summary**

These Other Registerable Interests within the Model Code are almost identical to TDC's definition of Personal Interests in paragraph 5 (c) and (d) as set out above however, the TDC Code gives further flexibility to speak on an item subject to the assessment of the Public Interest test as set out in Paragraph 9, without seeking a dispensation from the Monitoring Officer. The Model Code prohibits within its paragraph 6, a Member possessing an Other Registerable Interest from speaking at the meeting unless the public are permitted to speak at the meeting and if a dispensation has been granted. The Monitoring Officer foresees that this will have an impact for those Members who are appointed to outside bodies by the Council.

### **MODEL CODE - Disclosure of 'Non-Registerable Interests'**

7. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. *You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.* If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which affects –
- a. your own financial interest or well-being;
  - b. a financial interest or well-being of a friend, relative, close associate; or
  - c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in Table 1

you must disclose the interest. *In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.*

9. Where a matter affects your financial interest or well-being:

## **A.5 APPENDIX 1**

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

*You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.*

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

### **Summary Comparison of Model Code Non-Registerable Interests and TDC Personal Interests:**

Paragraphs 7-9 of the Model Code are again very similar to Paragraph 5(f) of the TDC Code, but make very slight distinctions between '*directly relating to*' and '*affecting*', and it is important to highlight the impact of Paragraph 9 within the TDC Code compared with the Model Code:

### **The TDC Code: 9. Effect of Personal Interests on participation**

*9.1 If a Member has a personal interest (not a Disclosable Pecuniary Interest) in any business of the Authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Members' judgement of the public interest and they are present at a meeting of the Authority at which such business is to be considered or is being considered the Member must:-*

- (a) Declare the existence and nature of the interest in accordance with paragraph 7.1 (but subject to paragraph 12)*
- (b) Withdraw from the room or chamber where the meeting considering the business is being held, immediately after making representations or in any other case when the business is under consideration, unless they have obtained a dispensation from the Authority's Monitoring Officer.*

Therefore, under the Model Code, if adopted, a Member possessing a Non-Registerable Interest as defined in Paragraph 7, which directly relates to their financial interest or well-being or a financial interest or well-being of a relative or close associate, a member can ONLY speak on the matter IF members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless a dispensation has been granted.

If the Member possesses a Non-Registrable Interest which affects the financial interest or well-beng etc. a similar test in TDC Paragraph 9 is applied.

### **THE MODEL CODE - GIFTS AND HOSPITALITY**

As a councillor:

## **A.5 APPENDIX 1**

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

### **TDC Code – Gifts and Hospitality & Comparison**

These are set out in paragraph 5 (e) referred to above, and the value of the gift or hospitality is the same. However, the Model Code does provide further text and guidance which is similar to the TDC Guidance Note, and has been issued separately, therefore bringing both of these together could be considered helpful for Members, rather than looking at two different documents.

### **RECOMMENDATION(S)**

**That the Standards Committee:**

- (a) notes the contents of this report and its Appendices;**
- (b) confirms its satisfaction of the comparison of the Tendring District Council's Members' Code of Conduct and the LGA Model Code of Conduct or whether there are any further matters for concern; and**
- (c) subject to (b), considers whether to recommend the adoption of the LGA Model Code to Full Council for its approval.**

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **BACKGROUND INFORMATION, CODE OF CONDUCT and LEGAL CONSIDERATIONS**

## **A.5 APPENDIX 1**

In January 2019, the Committee on Standards in Public Life published a report which recommended that the Local Government Association (LGA) in consultation with representative bodies of councillors and officers of all tiers of local government, should produce a new Model Code of Conduct for Councillors.

This Model Councillor Code of Conduct ("the Model Code") was approved by the LGA on 3 December 2020 and then a final version was approved in May 2021 and made available to all Local Authorities shortly thereafter.

On 18<sup>th</sup> March 2022 Letter from Minister for Equalities and Levelling Up, Housing and Communities responded to the Report. In respect of the first Recommendation relating to the LGA & Model Code – the government stated is for individual councils to set their own local code, in line with the Act. Recognises the work of the LGA to establish a consistent benchmark that local authorities can amend or add to as they see fit to reflect local circumstances. Remains a local decision on whether this model code is adopted.

Responding to the Department for Levelling Up, Housing and Communities response to the Committee for Standards in Public Life report into Local Government ethical standards recommendations, Cllr James Jamieson , LGA Chairman, said:

"We are pleased that the Government's response to the Committee for Standards in Public Life report acknowledges the work the LGA has undertaken to address the issues outlined in the report through the development of a Model Councillor Code of Conduct and supportive guidance in consultation with the sector.

We agree that there is still more to do to, but that a locally-led standards and conduct system, supported by guidance, training and good practice is the best approach. In addition, it is positive to see that the Government agrees with the principle of safeguarding elected representatives in relation to the disclosure and publishing of councillors' home addresses.

We look forward to working with government and councils to determine the best mechanisms to support improvement in areas of continued focus outlined in the response and to ensure the continuation of high standards of conduct and appropriate protections for councillors and councils in the future."

Should the Model Code be adopted then training will be required for all Members which may be delivered by Officers throughout dedicated sessions. Guidance issued by the LGA on the Model Code is attached at Appendix C.

From further conversations between Monitoring Officers across the County, there is still an appetite to adopt the Model Code subject to approval from Full Council. At the time of writing, the following authorities have either recommended the adoption of the Model Code or have adopted the Model Code; Essex County Council, Southend-on-Sea City Council, Basildon Council, Maldon District Council and Castle Point Borough Council.

### **LEGAL CONSIDERATIONS**

The Localism Act 2011 requires the Authority to have a code of conduct which is consistent with The Nolan Principles determined by the Committee on Standards in Public Life. These principles are set out within the Code. Both The Code and The Model Code are consistent with The Nolan Principles but any breach of the principles is not by itself a breach of either code. Members of Tendring District Council along with Town and Parish

## **A.5 APPENDIX 1**

Councils shall have regard to the Seven Principles of Public Life as it is these principles which underpin the Rules of Conduct.

### **OTHER IMPLICATIONS**

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

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

The Model Code and supporting Guidance emphasises the importance of Councillor responsibility to ensure those with protected characteristics are protected from discrimination

Prior to the Model Code being produced by the LGA, extensive consultation was undertaken nationally, to which the District Council via consideration by the Standards Committee responded to. The first version of the LGA Model Code, was amended following feedback and a third version was produced in response to concerns around the Members' interests section. Prior to the third version being issued, Essex Monitoring Officers were not comfortable recommending the LGA Model Code for adoption, these concerns have now been reduced. However, it is worth noting that the LGA Model Code is not being recommended for adoption until the new municipal year in 2023, and the Standards Committee may wish to undertake more local consultation in this regard.

Risk – There is no particular risk to the Authority in terms of the conduct and standards of Members whether this Committee decided to recommend the adoption of the LGA Model Code or to retain and update the current Code. There is the potential of an element of reputational risk if the LGA Model Code is not adopted; more of a question as to why it was not adopted when many authorities across the county, along with Town and Parish Councils, have adopted or are considering doing so. The streamlining of authorities would not be in place with differing codes being applicable to individual authorities, which could lead to some confusion; however these risks are minimal and would not affect the day to day practice of this authority.

Wards Affected: All

### **APPENDICES**

**Appendix A: Tendring District Council Members' Code of Conduct (The Code)**

**Appendix B: The LGA Model Code of Conduct (The Model Code)**

**Appendix C: Guidance on Local Government Association Model Councillor Code of Conduct**

## **Local Government Association**

### **Model Councillor Code of Conduct 2020**

#### **Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.



## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

## **2. Bullying, harassment and discrimination**

### **As a councillor:**

#### **2.1 I do not bully any person.**

#### **2.2 I do not harass any person.**

#### **2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

### **As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

**As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



## Appendix B Registering

### interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable pecuniary interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it

is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects** –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a friend, relative, close associate; or
- c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registerable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

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## COUNCIL

22 NOVEMBER 2022

### REFERENCE FROM THE STANDARDS COMMITTEE

#### **A.6 TERMS OF OFFICE AND RECRUITMENT OF MEMBERS OF THE COUNCIL'S STATUTORY INDEPENDENT REMUNERATION PANEL AND ALSO THE COUNCIL'S STATUTORY INDEPENDENT PERSONS**

(Report prepared by Ian Ford)

#### **PART 1 – KEY INFORMATION**

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

To enable the Council to consider the recommendations of the Standards Committee in relation to the terms of office and future recruitment of the members of the Council's Independent Remuneration Panel and its Independent Persons.

##### **EXECUTIVE SUMMARY**

The Standards Committee ("the Committee"), at its meeting held on 3 August 2022 (Minute 6 refers), had considered a detailed report of the Deputy Chief Executive & Monitoring Officer which had enabled it to consider the Independent Remuneration Panel's and Independent Persons' terms of office, with the aim of exploring alternative options as to future recruitment, with a view to making recommendations to full Council on this matter.

Having duly considered all of the information and advice contained in the Officer report the Standards Committee had unanimously resolved:-

*"That the Standards Committee:-*

*(a) notes the contents of the Deputy Chief Executive's report;*

*(b) recommends to Full Council that alternative arrangements for the Independent Remuneration Panel are explored further in order to maximise options available with other Councils within Essex and to give consideration to the outcome prior to any future recruitment; and*

*(c) recommends further to Full Council that the term of office for those Independent Persons, who express an interest in doing so, be extended for a further year without an application process, in order to allow the review within resolution (b) above to be undertaken."*

A copy of the published report of the Deputy Chief Executive & Monitoring Officer to the meeting of the Standards Committee held on 3 August 2022, is attached as an appendix to this report.

##### **RECOMMENDATIONS**

**That Council approves:-**

- (a) that alternative arrangements for the Independent Remuneration Panel are explored further in order to maximise options available with other Councils within Essex and to give consideration to the outcome prior to any future recruitment; and
- (b) that the term of office for those Independent Persons, who express an interest in doing so, be extended for a further year without an application process, in order to allow the review within recommendation (a) above to be undertaken.

#### **BACKGROUND PAPERS FOR THE DECISION**

Published Minutes of the meeting of the Standards Committee held on 3 August 2022.

#### **APPENDIX**

Appendix = Published Report of the Deputy Chief Executive & Monitoring Officer for the meeting of the Standards Committee held on 3 August 2022 (Report A.2)

## **A.6 APPENDIX**

### **STANDARDS COMMITTEE**

**3 AUGUST 2022**

#### **REPORT OF THE DEPUTY CHIEF EXECUTIVE & MONITORING OFFICER**

##### **A.2 INDEPENDENT REMUNERATION PANEL AND INDEPENDENT PERSONS RECRUITMENT**

(Report prepared by Karen Townshend and Lisa Hastings)

#### **PART 1 – KEY INFORMATION**

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

To enable the Committee to comment on the Independent Remuneration Panel and Independent Persons' term of office, exploring alternative options and future recruitment, with consideration to recommendations to full Council.

##### **EXECUTIVE SUMMARY**

###### **Current Position**

- At the meeting on 27 November 2018, Council agreed the appointment of Mr David Irvine, Mrs Clarissa Gosling, Mrs Jane Watts and Mrs Sue Gallone as the Council's Independent Remuneration Panel for the purposes of making recommendations to Council on Members' allowances.
- Mr David Irvine, Mrs Clarissa Gosling, Ms Jane Watts and Ms Sue Gallone were also confirmed as the Council's Independent Persons for the purposes of standards arrangements.
- The roles are still separate but the same individuals have been appointed to both and are in place until Annual Council in May 2023.
- Full Council last considered the Members' Allowances Scheme in September 2020 and the recommendations from the Independent Remuneration Panel (IRP), within the covering report it was highlighted that if the Council approved a Scheme of Allowances for the following two financial years (being 2021/22 and 22/23) the next scheduled time for the IRP to review the Allowances Scheme for this Council would be prior to the start of 2023/24 and therefore this will concern the Scheme of Allowances to be paid following the scheduled elections to this Council in 2023.
- Without alternative arrangements there will be a need to recruit a new Independent Remuneration Panel and new Independent Persons in time to make new formal appointments at Annual Council in May 2023, whilst undertaking a review on the Members' Allowance Scheme, with the support of officers in the late Autumn/early Winter 2022.

###### **Recruitment and alternative options**

- With regard to the roles of Independent Persons for the Ethical Standard arrangements, a pool of Independent Persons are available through the Public Law Partnership (covering Essex, Hertfordshire and Suffolk) that can be called on by any authority, subject to the necessary approvals through formal appointments.. These arrangements are considered appropriate to use where capacity or conflicts of interest are an issue. Whilst the Council has approved and adopted this flexibility, using the pool has not been required due to having four Independent Persons. Therefore, it is still considered prudent for Tendring District Council to

## **A.6 APPENDIX**

continue appointing its own Independent Persons whilst retaining the flexibility of a wider pool to call upon if necessary.

- The Independent Persons and the Independent Remuneration Panel could continue as joint appointments or be separated.
- The Council could also look to alternative arrangements such as joint Independent Remuneration Panels with other Councils, either on flexible or formal basis. Early research has indicated that a small number of Councils might be interested in a joint approach, but no commitments can be made at this time, therefore, any recruitment undertaken by Tendring, would have to reflect some flexibility with recommendations to Full Council.
- Since the recruitment undertaken in 2018, the Committee on Standards in Public Life published its report in January 2019, which with regards to the role of the Independent Persons and their recommendations were responded to by Government in March 2022. Therefore, it is timely for Tendring District Council to review its own approach and give consideration to different options.

### **Statutory and Constitutional Requirements**

- Section 28(6) and (7) of the Localism Act 2011 requires the Council to appoint at least one Independent Person to work with the Monitoring Officer within the Standards Framework.
- Section 20 of The Local Authorities (Members' Allowances) England Regulations 2003 requires that an Independent Remuneration Panel shall be established in respect of each authority and that the Panel shall consist of at least three people.
- In the Council's Constitution, the advertisement of vacancies of Independent Person(s) and the Independent Remuneration Panel, the review of applications received, the interview of suitable candidates and the making of recommendations to Council as to who should be appointed, are delegated to the Chief Executive or Monitoring Officer. However, as both of these independent roles do have strong engagement with Councillors it is considered appropriate that representative from the Committee are involved in the recruitment process. It is recommended that the existing Independent Persons term of office be extended for a year to allow the joint working opportunities for the Independent Remuneration Panel to be explored further.

### **RECOMMENDATION(S)**

**It is recommended that the Standards Committee:-**

- (a) notes the contents of this Report;**
- (b) recommends to Full Council that alternative arrangements for the Independent Remuneration Panel are explored further to maximise options available with other Councils within Essex and give consideration to the outcome prior to any future recruitment; and**
- (c) subject to debate within the meeting, recommend to Full Council that the**

## A.6 APPENDIX

term of office for those Independent Persons who express an interest in doing so, be extended for a further year without an application process, to allow the review within (b) above to be undertaken.

### **BACKGROUND**

The following recruitment process was undertaken for the roles in 2018/19:-

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

The Committee on Standards in Public Life (CSPL) reported the outcome of their national review in a Report published in January 2019, which included a number of recommendations relating to Local Government Ethical Standards. The Report also includes a number of Best Practice recommendations, those which relate to the role and responsibilities of the Independent Person were:

**Recommendation 8:** The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

Whilst, the following did not translate into the formal recommendation or within the list of best practice, the CSPL report stated (page 56) *“The terms of multiple Independent Persons should ideally overlap, to ensure a level of continuity and institutional memory”*.

In the Letter from Kemi Badenoch MP (Minister of State for Equalities and Levelling Up Communities) to Lord Evans, Chair, Committee on Standards in Public Life dated 18<sup>th</sup> March 2022, in response to this recommendation it was stated:

*“The government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The government’s view is that it would be more appropriately implemented as a best practice recommendation for local authorities.*

*In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution “fresh” and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council.*

*When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is*

## A.6 APPENDIX

*understandable that they may be reluctant to place limitations on the appointment.”*

**CSPL Best Practice 7:** Local authorities should have access to at least two independent Persons.

**CSPL Best Practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious or trivial.

### **APPENDICES**

None

## COUNCIL

22 NOVEMBER 2022

### REFERENCE FROM THE STANDARDS COMMITTEE

#### **A.7 REVIEW OF THE MONITORING OFFICER PROTOCOL**

(Report prepared by Ian Ford)

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

To enable the Council to consider the recommendation of the Standards Committee in relation to its review of the Monitoring Officer Protocol.

##### **EXECUTIVE SUMMARY**

The Standards Committee (“the Committee”), at its meeting held on 26 October 2022 (Minute 13 refers), had considered a report of the Monitoring Officer which had enabled it to review the Monitoring Officer Protocol and to decide whether, if any changes were felt to be required, to recommend those to Full Council for formal approval and adoption.

Having duly considered all of the information and advice contained in the Officer report and its appendices the Committee had unanimously resolved:-

*“That, having reviewed the Monitoring Officer’s Protocol, the Committee agrees that the suggested proposed amendments to that Protocol, as set out in the Monitoring Officer’s report, be submitted to Full Council for formal approval and adoption.”*

A copy of the published report (minus appendices) of the Monitoring Officer to the meeting of the Committee held on 26 October 2022, is attached as Appendix 1 to this report.

##### **RECOMMENDATIONS**

**That Council approves:-**

- (a) the proposed amendments to the Monitoring Officer, as shown in Appendix 2, and**
- (b) that the revised Monitoring Officer Protocol, as set out in Appendix 3 be adopted and be incorporated into Part 6 of the Council’s Constitution in due course.**

##### **BACKGROUND PAPERS FOR THE DECISION**

Published Minutes of the meeting of the Standards Committee held on 26 October 2022.

**APPENDICES**

Appendix 1 = Published Report (minus Appendices) of the Monitoring Officer for the meeting of the Standards Committee held on 26 October 2022 (Report A.1)

Appendix 2 = The proposed amendments to the current Monitoring Officer Protocol shown by way of “tracked changes”

Appendix 3 – The proposed new revised Monitoring Officer Protocol



## STANDARDS COMMITTEE

27 OCTOBER 2022

### REPORT OF THE MONITORING OFFICER

#### A.1 REVIEW OF THE MONITORING OFFICER'S PROTOCOL

##### PART 1 – KEY INFORMATION

###### PURPOSE OF THE REPORT

For the Standards Committee to review and discuss the Monitoring Officer's Protocol (the Protocol) and suggest any proposed amendments to that Protocol for consideration by Full Council.

###### EXECUTIVE SUMMARY

In March 2017 the Standards Committee reviewed the Monitoring Officer's Protocol, attached as Appendix A, and having considered the contents, resolved that it was satisfied with the contents and therefore did not wish to make any amendments.

As part of its work programme for 2022-23, the Standards Committee agreed to review the Monitoring Officer's Protocol and if any changes are required, to recommend these to Full Council for approval and adoption..

The Protocol only relates to dealing with matters arising from the Standards Framework relating to Members' interests and complaints, and does not cover the wider responsibilities of the Monitoring Officer for the Council as detailed within the Constitution.

As highlighted in the overarching principles of the Protocol, the Monitoring Officer is not the legal adviser for or to Town and Parish Councils and the role only extends to these councils in relation to the promotion and maintenance of high standards of conduct. If a complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer is under an obligation to notify and/or refer to the Police or other regulatory agencies.

This Protocol operates in conjunction with the terms of reference of the Standards Committee, Sub-Committee, the Complaints Procedure, attached as Appendix B, and Independent Person's Protocol. The Complaints Procedure provides an in depth process in which alleged breach of Members' Code of Conduct complaints must be dealt with a number of actions to be carried out by the Monitoring Officer.

This Complaint Procedure is a staged process and the initial stage of determination when a complaint is received is delegated to the Monitoring Officer from the Standards Committee. The Monitoring Officer will then take various factors into consideration, as detailed within the Complaints Procedure, including In reaching a decision in respect of how to progress the complaint the Monitoring Officer will take account of the following factors where appropriate:-

- Was the Member acting in their official capacity?

- Was the Member in office at the time of the alleged misconduct?
- Is the complaint of a very minor or trivial nature?
- Is the complaint vexatious or malicious?
- Are there historical matters?
- Is there a potential breach of the Code?
- Assessment of public interest?
- Is additional information required prior to making a decision?.

Following consideration of a complaint, the Monitoring Officer issues a Decision Notice setting out the matters taken into account and the reasons for such decision. The Monitoring Officer provides anonymised updates regarding complaints to the Standards Committee at each of its scheduled meetings.

Although, the Protocol refers to the Complaints Procedure and has its own overarching principles, it is considered that the Protocol could be strengthened, thus further reflecting and supporting the Complaints Procedure, by expanding some of the actions in some instances.

Section 1(j) of the Protocol states *“The Monitoring Officer will consult with one of the Independent Persons on complaints received and throughout the process in accordance with the Complaints Procedure”*, this could be enhanced with the following inclusion from the Complaints Procedure:

**Section 4.1 – The Monitoring Officer will review every complaint received and, may consult with one of the Independent Persons before taking a decision as to whether the complaint:**

**4.1.1 Merits no further action**

**4.1.2 Merits early informal resolution or mediation**

**4.1.3 Merits further investigation**

The decision as to how the complaint is to be progressed will normally be taken within 15 working days of receipt of the complaint and will be considered in accordance with the Assessment Criteria included at Annex D of the Complaints Procedure. There is no right of appeal for a complainant or Member against a decision of the Monitoring Officer or of the Standards Committee, but a complaint may be made to the Local Government Ombudsman. This paragraph from the Complaints Procedure could be included within the Protocol but reference to the Ombudsman, should be amended to the Local Government and Social Care Ombudsman, in addition it is suggested that the Protocol should make reference to a Decision Notice being issued to record the outcome.

The Overarching Principles of the Protocol at

1 (m) refers to in providing information, in any manner at any stage in the process, the Monitoring Officer must be satisfied that they have the legal power to do so and the requirements of the Data Protection Act 1998 and Freedom of Information Act 2000 have been considered, as reflected in the Council’s Constitution.

The legislation has changed and the above should be amended to read:

*(m) In providing information, in any manner at any stage in the process, the Monitoring Officer must be satisfied that they have the legal power to do so and the requirements of the Data Protection Act 2018 and the UK General Data Protection Regulation (GDPR), and Freedom of Information Act 2000 have been considered, as reflected in the Council’s Constitution.*

Paragraph 4(d) of the Protocol refers to the Deputy Chief Executive, in this instance this would now also be undertaken by the Deputy Monitoring Officer, in the Monitoring Officer's absence (Schedule 4 of Part 3 of the Constitution).

#### **RECOMMENDATION(S)**

**It is recommended that the Committee review the Monitoring Officer's Protocol and determine whether they agree with the suggested proposed amendments to that Protocol, as set out in the Report and/or any additional changes through their debate for consideration by Full Council.**

#### **REASON(S) FOR THE RECOMMENDATION(S)**

Any amendment to the Monitoring Officer's Protocol must be considered by Full Council for approval and adoption because it is a key document within Part 6 of the Constitution. Although the Monitoring Officer has delegated powers to make changes within the Constitution following restructures and changes in legislation, because the Protocol relates to the Monitoring Officer, it is good governance for the Standards Committee to approve these changes.

#### **ALTERNATIVE OPTIONS CONSIDERED**

Alternatives have not been considered in this instance as it is part of the Standards Committee's work programme and falls within the remit of the Committee, to review the Monitoring Officer's Protocol and determine as to whether they deem to make recommendations for amendments to Full Council.

### **PART 2 – IMPLICATIONS OF THE DECISION**

#### **DELIVERING PRIORITIES**

The Monitoring Officer's Protocol is within the Corporate Plan 2020/24 Priority Themes of delivering high quality services and strong finances and governance.

#### **LEGAL REQUIREMENTS (including legislation & constitutional powers)**

The Monitoring Officer is a statutory appointment under s.5 Local Government and Housing Act 1989.

This Protocol has been produced in light of the provisions of the Localism Act 2011 and associated regulations and will be kept under review and amended where necessary.

Section 28(8) of the Localism Act 2011 provides the definition and restriction of the Independent Person. The Council has adopted an Independent Person Protocol which sets out some general principles.

## **FINANCE AND OTHER RESOURCE IMPLICATIONS**

There are no implications of the proposal that impact on current resources.

## **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;	Nothing to add in the context of this report
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The content of this report demonstrates the Council's approach to good governance and decision making.
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.	Nothing to add in the context of this report.

## **MILESTONES AND DELIVERY**

If the Standards Committee recommend amendments to the Monitoring Officer's Protocol, it is recommended that these be included within the agenda for the Full Council meeting to be held on 24 January 2023.

## **ASSOCIATED RISKS AND MITIGATION**

There are no particular risks associated with the Committee's review of the Protocol as the Protocol is fit for purpose as it currently stands. However, there is an opportunity within this work programme cycle to review and strengthen the Protocol.

## **OUTCOME OF CONSULTATION AND ENGAGEMENT**

It is requested that Members and Independent Persons review and discuss the Monitoring Officer's Protocol as key stakeholders and determine whether they wish to recommend any amendments to Full Council. Full Council will then determine as to whether it wishes to adopt any amendments, and should that be so these will be amended within the Protocol and subsequently published.

## **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.

The proposed amendments to the Protocol do not impact on the protected characteristics because how the Protocol is applied will be undertaken with due regard to the Public Sector Equality Duty.

#### **SOCIAL VALUE CONSIDERATIONS**

There is an element of social value relating to the Monitoring Officer's Protocol in that the public must have confidence that complaints raised against Members that relate to the Members' Code of Conduct will be looked at in a fair manner. The Protocol and associated procedures are considered robust to ensure this confidence.

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

Not applicable.

#### **OTHER RELEVANT 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.

<b>Crime and Disorder</b>	Not applicable
<b>Health Inequalities</b>	Not applicable
<b>Area or Ward affected</b>	Not applicable

#### **ANY OTHER RELEVANT INFORMATION**

Not applicable.

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

#### **BACKGROUND**

The work programme for the Standards Committee was determined at its meeting of 06 April 2022. It is therefore requested that the Committee review the Monitoring Officer's Protocol and make recommendations for any amendments they consider necessary for consideration by Full Council.

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

The Standards Committee last reviewed the Monitoring Officer's Protocol on 27 March 2017 and determined that it was satisfied with the current Monitoring Officer's Protocol and therefore had no amendments that it wished to make at that time. Minute 21 of that meeting applies.

#### **BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

Tendring District Council Independent Person's Protocol  
Minutes of the meeting of the Standards Committee 27 March 2017

## APPENDICES

Appendix A – Tendring District Council Monitoring Officer's Protocol  
Appendix B – Tendring District Council Complaints Procedure

## REPORT CONTACT OFFICER(S)

<b>Name</b>	<b>Lisa Hastings</b>
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**TENDRING DISTRICT COUNCIL  
MONITORING OFFICER PROTOCOL**

This Protocol relates to the discharge of the Monitoring Officer functions in relation to the assessment of an allegation that a Member of the District, Town or Parish Council has failed to comply with the Council's Members' Code of Conduct.

**1. Overarching Principles:**

- (a) The Monitoring Officer is a statutory appointment under s.5 of the Local Government and Housing Act 1989.
- (b) This Protocol has been produced in light of the provisions of the Localism Act 2011 and associated regulations and will be kept under review and amended where necessary.
- (c) The Monitoring Officer will discharge their statutory responsibilities with a positive determination contributing to promotion and maintenance of high standards of conduct, in a manner that enhances the overall reputation of the Council, in particular:
  - Complying with the law (including any relevant Codes of Conduct);
  - Complying with any general Guidance issued including consideration of Best Practice;
  - Complying with the procedures adopted by the Standards Committee following such guidance;
  - Complying with the Council's Constitution and standing orders; and
  - Acting impartially in the interests of fair and natural justice.
- (d) The Monitoring Officer must establish and maintain a Register of Interests of Members and co-opted Members of the Authority.
- (e) The Monitoring Officer is employed by Tendring District Council and owes their primary responsibility to the Authority rather than to any individual Member or group of Members. Accordingly, when they are of the opinion that providing advice to a Member or group of Members on a matter is incompatible with their role as adviser to the Authority, or any action which they may have to take on behalf of the Authority, they may decline to provide such advice, but may at their discretion, secure that such advice is provided from an independent source at the expense of the Authority.
- (f) Where the advice or recommendation of the Monitoring Officer is departed from by the Standards Committee or Sub-Committee, in accordance with administrative law, full reasons will be provided by the relevant Committee in making its decision.
- (g) This Protocol operates in conjunction with the terms of reference of the Standards Committee, Sub-Committee, the Complaints Procedure and Independent Person's Protocol.
- (h) The Monitoring Officer is the principal adviser to the Standards Committee and Sub-Committee. Additional advice and support is provided by Officers within the Legal and Democratic Services teams.

- (i) The Monitoring Officer is not the legal adviser for or to Town and Parish Councils and the role only extends in relation to the promotion and maintenance of high standards of conduct at these Authorities.
- (j) The Monitoring Officer will ~~consult with one of the Independent Persons~~ **act** on complaints received and throughout the process in accordance with the Complaints Procedure. **Under Section 4.1 of that Procedure the Monitoring Officer will review every complaint received and, before taking a decision, may consult with one of the Independent Persons as to whether the complaint:**

- (i) Merits no further action;**
- (ii) Merits early informal resolution or mediation; or**
- (iii) Merits further investigation.**

**A formal Decision Notice of that decision will be prepared and circulated to the interested parties.**

**There is no right of appeal for the complainant or for the Member against a decision of the Monitoring Officer or the Standards Committee though a complaint can be made to the Local Government and Social Care Ombudsman.**

- (k) In circumstances where either the Monitoring Officer or one of the Officers has made a complaint, witnessed the breach or previously assisted with the complaint, internal procedures will be implemented to ensure a conflict of interest does not exist. These procedures will consist of maintaining an information barrier and restricted access to the matter in consideration; this is referred to as “conflicted out”.

In practical terms, in these circumstances, the Monitoring Officer or Officer will take no part in the process unless called upon either as the complainant or as a witness.

- (l) In instances (exceptional circumstances) where the Monitoring Officer decides to refer a complaint to the Standards Committee or Sub-Committee for initial assessment or further investigation, in accordance with the Complaints Procedure (see flowchart), any approved information as is readily available, which would assist the Standards Committee or Sub-Committee in its function of considering the allegation will be attached to their Report.
- (m) In providing information, in any manner at any stage in the process, the Monitoring Officer must be satisfied that they have the legal power to do so and the requirements of the Data Protection Act ~~1998~~ **2018, the UK General Data Protection Regulation (GDPR)** and Freedom of Information Act 2000 have been considered, as reflected in the Council’s Constitution.
- (n) It is recognised that, where a complaint is referred for investigation, this may not be personally conducted by the Monitoring Officer. The investigator instructed will be suitably qualified with the requisite experience and may include another senior officer of the Council, a senior officer of another Authority or an appropriately experienced consultant, ensuring that independence and impartiality is maintained. Wherever possible and if appropriate to do so, the Monitoring Officer will seek external resources from outside of the County of Essex.



### 2. Receipt of Allegations:

- (a) If the allegation or complaint does not refer to the Code of Conduct the matter will not be considered under the Localism Act or associated specific Complaints Procedure. The Monitoring Officer will treat this as a general complaint and forward it to be dealt with under the Council's general formal complaints process, as appropriate.
- (b) The Monitoring Officer will keep the complaint file and associated papers in accordance with the Retention and Destruction Policy.

### 3. Consultation with the Independent Persons:

- (a) The Monitoring Officer and supporting Officers will facilitate the contact with Independent Persons for the purposes of discussions with the Member subject of the complaint, the Complainant and the Monitoring Officer. Direct contact without the Monitoring Officer's knowledge is not permitted and the Monitoring Officer should be notified immediately by the Independent Person if direct contact is attempted by the parties.
- (b) The Monitoring Officer will allocate roles for the Independent Persons in accordance with their Protocol and each party will be notified who the relevant Independent Person is and that they will be in contact shortly.
- (c) The Monitoring Officer does not have to agree with the Independent Person but if a different view is taken the Monitoring Officer will consult with another Independent Person in the first instance, before making a final decision.

### 4. Standards Committee and Sub-Committee:

- (a) The Monitoring Officer, in consultation with the relevant Chairman of the Standards Committee or Sub-Committee will decide on the type of attendance permitted for an Independent Person when considering complaints.
- (b) All meetings of the Standards Committee or Sub-Committee are considered to be open to the public and press unless (c) and (d) below apply.
- (c) The Monitoring Officer will advise the Standards Committee or Sub-Committee when to go into private session and exclude public access to the meeting in accordance with the Access to Information Procedure Rules, as set out in the Council's Constitution.
- (d) In accordance with Access to Information Procedure Rules, if the Monitoring Officer or ~~Deputy Chief Executive~~ **Deputy Monitoring Officer, in the Monitoring Officer's absence**, considers it appropriate, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with the meeting at which those reports are to be discussed is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.
- (e) Any decision departing from the Monitoring Officer's recommendation or advice will be supported with full reasons and recorded within the public part of the minutes for the meeting.

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**TENDRING DISTRICT COUNCIL  
MONITORING OFFICER PROTOCOL**

This Protocol relates to the discharge of the Monitoring Officer functions in relation to the assessment of an allegation that a Member of the District, Town or Parish Council has failed to comply with the Council's Members' Code of Conduct.

**1. Overarching Principles:**

- (a) The Monitoring Officer is a statutory appointment under s.5 of the Local Government and Housing Act 1989.
- (b) This Protocol has been produced in light of the provisions of the Localism Act 2011 and associated regulations and will be kept under review and amended where necessary.
- (c) The Monitoring Officer will discharge their statutory responsibilities with a positive determination contributing to promotion and maintenance of high standards of conduct, in a manner that enhances the overall reputation of the Council, in particular:
  - Complying with the law (including any relevant Codes of Conduct);
  - Complying with any general Guidance issued including consideration of Best Practice;
  - Complying with the procedures adopted by the Standards Committee following such guidance;
  - Complying with the Council's Constitution and standing orders; and
  - Acting impartially in the interests of fair and natural justice.
- (d) The Monitoring Officer must establish and maintain a Register of Interests of Members and co-opted Members of the Authority.
- (e) The Monitoring Officer is employed by Tendring District Council and owes their primary responsibility to the Authority rather than to any individual Member or group of Members. Accordingly, when they are of the opinion that providing advice to a Member or group of Members on a matter is incompatible with their role as adviser to the Authority, or any action which they may have to take on behalf of the Authority, they may decline to provide such advice, but may at their discretion, secure that such advice is provided from an independent source at the expense of the Authority.
- (f) Where the advice or recommendation of the Monitoring Officer is departed from by the Standards Committee or Sub-Committee, in accordance with administrative law, full reasons will be provided by the relevant Committee in making its decision.
- (g) This Protocol operates in conjunction with the terms of reference of the Standards Committee, Sub-Committee, the Complaints Procedure and Independent Person's Protocol.
- (h) The Monitoring Officer is the principal adviser to the Standards Committee and Sub-Committee. Additional advice and support is provided by Officers within the Legal and Democratic Services teams.

- (i) The Monitoring Officer is not the legal adviser for or to Town and Parish Councils and the role only extends in relation to the promotion and maintenance of high standards of conduct at these Authorities.
- (j) The Monitoring Officer will act on complaints received and throughout the process in accordance with the Complaints Procedure. Under Section 4.1 of that Procedure the Monitoring Officer will review every complaint received and, before taking a decision, may consult with one of the Independent Persons as to whether the complaint:
  - (i) Merits no further action;
  - (ii) Merits early informal resolution or mediation; or
  - (iii) Merits further investigation.

A formal Decision Notice of that decision will be prepared and circulated to the interested parties.

There is no right of appeal for the complainant or for the Member against a decision of the Monitoring Officer or the Standards Committee though a complaint can be made to the Local Government and Social Care Ombudsman.

- (k) In circumstances where either the Monitoring Officer or one of the Officers has made a complaint, witnessed the breach or previously assisted with the complaint, internal procedures will be implemented to ensure a conflict of interest does not exist. These procedures will consist of maintaining an information barrier and restricted access to the matter in consideration; this is referred to as “conflicted out”.

In practical terms, in these circumstances, the Monitoring Officer or Officer will take no part in the process unless called upon either as the complainant or as a witness.

- (l) In instances (exceptional circumstances) where the Monitoring Officer decides to refer a complaint to the Standards Committee or Sub-Committee for initial assessment or further investigation, in accordance with the Complaints Procedure (see flowchart), any approved information as is readily available, which would assist the Standards Committee or Sub-Committee in its function of considering the allegation will be attached to their Report.
- (m) In providing information, in any manner at any stage in the process, the Monitoring Officer must be satisfied that they have the legal power to do so and the requirements of the Data Protection Act 2018, the UK General Data Protection Regulation (GDPR) and Freedom of Information Act 2000 have been considered, as reflected in the Council's Constitution.
- (n) It is recognised that, where a complaint is referred for investigation, this may not be personally conducted by the Monitoring Officer. The investigator instructed will be suitably qualified with the requisite experience and may include another senior officer of the Council, a senior officer of another Authority or an appropriately experienced consultant, ensuring that independence and impartiality is maintained. Wherever possible and if appropriate to do so, the Monitoring Officer will seek external resources from outside of the County of Essex.

### **2. Receipt of Allegations:**

- (a) If the allegation or complaint does not refer to the Code of Conduct the matter will not be considered under the Localism Act or associated specific Complaints Procedure. The

Monitoring Officer will treat this as a general complaint and forward it to be dealt with under the Council's general formal complaints process, as appropriate.

- (b) The Monitoring Officer will keep the complaint file and associated papers in accordance with the Retention and Destruction Policy.

### **3. Consultation with the Independent Persons:**

- (a) The Monitoring Officer and supporting Officers will facilitate the contact with Independent Persons for the purposes of discussions with the Member subject of the complaint, the Complainant and the Monitoring Officer. Direct contact without the Monitoring Officer's knowledge is not permitted and the Monitoring Officer should be notified immediately by the Independent Person if direct contact is attempted by the parties.
- (b) The Monitoring Officer will allocate roles for the Independent Persons in accordance with their Protocol and each party will be notified who the relevant Independent Person is and that they will be in contact shortly.
- (c) The Monitoring Officer does not have to agree with the Independent Person but if a different view is taken the Monitoring Officer will consult with another Independent Person in the first instance, before making a final decision.

### **4. Standards Committee and Sub-Committee:**

- (a) The Monitoring Officer, in consultation with the relevant Chairman of the Standards Committee or Sub-Committee will decide on the type of attendance permitted for an Independent Person when considering complaints.
- (b) All meetings of the Standards Committee or Sub-Committee are considered to be open to the public and press unless (c) and (d) below apply.
- (c) The Monitoring Officer will advise the Standards Committee or Sub-Committee when to go into private session and exclude public access to the meeting in accordance with the Access to Information Procedure Rules, as set out in the Council's Constitution.
- (d) In accordance with Access to Information Procedure Rules, if the Monitoring Officer or Deputy Monitoring Officer, in the Monitoring Officer's absence, considers it appropriate, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with the meeting at which those reports are to be discussed is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.
- (e) Any decision departing from the Monitoring Officer's recommendation or advice will be supported with full reasons and recorded within the public part of the minutes for the meeting.

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## COUNCIL

22 NOVEMBER 2022

### REFERENCE FROM THE LICENSING & REGISTRATION COMMITTEE

#### A.8 ADOPTION OF THE COUNCIL'S NEW STATEMENT OF LICENSING POLICY

(Report prepared by Michael Cook and Ian Ford)

##### PART 1 – KEY INFORMATION

###### PURPOSE OF THE REPORT

To request that Full Council agrees and adopt the Council's new Statement of Licensing Policy.

###### EXECUTIVE SUMMARY

- The Council is required to determine its Statement of Licensing Policy every five years in accordance with Section 5 of the Licensing Act 2003 (as amended by the Police Reform and Social Responsibility Act 2011 and by the Policing and Crime Act 2017). The Licensing Act 2003 states that a Council's Statement of Licensing Policy will set out the Council's policy with respect to the exercise of its licensing functions within the 2003 Act.
- The Council last adopted a Statement of Licensing Policy in 2016 for the period 2016-2021. As such, and in order to comply with its legal duty under the aforementioned Section 5, the Council is seeking to adopt a new Statement as soon as practicable.
- The review and renewal of the Statement has been subject to the required public consultation and a final draft of the Statement was scrutinised and agreed by the Licensing and Registration Committee at its meeting held on 3 November 2022.
- The Statement must be adopted by Full Council on the recommendation from the Licensing and Registration Committee and then published on the Council's web site and by way of a public notice in a local newspaper.

###### RECOMMENDATION(S)

It is recommended that:

- (a) The Council's new Statement of Licensing Policy, as set out as an Appendix to this report, is agreed and adopted;
- (b) The Council's new Statement of Licensing Policy is published via the Council's web-site and by way of a public notice in the local newspaper; and
- (c) The Council's new Statement of Licensing Policy will come into force once approved and adopted by Full Council.

##### PART 2 – IMPLICATIONS OF THE DECISION

###### DELIVERING PRIORITIES

###### Our People

- Remain a low crime area and reduce the fear of crime

The Licensing Act 2003 provides, at its core, a regime that is intended to have as its objectives:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

The Authority is required to have regard to these objectives in undertaking its role under the Licensing Act 2003.

In undertaking its role, the Authority will also positively contribute to the achievement of the ambition in the Council's Corporate Plan 2020-24 to 'Deliver High Quality Services', 'Build Sustainable Communities for the Future', have 'Strong Finances and Governance', support a 'Growing and Inclusive Economy' and provide 'Community Leadership through Partnerships'.

## **FINANCE, OTHER RESOURCES AND RISK**

### **Finance and other resources**

The cost of administration in terms of production, consultation and publication of the Council's Statement of Licensing Policy will be met from the current service budget.

### **Risk**

The Council must review its Statement of Licensing Policy and have it adopted and published. The fact that the five year period of the 2016 Statement of Licensing Policy has expired is a significant risk to the Council as, by implication, it has not met its duty to determine a new Policy prior to (6 January) 2021. It therefore undermines the general duty of the Council in Section 4 of the 2003 Act which requires the Authority (in carrying out its licensing functions) to have regard to its Statement of Licensing Policy. Accordingly, the steps set out in the report seek to now remedy the position as swiftly as possible. In addition, measures will be put in place with an aim of preventing a repetition of the position in five years' time.

## **LEGAL**

The Council is required to determine its Statement of Licensing Policy every five years in accordance with Schedule 5 of the Licensing Act 2003.

The last time the Council approved a Statement of Licensing Policy was in 2016 (Council Minute 103 from the 9 February 2016 meeting refers). Each Statement shall apply for a period of five years and that period normally expires on 6 January (2021 in the most recent instance). In view of the position, where the five year period to which the 2016 Statement has expired, it is vital that all necessary steps are taken to adopt a valid new Statement without delay. The Licensing Authority may determine to apply a five year period to any new Statement of Licensing Policy and thereby any new Statement would not expire on 6 January 2026.

## **OTHER IMPLICATIONS**

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

Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.

### **CRIME AND DISORDER**

As set out earlier, two of the four licensing objectives under the Licensing Act 2003 are the Prevention of Crime and Disorder and the Prevention of Public Nuisance. The Council also



has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its area. The Council's Statement of Licensing Policy has been prepared with the intention to positively promote the four licensing objectives as a whole including the prevention of crime and disorder and the prevention of public nuisance in the District.

## **EQUALITY AND DIVERSITY**

The Licensing Authority will have due regard to the public sector equality duty under the Equality Act 2010. Under this duty, the Authority (in the exercise of its functions) must have due regard to the need to:

- eliminate any form of unlawful discrimination (including direct or indirect discrimination, harassment, victimisation, and any other conduct prohibited under the Act);
- advance equality of opportunity between people who share a relevant characteristic and people who do not; and
- foster good relations between people who share a protected characteristic and people who do not.

## **AREA/WARDS AFFECTED**

All

## **CONSULTATION**

The draft new statement of policy was agreed by the Licensing and Registration Committee at its meeting held on 21 July 2022 for public consultation. The consultation encompassed and engaged a large and diverse range of statutory consultees as follows:-

*“(a) the chief officer of police for the authority's area,  
(b) the fire and rescue authority for that area,  
(ba) each Local Health Board for an area any part of which is in the authority's area,  
(bb) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the authority's area,  
(c) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,  
(d) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,  
(e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and  
(f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.”*

## **PART 3 – SUPPORTING INFORMATION**

### **BACKGROUND**

Schedule 5 (3) of the Licensing Act 2003 requires the Authority to prepare and consult on its Statement of Licensing Policy every five years and to publish this Policy.

The Policy will inform and guide applicants, licence holders and other interested parties such as Responsible Authorities, businesses, residents and Members on how Tendring District Council (as the Licensing Authority under the Licensing Act 2003) expects to administer applications submitted during the five years that the Policy is in force and how the Authority intends to promote the Licensing Objectives through its Policy.

Since the 2016 Statement of Licensing Policy was determined there have been a number of amendments to the statutory Section 182 (of the Licensing Act 2003) Guidance issued by the Secretary of State.

#### **CURRENT POSITION**

Following the aforementioned statutory consultation, the Licensing and Registration Committee, at its meeting held on 3 November 2022, considered the responses received and resolved to submit a proposed new Statement of Licensing Policy to this meeting of the Full Council for adoption.

The proposed Statement of Licensing Policy sets out the principles that the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications for licences and notices made under the Act for the subsequent five years and how it will expect compliance with the policy to be met by applicants, premises licence, club certificate and those who provide regulated activities under temporary event notices (and also how such compliance will be managed by the Licensing Authority).

The proposed Statement of Licensing Policy attached as an Appendix represents the 2016 Statement suitably updated in line with all current legislation and Government guidance to Local Authorities. The changes shown are therefore predominantly administrative in nature and do not alter in any significant or substantial way the approach set out in the 2016 Statement.

#### **BACKGROUND PAPERS FOR THE DECISION**

Published Reports for, and Minutes of, the Licensing & Registration Committee meetings held on 21 July and 3 November 2022.

#### **APPENDICES**

<b>A8 APPENDIX</b>	<b>-</b>	<b>Final proposed new Statement of Licensing Policy</b>
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# Tendring District Council



## POLICY FOR DEALING WITH APPLICATIONS RECEIVED UNDER THE LICENSING ACT 2003

**2022–2027**

*Adopted 22 November 2022*  
*Tendring District Council: [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)*

## **FOREWORD**

The Statement of Licensing Policy (to be referred to in this document as the Licensing Policy or Policy) produced by Tendring District Council under the Licensing Act 2003 ('the 2003 Act'), as amended. Since the original adoption of the policy statement it has been amended to reflect the changes in the law, guidance and the circumstances in the District.

For example, the amendments have expanded the list of responsible authorities; allowed the imposition of additional mandatory conditions; removed the requirement for certain community premises to have a designated premises supervisor; provided a simplified procedure for minor variations to a premises licence or club premises certificate; provided a summary review procedure in cases of serious crime and disorder; provided new offences and powers in relation to underage sales, empowered local authorities to make early morning alcohol restriction orders; impose a Late Night Levy on premises open after midnight; implemented changes imposed by the Live Music Act, 2012; extended the rights of those who can make representations with regards to both applications and reviews; reduced the evidential burden on licensing authorities in regards to the promotion of the licensing objectives from "necessary" to "appropriate"; amended the limits and requirements of Temporary Event Notices and further de-regulated live music, recorded music and other entertainments. The term between adoption by the Licensing Authority of a revised Statement of Licensing Policy has also been extended from the original three years to every five years..

This policy statement will come into effect from 23 November 2022 and sets out the general approach the Authority will be taking when making licensing decisions during the next five year period up to 22 November 2027. The Policy has been the subject of public consultation before its adoption and publication by the Council..

This Policy therefore explains how the Council, acting in its capacity as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that local residents, businesses, visitors to the District and local communities need and expect. References in this Statement of Licensing Policy to the Licensing Act 2003 are references to the 2003 Act as amended.

The Council (as the Licensing Authority) recognises its key role in dealing with alcohol related crime and disorder and anti-social behaviour issues and by working closely with our partner organisations such as the Police to promote the licensing objectives, it has achieved some notable successes in this area and will continue to work to do so. Therefore while it is entirely accepted that the majority of the public are well behaved and consume alcohol responsibly, and that most licensed premises sell or supply alcohol in a responsible way, we must not let a minority of badly behaved and inconsiderate individuals spoil life for the majority. Tendring District Council, Essex Police and our partner agencies are committed to working in partnership to provide an integrated and responsive approach to licensing. Within the Council, in an effort to ensure best practice is followed in enforcement matters and to avoid unnecessary duplication of effort, the licensing team is represented on its Corporate Enforcement Group.

The Licensing Authority recognises how important the leisure and entertainment industry is to the economic and social well being of the district and well-run businesses can contribute positively to that economic and social wellbeing. Applications for new leisure developments that are well planned and where issues such as crime and disorder, public nuisance, the protection of children from harm and public safety are considered early in the planning process are welcomed. However, the Licensing Authority has demonstrated on a number of occasions that it will not hesitate in dealing firmly where problems of anti-social behaviour fuelled by excess alcohol consumption and other issues, such as the sale of alcohol to minors, exist.

This Policy will be kept under review and it will no doubt change over a period of time to reflect local issues and circumstances. The Licensing Authority will seek through the licensing process and the decisions it takes, to make the District of Tendring a safe and welcoming place for residents, businesses and visitors to live, work and visit.

**Chair, Licensing and Registration Committee**

**CONTACT FOR FURTHER INFORMATION AND**  
**ALTERNATIVE LANGUAGES AND FORMATS OF THIS POLICY**

If you require an alternative language or format of this Policy or if you would like further information or have any comments on anything contained in the Policy, please contact the Licensing Section on

**01255 686565**

or write to us at:-

Licensing Section  
Democratic Services & Elections  
**Tendring District Council**  
**Town Hall, Station Road**  
**Clacton on Sea**  
**CO15 1SE**

or e-mail at: -

**[licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk)**

This Policy is also available on the Council's Website

**[www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)**

# TENDRING DISTRICT COUNCIL

## STATEMENT OF LICENSING POLICY

### 1.0 INTRODUCTION

- 1.1 Tendring District Council is the Licensing Authority under the Licensing Act 2003 ('the 2003 Act'), , and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the District in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. For the purposes of this policy document, when carrying out functions required by the 2003 Act, as amended, Tendring District Council will be referred to as "the Licensing Authority", otherwise Tendring District Council will be referred to as "the Council".
- 1.2 When assessing applications, the Licensing Authority needs to be satisfied that the measures proposed in the applicant's operating schedule positively promote the four licensing objectives, namely the **prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm**. In this policy, bold type refers to matters that the Licensing Authority considers being of particular importance for applicants to take account of when preparing their application and operating schedule, where it is appropriate and proportionate to do so. Passages of text that are not in bold are provided to assist applicants and any other interested parties in understanding what the Licensing Authority is seeking to achieve through the day to day operation of its policy, the factors that influence the promotion of the licensing objectives and the control measures that could be implemented by the applicant to achieve that outcome. **The Licensing Authority welcomes and encourages positive, self-imposed conditions from applicants to their operating schedule in order to further promote and strengthen the licensing objectives. Pre-application dialogue with all responsible authorities is particularly encouraged so that their advice on suitable conditions as part of an operating strategy can be provided. Their contact details, including for Essex Police Licensing Team, are set out in Appendix C.**
- 1.3 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink between **the hours of 2300hrs and 0500hrs**. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives, nor can this policy detail all the control measures that may be appropriate and proportionate in respect of all licensable activities in all premises.
- 1.4 Nothing in this Statement of Policy should be regarded or interpreted as an indication that any requirement of law may be over-ridden; each application will be considered in its own right and treated entirely on its own merits.
- 1.5 The Human Rights Act 1998 incorporates the European Convention on Human Rights into UK law and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
  - Article 8 that everyone has the right to respect for his home and private life; and

- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions.

## **The Licensing Objectives**

- 1.5 The 2003 Act requires the Licensing Authority to carry out its various licensing functions so as to positively promote the four licensing objectives. These are:-
- (a) The Prevention of Crime and Disorder.
  - (b) Public Safety.
  - (c) The Prevention of Public Nuisance.
  - (d) The Protection of Children from Harm.
- 1.6 In respect to the promotion of each of the four licensing objectives, applicants should provide appropriate evidence to the Licensing Authority & other Responsible Authorities that suitable and sufficient measures are detailed in their operating schedule, which will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Applicants should also consider whether or not any additional measures will be appropriate for an occasional or specific basis, such as when a special event or promotion is planned, which is intended to, or is likely to, attract, larger audiences or are more prone to anti-social behaviour. **For events likely to attract audiences of 500 persons or more (or otherwise are of a significant nature), organisers are requested to engage with the Council's Safety Advisory Group (SAG) at the earliest opportunity (which includes representation from partner organisations such as the Police). Appendix C references the contact details for the Safety Advisory Group.**

## **Statement of Licensing Policy**

- 1.7 The 2003 Act further requires that the Licensing Authority publishes a 'Statement of Licensing Policy' that sets out the policies the Licensing Authority will generally seek to appropriately and proportionately apply in order to positively promote the licensing objectives when making decisions on applications submitted under the Act.
- 1.8 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act, as amended, and having regard to the revised Guidance issued by the Secretary of State under Section 182 of the 2003 Act,.
- 1.9 This Policy Statement took effect on **23 November 2022** and will remain in force for a period of not more than 5 years. It will be subject to review and a further consultation process prior to re-adoption in **22 November 2027**. In the interim, changes to legislation or guidance may make it necessary to further review and amend this policy.
- 1.10 When making, publishing and applying its policy, the Licensing Authority must have regard to the Secretary of State's Guidance issued under Section 182 of the 2003 Act. The Licensing Authority will generally adhere to this Policy when determining applications for authorisations. The Licensing Authority may depart from its Licensing Policy if the individual circumstances of any application or case merit such a decision in the interests of the promotion of the Licensing Objectives and, where this situation arises, the Licensing Authority will give its full reasons for having done so.

## **Consultation**

- 1.11 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents, local representative bodies (such as Town and Parish Councils), businesses, visitors to the District, responsible authorities and compliance and enforcement authorities; all of whom may have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives and the Licensing Authority will seek to engage with them as appropriate when reviewing the Policy from time to time.



These are in addition to those authorities and agencies that the Council is statutorily required to consult with in accordance with Section 5(3) of the 2003 Act.

- 1.12 In developing this Policy, the Licensing Authority consulted widely. Along with the statutory consultees (including the Chief Officer of Police for the District, the Essex County Fire and Rescue Service and local representative for the Director of Public Health in England) and persons/bodies representative of existing licence and certificate holders, the views of Ward Councillors, Town and Parish Councils, Business representatives such as the Clacton Town Partnership, partnership groups, Citizens Advice Bureau were also sought.

### **Links to Other Strategies**

- 1.13 In preparing and reviewing this Policy, the Licensing Authority has had regard to, and consulted with, those involved in its local strategies on crime prevention, planning, transport, culture, equality and diversity, tourism and economic development and regeneration, to ensure the proper co-ordination and integration of the aims and actions of these strategies. Relevant review and amendment of these strategies will be considered for their impact on this Statement of Licensing Policy.
- 1.14 To ensure suitable integration with the Council's Planning policies, the Licensing Authority will consult with the Planning Authority (along with all responsible authorities) on grant applications and full variations of a premises licence or certificate and work closely with the Planning Authority to ensure that the Planning Authority is able to address compliance with planning requirements by the applicant. As appropriate, the Licensing Authority will liaise and work closely with the Planning Authority and respond to requests for information or to general consultation regarding licensed premises in the District, including the wider impact of alcohol related crime and disorder and anti-social behaviour to enable the Planning Authority to have regard to such matters when making its decisions.
- 1.15. The Council recognises its responsibilities under appropriate equal opportunity and diversity legislation, in particular the Equality Act 2010 and the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000. The impact of this policy will be monitored in general terms and the Licensing Authority will take the Public Sector Equality Duty into account when dealing with applications.

### **Tackling Child Sexual Exploitation**

- 1.16 Where practicable and advantageous, the Licensing Authority will encourage rebalancing and diversification of licensed premises away from those premises concentrating solely or largely on the sale of alcohol, to premises that provide a range of offerings to encourage a wide variety of users including of activities outside of the licensing framework of the 2003 Act..
- 1.17 The Licensing Authority is committed to protecting children from harm. The Council recognises that the misuse of alcohol often contributes to the parental neglect of children and domestic abuse and violence within families and is a key factor in the criminal and sexual exploitation of children.
- 1.18 The Council seeks to proactively work through the Council's Corporate Licensing Enforcement Group, its partner agencies (including the Police) and organisations such as Pubwatch to share intelligence and encourages managers of premises to do all they can to ensure that they and their staff recognise the signs of child exploitation and provide intelligence for the appropriate authorities about concerns, including perpetrators who may be operating in their areas.

### **Duplication with other Regulatory Regimes**

- 1.19 In exercising its licensing functions, the Licensing Authority will seek to avoid duplication with any other existing legislation and regulatory regimes that already place obligations on

employers and operators e.g. the Management of Health and Safety at Work Regulations 1999, the Regulatory Reform (Fire Safety) Order 2005, or the Environmental Protection Act 1990. This shall include, but not be limited to, attachment of conditions to licensing authorisations.

## Right to Work

- 1.20 Applicants for a premises licence, the transfer of a premises licence and a personal licence must demonstrate that they have the right to work in the United Kingdom and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. This applies for individual applicants and applications from partnerships which are not limited liability partnerships. These changes were brought into the legal framework for licensing under the 2003 Act by virtue of the Immigration Act 2016.

## Regulated Entertainment

- 1.21 Having regard to the Live Music Act 2012, the Council's Corporate Plan, its Cultural Strategy and the International Covenant on Economic, Social and Cultural Rights (ICESCR), a diverse provision of cultural activities is welcomed for the benefit of communities across the District. The Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, etc., to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events. The Licensing Authority may need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children. Advice and guidance on this matter will be sought from the appropriate cultural and leisure services within the Council and will also include outside forums where appropriate. Licensed Council premises and land are available for the promotion of cultural activities in accordance with, and subject to, established letting arrangements.

## Applications

- 1.22 When considering applications, the Licensing Authority will have regard to:-
- (a) The 2003 Act, as amended and the licensing objectives.
  - (b) Government guidance issued under Section 182 of the 2003 Act, as amended.
  - (c) Any supporting regulations.
  - (d) This Statement of Licensing Policy.
  - (e) Amendments to the licensing regime brought about by any other relevant or future legislation that may be introduced by Central Government
- 1.23 **This does not, however, undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered in its own right and on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.**
- 1.24 When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from the Authority's functions as the local planning authority. **However, applications for premises licences for permanent commercial premises should normally be from individuals/businesses with appropriate planning consent for the property concerned.** Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary.

- 1.25 When one part of the Council seeks a premises licence from the Licensing Authority, the Licensing and Registration Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the Police, they will be considered fairly by the Committee. Those making representations who are aggrieved by a positive decision in favour of a Local Authority application by the Licensing Authority will be entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision made.
- 1.26 In all cases, applicants and those making representations in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.
- 1.27 Appendix A of this policy provides applicants with the details of the application process, having regard to the 2003 Act, the regulations, statutory guidance and local practice and procedures. It should be noted that an incomplete or incorrect application will not be accepted but will be returned with an explanation of why it is incomplete or incorrect. Reasonable assistance and advice on the application process will be given to all applicants if needed, and every effort will be made to keep the process as simple and as easy as possible. An application will only be deemed to be properly served if it has been served as follows below and in accordance with the statutory instrument regulations that cover the submission of applications made under the 2003 Act:-

- (a) Hard copy by post and sent to the address shown below:-

Licensing Section  
Tendring District Council  
Town Hall, Station Road  
Clacton on Sea  
Essex CO15 1SE

- (b) Hard copy delivered in person to the above address during normal office opening hours, when a receipt will be issued upon request.  
or

- (c) Has been sent to the Licensing Authority by electronic means. Applications can be made on line either through using GOV.UK or the Council's own web site [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) and accessing the licensing application pages.

Once the Licensing Authority have received a satisfactory Grant or Variation of a Premises Licence or Club Premises Certificate application, the applicant who has served the application will receive written confirmation of this including the representation expiry date, providing they comply with the correct publishing of the blue notice and public notice.

## Representations

- 1.28 The Chief Officer of Police, the Fire and Rescue Authority, the Licensing Authority, the Enforcing Authority for health and safety purposes, the Local Planning Authority, the authority responsible for Environmental Health, Trading Standards, the Safeguarding Children's Authority and the authority responsible for Public Health are all known as 'Responsible Authorities'. These responsible authorities may make representations on applications, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted. Contact details for these responsible authorities are set out in Appendix C.
- 1.29 Any other person, (this includes any individual, body or business), regardless of their geographical location or proximity to the premises, or those who are likely to be affected by it, or their representatives, are free to raise relevant representations for or against a grant, full variation or review application. Elected Members of the Licensing Authority may also make representations on behalf of such persons, but may not sit on a Licensing Sub

Committee that considers those representations. A representation would only be 'relevant' if it relates to the likely effect or impact of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious, and in the case of reviews not repetitious. **Any representation made must be received by the Licensing Authority within the relevant consultation period in order for it to be considered and upheld if necessary.**

**It is only when relevant representations are received, that the Licensing Authority may hold a hearing. Where no representations are received, the application must be granted on the terms sought by the applicant.**

## Conditions

- 1.30 Licensing is about the appropriate and proportionate compliance of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where relevant representations are made, the Licensing Authority will seek to make objective judgments as to whether appropriate and proportionate conditions may need to be attached to various authorisations in order to secure achievement of the licensing objectives. Any conditions arising from the operating schedule or as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned. These conditions will only cover matters that are within the control of individual licensees and others with relevant responsibilities and which are clear, unambiguous and enforceable.
- 1.31 The Licensing Authority acknowledges that the licensing function cannot ordinarily be used for the general control of nuisance or the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. Other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. These include:
- (a) Planning controls.
  - (b) Positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other services within the Local Authority.
  - (c) The provision of CCTV surveillance in town centres, ample taxi ranks, street cleaning and litter patrols.
  - (d) Use of Local Authority powers to designate relevant parts of the District as places where alcohol may not be consumed publicly other than at premises licensed for 'on' sales.
  - (e) Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.
  - (f) The prosecution or issuing of Penalty Notice for Disorder to any personal licence holder, member of staff or person at such premises who is selling alcohol to people who are drunk or under age.
  - (g) The confiscation of alcohol from children and adults in designated areas.
  - (h) The power of the Police, other responsible authorities or another person or body such as a local resident or business to seek a review of the licence or certificate in question.
  - (i) Action under the Violent Crime Reduction Act 2006.
  - (j) Use of Police and/or Local Authority powers (under the Anti-Social Behaviour Crime and Policing Act 2014) to close down instantly for 24 hours up to a maximum of 48 hours any licensed premises or temporary events on grounds of disorder or the likelihood of disorder or noise emanating from premises causing a nuisance.
- 1.32 If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined such prohibition or restriction to be appropriate

and proportionate, such volunteered prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable as such.

- 1.33 The Licensing Authority recognises that all applications should be considered on an individual basis in its own right and on its own merits and any condition attached to such a licence will be tailored to each individual premises, in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Although the Licensing Authority may maintain a pool of conditions which may be produced to assist applicants and others, standard conditions, other than mandatory conditions, will be avoided and no condition will be imposed that cannot be shown to be appropriate or proportionate for the positive promotion of the licensing objectives.

### **Delegation of Functions**

- 1.34 With the exception of the approval and review of its Licensing Policy and the making of Early Morning Restriction Orders/Late Night Levy Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. A table setting out how the Licensing Authority will approach its various functions is attached at Appendix B. The Licensing and Registration Committee will receive reports annually regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

The Licensing Authority is a Responsible Authority and as such it has both an administrative responsibility and potentially representable role and Appendix B addresses how representations by the Licensing Authority are delegated. The Licensing Authority would not normally use its representational powers whenever another responsible authority or interested party would be expected to submit such a representation. In the rare situation, where it is necessary for the Licensing Authority to submit its own representation, the Council will implement such measures to ensure there is a separation between its two roles and prevent conflicts of interest occurring.

### **The Need for Licensed Premises**

- 1.35 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its Statement of Licensing Policy.

### **Cumulative Impact of a Concentration of Licensed Premises**

- 1.36 “Cumulative impact” means the potential negative impact on the promotion of the licensing objectives of a significant number of licensed premises being concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider when reviewing its Licensing Policy Statement.
- 1.37 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in alcohol related crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but this may not be attributable to any individual premises.
- 1.38 The Licensing Authority will only adopt a special policy on cumulative impact if there is relevant documented evidence received or sourced from a variety of sources such as the Police, Environmental Health Authority, residents, Ward Councillors, Parish and Town



Council's that a significant number of licensed premises concentrated in one area is resulting in unacceptable levels of alcohol related crime and disorder or public nuisance.

- 1.39 The Licensing Authority, having regard to the evidence currently available, and being aware of other measures that are in particular available to the Local Authority and Police to address such issues, considers that there is no specific part of the District causing a cumulative impact on any of the licensing objectives.
- 1.40 However, the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses or a responsible authority, trigger the initial consideration of whether any additional licences or substantial variations to existing licences, to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. In such cases, the Licensing Authority will follow the procedure set out in the Secretary of State's Guidance to determine whether a special policy covering cumulative impact should be incorporated in the Statement of Licensing Policy. The onus however will be on the objector or objectors to provide the type and extent of documented evidence that additional licences or the variation of existing licences will provide the cumulative impact that may be subject of a special cumulative impact policy.

### **Late Night Levy**

- 1.41 The Late Night Levy is a discretionary power, introduced through the Police Reform and Social Responsibility Act 2011. It allows licensing authorities to raise contributions from late-night alcohol suppliers to help fund policing of the night-time economy. The late night supply period for late night levies must begin at or after midnight and end at or before 6am. The Licensing Authority, having regard to the evidence currently available, has decided not to implement a Late Night Levy on licensed premises in the District. The Licensing Authority will monitor the situation and review its position should circumstances alter.

### **Early Morning Restriction Orders**

- 1.42 Early Morning Restriction Orders are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises. The period that an Early Morning Restriction Order may apply to begins at or after 12am and ends at or before 6am. The Licensing Authority, having regard to the evidence currently available has decided not to impose an Early Morning Restriction Order on any premises in the District. The Licensing Authority will monitor the situation and review its position should circumstances alter.

### **Advice and Guidance**

- 1.43 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the 2003 Act provides and welcomes the diversity of activities that are provided by licence holders. In respect of new businesses and developments involving licensable activities, the Licensing Authority welcomes an early opportunity to offer advice and guidance preferably before planning permission has been sought (Note: this does not detract from the advice at 1.24 above). At this stage, it is often easier and more cost effective to integrate issues such as crime and disorder, transport and public safety into the early design stages. With regard to existing businesses, discussions prior to submitting an application under the 2003 Act will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority, Essex Police and/or Essex County Fire and Rescue Service will offer as much reasonable advice and guidance to applicants as resources permit.
- 1.44 The Licensing Authority may also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant

discuss his proposal with the Licensing Authority's Licensing Team and those from whom they think representations are likely prior to submitting their application.

Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

- 1.45 Appendix C provides details of various organisations, trade associations and reference literature that an applicant may find useful in preparing an operating schedule and running a safe premises/event.

## Reviews

- 1.46 Where possible and appropriate the Licensing Authority and all other Responsible Authorities will give early warning to licence holders of any concerns about problems identified at premises which may undermine, or are undermining, one or more of the licensing objectives and to initiate a dialogue that can lead to a resolution of these problems to the satisfaction of all parties. The review process represents a valuable protection mechanism for residents and the wider community to be able address problems with a specific premises where for instance there is alcohol related crime and disorder or public nuisance and where for example dialogue between the licence holder, responsible authorities or other parties concerned such as residents to prevent or mitigate such problems has not worked.
- 1.47 Responsible authorities, other persons (which could include a resident, business or Ward Councillor for example) can make an application to trigger a review of a premises licence but evidence of the problems being experienced would be required to be presented to the Licensing Authority and an applicant or applicants for a review would ordinarily be expected to be able to substantiate their complaints at a Licensing Sub Committee hearing. Representations must be relevant to one or more of the four licensing objectives and will not be accepted if they are determined by the Licensing Authority to be frivolous, vexatious or repetitious.
- 1.48 No more than one review application from interested parties for a particular premises other than a Responsible Authority will normally be permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances.

## Enforcement

- 1.49 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Licensing Authority supports the principles of the Department for Business Innovation and Skills Regulators Code designed to regulate for the protection of the vulnerable, the environment, social or other objective and to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate. A copy of the Regulators Code April 2014 is available to view through the publications page at [www.gov.uk](http://www.gov.uk).
- 1.50 In 2017, Tendring District Council adopted an overarching "umbrella" Corporate Enforcement Strategy, which accords with the government's 'Better Regulation Agenda'. Specifically, it implements good practice recommended by the Cabinet Office Enforcement Concordat, the Regulators' Code; and the regulatory principles required under the Legislative and Regulatory Reform Act 2006 ("the 2006 Act"), including the duty to have regard to economic growth ('the Growth Duty').

Specifically, the Licensing Authority is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner. These are that businesses should:

- (a) Receive clear explanations from enforcers of what they need to do and by when.
- (b) Have opportunities to resolve differences before enforcement action is taken
  - unless immediate action is needed.
- (c) Receive an explanation of their rights of appeal.
- (d) Regulators should carry out their activities in a way that supports those they regulate to comply and grow
- (e) Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
- (f) Regulators should base their activities on risk
- (g) Regulators should share information about compliance and risk
- (h) Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
- (i) Regulators should ensure that their approach to their regulatory activities is transparent.

1.51 The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but robust action will be taken against those who commit serious offences or break the law. The Licensing Authority has set clear standards of service and performance that the public and businesses can expect. In particular, a Licensing Enforcement Policy has been adopted that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved. This policy is freely available from the Tendring District Council website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) as are details of the Council's corporate complaints procedures. Alternatively, you may contact the Licensing Team at the Council to obtain a copy of the current Policy.

1.52 The Licensing Authority has established an Enforcement Protocol with Essex Police, Essex County Fire and Rescue Service, and (Essex County Council) Trading Standards on enforcement issues. This protocol is available at this webpage [insert link]. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated. A similar protocol has been agreed with Essex County Council Safeguarding Children's Board.

## 2.0 LICENSING OBJECTIVES

2.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives:

- (a) The Prevention of Crime and Disorder.
- (b) Public Safety.
- (c) The Prevention of Public Nuisance.
- (d) The Protection of Children from Harm.

2.2 In each section relating to the objectives, the Licensing Authority has defined its intended outcome (in bold type). Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. **Applicants should know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.**

2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective.



Similarly, applicants will not be expected to mention a control measure more than once in their operating schedule.

- 2.4 **The selection of control measures, referred to in 2.3 above, should be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.).** Whilst the Licensing Authority cannot require such risk assessments to be documented, (although this may be required by other legislation such as a fire safety risk assessment), it considers such documentation to be good practice and a useful tool in the instruction and training of staff, as well as pro-actively assisting the licence holder, in the event of him/her wishing to make application for variation or in response to changing circumstances/conditions at the premises.
- 2.5 Additional measures may be necessary on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the promotion of the licensing objectives. Reference should be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives. If they are not, it is more likely that the application or event may receive closer scrutiny from Responsible Authorities as a result.
- 2.6 **The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority expects that these elements should be specifically considered and addressed within an applicant's operating schedule.**
- 2.7 In addition, the occupancy capacity for premises, and events as appropriate, is also considered to be an essential factor in the achievement for the positive promotion of the four licensing objectives, (except in respect of premises licensed exclusively for the consumption of food and/or alcohol off the premises). The Licensing Authority will expect the issue of occupancy capacity to be considered and addressed, where appropriate, within an applicant's operating schedule. Occupancy capacity of a premises will however ordinarily be a matter for the Fire Authority to consider under the Regulatory Reform (Fire Safety) Order 2005 as part of the premises fire risk assessment, or the Police for example if there are concerns that capacity is impacting on crime and disorder or public nuisance and therefore also impacting on general public safety.
- 2.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:-
- (a) The nature of the premises or event.
  - (b) The nature of the licensable activities being provided.
  - (c) The provision or removal of such items as temporary structures, such as a stage, or furniture.
  - (d) The number of staff available to supervise customers both ordinarily and in the event of an emergency.
  - (e) The age of the customers.
  - (f) The attendance by customers with disabilities, or whose first language is not English.
  - (g) The availability of suitable and sufficient sanitary accommodation.
  - (h) The nature and provision of facilities for ventilation.
- 2.9 The Licensing Authority will consider applications for minor variations to premises licences, provided that the Authority is satisfied that the minor variation will not adversely impact on

the licensing objectives and the Licensing Authority will consult with Responsible Authorities or other persons whom they deem appropriate to make such assessment.

- 2.10 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as doorstaff, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge of the premises can often readily assess the occupancy level of the premises without resort to such measures. However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.

### **3.0 PREVENTION OF CRIME AND DISORDER**

- 3.1 The Council, through its Corporate Plan is committed to further improving the quality of life for the people of the District of Tendring by continuing to reduce crime and the fear of crime.
- 3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Tendring District Council, Essex Police, Essex County Council and others to consider crime and disorder reduction in the exercise of all their duties. The 2003 Act, as amended, reinforces this duty for local authorities.
- 3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. **Applicants will be expected to demonstrate in their operating schedule that reasonable, appropriate and proportionate measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style, characteristics of their premises and events and the licensable activities to be provided.**
- 3.4 When addressing the issue of crime and disorder, the applicant should expect to demonstrate that those factors that impact on crime and disorder have been considered. These may include:-
- (a) Underage drinking.
  - (b) Drunkenness on premises.
  - (c) Public drunkenness.
  - (d) **Misuse of illegal drugs and other substances.**
  - (e) Violent behaviour.
  - (f) Anti-social behaviour.
  - (g) **Drink spiking.**

Referencing measures to address the above would be expected in operating schedules where relevant to the licensable activities proposed to be authorised (as appropriate).

### **Control Measures**

- 3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:-
- (a) Effective and responsible management of premises including for example, sufficient numbers of staff who hold a Personal Licence qualification.
  - (b) Training and supervision of staff including in the use of CCTV systems and retrieval of images.

- (c) Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, "Security in Design", "Drugs and Pubs" which are published by the British Beer and Pub Association [BBPA])
- (d) Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards, e.g. 'Prove It' and the Essex County Council BITE card and/or 'new type' driving licences with photographs. E.g. Challenge 25 scheme, an approved ID must be produced as proof of persons being over 18. This may include include the use of 'phone apps' to verify those proof of age cards.
- (e) Provision of effective CCTV in and around premises.
- (f) Employment of Security Industry Authority licensed Doorstaff.
- (g) Provision of toughened or plastic drinking vessels.
- (h) Provision of secure deposit boxes for confiscated items ('sin bins').
- (i) Provision of litterbins and other security measures, such as lighting, outside premises.
- (j) Membership of local 'Pubwatch' 'Behave or be Banned' (BOBB) schemes or similar organisations (where they exist).

### **Designated Premises Supervisor [DPS]**

- 3.6 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, a Premises Supervisor must be designated ('Designated Premises Supervisor'). Such person must be in possession of a current Personal Licence. The Licensing Authority will normally expect the Designated Premises Supervisor [DPS] to have been given the day to day responsibility for running the premises by the premises licence holder and, as such, would normally be present on the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

The Act does not require a DPS or any other Personal Licence Holder to be present on the premises at all times when alcohol is sold. However, the DPS and the Premises Licence Holder remain responsible for the premises at all times and have a duty to comply with the terms of the Licensing Act and any conditions, including the matters set out in the premises' Operating Schedule, in order to promote the Licensing Objectives. To that end, the Licensing Authority will be mindful of the Secretary of State's guidance issued under Section 182 of the 2003 Act, which recommends that a Personal Licence Holder/DPS gives specific written authorisations to those individuals they are authorising to supply alcohol. Although written authorisation is not a requirement of the Act and the Designated Premises Supervisor/Personal Licence Holder remain ultimately responsible for ensuring compliance with the Act and licensing conditions, this action could assist in demonstrating responsible management and due diligence should any issues arise with regard to enforcement. The Licensing Authority will therefore expect that where the Personal Licence Holder/DPS does not have the premises under their immediate day to day control, written authorisations should be issued to staff acting on their behalf, such authorisations being made available for inspection by a responsible Officer of the Licensing Authority or the Police upon request.

### **Temporary Events**

- 3.7 Certain temporary events, whilst not required to be fully licensed, must be notified to the Licensing Authority using the Temporary Event Notice (TEN) procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. For these reasons, organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the Police, the Environmental Department of the Council and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder. See Appendix D for details regarding the application process and timescales for the submission of Temporary Event Notices.

There are two forms of TEN. A standard one and a late one. A standard TEN must be submitted with at least 10 clear working days notice before the event is due to take place. A late TEN must be submitted with at least 5 clear working days notice before the event is due to take place. The working days notice period will be calculated exclusive of the day on which the notice was given and the day on which the event is due to start. A working day does not include weekend or bank holiday(s).

Where no counter notice is issued, the person serving the TEN will receive written acknowledgement of it which they should have with them on the day(s) of the event. Where representations are made, counter notices will be issued and (in the case of standard TENs) a hearing will be arranged.

## 4.0 PUBLIC SAFETY

- 4.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. **To this end, applicants are expected to demonstrate in their operating schedule that reasonable, appropriate and proportionate measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises, events and the licensable activities to be provided..**
- 4.2 When addressing the issue of public safety, an applicant should expect to demonstrate that those factors that impact on the standards of public safety have been considered. These may include:-
- (a) The occupancy capacity of the premises.
  - (b) The age, design and layout of the premises, including emergency action procedures and means of escape arrangements in the event of fire or other emergencies.
  - (c) The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
  - (d) The hours of operation (differentiating between the hours of opening from the hours when licensable activities are provided, if these are different)
  - (e) The Customer profile (e.g. age, disability)
  - (f) The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
  - (g) Compliance with the **Equality Act etc.**

## Control Measures

- 4.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:-
- (a) Suitable and sufficient risk assessments.
  - (b) Effective, responsible and pro-active management of premises including for example, sufficient numbers of staff who hold a Personal Licence qualification.
  - (c) Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons such as SIA registered Door staff.
  - (d) Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons including in the use of CCTV systems and retrieval of images.
  - (e) Adoption of best practice guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide, Safety in Pubs published by the BBPA).
  - (f) Provision of effective CCTV in and around premises.
  - (g) Provision of toughened or **other safer drinking vessels.**

- (h) Implementation of crowd management measures.
- (i) Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc., pertinent to safety.

## **5.0 PREVENTION OF PUBLIC NUISANCE**

- 5.1 Licensed premises, if poorly or irresponsibly managed, can have a significant potential to impact adversely on communities through public nuisances that might arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 5.2 The Licensing Authority applies a wide interpretation to “public nuisance”, and to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 5.3 Applicants need to be clear that the Licensing Authority may apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Any such measures should be appropriate and proportionate to the individual nature of the premises and how it intends to operate. E.g. its hours of opening, its alcohol sales and its licensable activities. It may also take into account the location of the premises. For instance, if a shop or supermarket wished to open in a location selling alcohol where there were existing known street drinking problems and alcohol related disorder and anti- social behaviour, the Licensing Authority will welcome the applicant individually and voluntarily working with the Licensing Authority and other Responsible Authorities in taking appropriate measures to reduce the existing problems, or at the very least not to contribute to them further.

For example the individual off sale outlet in question may voluntarily offer not to sell very low cost, non- craft, super strength lagers, beers or ciders with an ABV of 6.5% or over, or not sell single cans of very low cost super strength lagers, beers or ciders. Any such partnership working will have regard to advice such as that in the Local Government Association guidance to Local Authorities dated December 2014 on ‘Reducing the Strength’ schemes and the Competition and Market Authority guidance to retailers dated March 2015. Conversely, premises for which it can be demonstrated have effective controls and measures in place, or are proposed to prevent public nuisance, may be suitable for 24-hour opening for example.

- 5.4 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder. For instance, if a shop or supermarket wished to open for longer hours in a location selling alcohol where there were existing known street drinking problems and alcohol related disorder and anti- social behaviour, the Licensing Authority will welcome the applicant individually and voluntarily working with the Licensing Authority and other Responsible Authorities in taking appropriate measures to reduce the existing problems, or at the very least not to contribute to them further. For example the off sale outlet in question may voluntarily offer not to sell very low cost, non- craft, super strength lagers, beers or ciders with an ABV of 6.5% or over, or not sell single cans of low cost super strength lagers, beers or ciders. Any such partnership working must however fully comply with for example; the Local Government Association guidance to Local Authorities dated December 2014 on ‘Reducing the Strength’ schemes and the Competition and Market Authority guidance to retailers dated March 2015.
- 5.5 Applicants will be expected to demonstrate in their operating schedule that appropriate and proportionate measures have been identified and will be implemented and maintained to

prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

5.6 When addressing the issue of prevention of public nuisance, the applicant should demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:-

- (a) The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.
- (b) The hours of operating, particularly between 23.00 and 07.00.
- (c) The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.
- (d) The design and layout of premises and in particular the presence of noise limiting features.
- (e) The occupancy capacity of the premises.
- (f) The availability of public transport.
- (g) A 'wind down period' between the end of the licensable activities and closure of the premises.
- (h) A last admission time.

## **Control Measures**

5.7 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:-

- (a) Effective and responsible management of premises including for example, sufficient numbers of staff who hold a Personal Licence qualification.
- (b) Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly.
- (c) Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries, collections and clearing up of glasses or bottles.
- (d) Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics, Licensed Property: Noise, published by BBPA).
- (e) Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- (f) Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.
- (g) Liaison with public transport providers.
- (h) Sighting of external lighting, including security lighting.
- (i) Management arrangements for collection and disposal of litter including the provision of appropriate receptacles.
- (j) Clearly showing the name of the premises on all disposable packaging used for takeaway food and/or hot drinks.
- (k) Effective ventilation systems to prevent nuisance from odour.

## **6.0 PROTECTION OF CHILDREN FROM HARM**

6.1 The protection of children from harm is a most important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.

- 6.2 The general relaxation in the 2003 Act, as amended, giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.
- 6.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger. This applies to premises licensed under the Licensing Act, 2003, as amended, only and not those fully licensed and regulated as sexual entertainment venues under the Local Government (Miscellaneous Provisions Act) 1982.
- 6.4 The Licensing Authority considers that there should be no presumption of giving or preventing children's access to licensed premises. Unless it is appropriate for the prevention of physical, moral or psychological harm following relevant representation, particularly where a responsible authority is engaged, the Licensing Authority has no intention of imposing conditions prohibiting or restricting the admission of children. Where no licensing restriction is appropriate, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a Temporary Event Notice.
- 6.5 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises, events and the licensable activities to be provided..**
- 6.6 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children include:-
- (a) Where entertainment or services of an adult or sexual nature are commonly provided;
  - (b) Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
  - (c) Where requirements for proof of age cards or other age identification to combat the purchase of alcohol by minors is not the norm;
  - (d) With a known association with drug taking or dealing;
  - (e) Where there is a strong element of gambling on the premises, and
  - (f) Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

## **Control Measures**

- 6.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:-
- (a) Effective and responsible management of premises including for example, sufficient numbers of staff who hold a Personal Licence qualification.

- (b) Provision of a sufficient number of people employed or engaged to secure the protection of children from harm.
- (c) Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm.
- (d) Adoption of best practice guidance (Public Places Charter, The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks).
- (e) Limitations on the hours when children may be present in all or parts of the premises.
- (f) Limitations or exclusions by age when certain activities are taking place (e.g. feigned or actual sexual acts or fetishism, etc.).
- (g) Imposition of requirements for children to be accompanied by an adult.
- (h) Acceptance of accredited 'proof of age' cards and/or 'new type' driving licences with photographs.
- (i) Measures to ensure children do not purchase, acquire or consume alcohol.
- (j) Measures to ensure children are not exposed to incidences of violence or disorder.
- (k) Limitations on the parts of premises to which children might be given access.

These examples can be adopted in any combination.

## **Film Exhibitions**

- 6.8 In the case of film exhibitions, if relevant representations are made, the Licensing Authority will expect licence and certificate holders and those who have given notice of a Temporary Event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Council. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if appropriate.
- 6.9 If relevant representations are made and it is considered appropriate and proportionate for the promotion of the licensing of the licensing objective, the Licensing Authority may require that adult supervisors be checked for suitability to work with children.
- 6.10 The Licensing Authority will rarely impose complete bans on access to children. However, in exceptional circumstances where relevant representations have been made, conditions restricting access or excluding children completely may be considered appropriate for the promotion of the licensing objective.

## **7.0 MODERN SLAVERY**

- 7.1 Within the general scope of its licensing responsibilities, the Licensing Authority wishes to identify that it can have a positive role to deter the scourge of Modern Day slavery being associated with licensed premises. Modern slavery is a crime. The UK Modern Slavery Act 2015 includes the following under the offence of modern slavery:

- Slavery, where ownership is exercised over a person,
- Servitude, where a person is obliged to provide services imposed by coercion,
- Forced or compulsory labour, which involves work extracted under the menace of penalty and for which the person has not offered himself voluntarily, and
- Human trafficking, which involves the movement of people by means such as force, fraud, coercion or deception with the aim of exploiting them.

- 7.2 Licensed premises might be unwitting hosts to modern slavery in two ways:

- Victims and their traffickers visiting the establishment. Sexual exploitation and forced criminality would be the most common forms identified in this way.



- Staff being recruited through unscrupulous means, leaving them trapped and/or indebted to a trafficker.

7.3 Staff at licensed premises can have the power to identify and report any exploitation they encounter. A licence holder may ensure awareness of modern slavery by:

- Identifying any risks at the premises and working with relevant business partners and suppliers (i.e. recruitment agencies) to mitigate such risk.
- Actively informing those working on the premises of their rights and how they can confidentially seek help or advice on modern slavery if required.
- Provide regular training to all staff on the indicators of modern slavery and how to report concerns.
- Establishing strong relationships with local police and victims service providers, such as the national Modern Slavery Helpline (0800 0121 700), in advance of any incident.

## APPENDIX A

### DETAILS OF APPLICATION PROCESS

#### GENERAL INFORMATION

##### **1. GRANT OF A PREMISES LICENCES**

- (a) All applications to be made under the provisions of the Licensing Act 2003 ('the 2003 Act'), as amended, must be made in the form specified by the Secretary of State and appropriate application packs will be issued. Details of how to submit an application online can be found on the licensing pages of the Council's website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk).
- (b) Guidance Notes providing full details of how to apply, documentation required and other information designed to assist applicants with the submission of their application will accompany the application pack. Further information can be obtained on the Council's website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk).
- (c) On receipt of an application, the Licensing Authority will check the form and the accompanying documents to ensure that their copy of the application is complete. If the application is not complete, the application will be rejected and all documentation, including the fee, will be returned to the applicant together with an explanation of why the application cannot be accepted. If the application is submitted electronically and is found not to be complete the applicant will be notified, by e-mail, that the application has been rejected.
- (d) Copies of all applications submitted to the Licensing Authority, in paper format (hard copy), must also be forwarded to the Responsible Authorities as detailed in the Guidance Notes at the same time that the application is sent to the proper office of the Licensing Authority as shown in the Licensing Policy. The Responsible Authorities' contact details are also included in Appendix 'C' attached to the Licensing Policy. An application is not deemed as complete unless the Responsible Authorities have been served and received a copy of the application, together with any supporting documents and plan(s) of the premises, on the same day that the application is submitted to the Licensing Authority. For applications submitted online the Licensing Authority will forward copies of complete applications to the Responsible Authorities. Details of how to apply on line can be found through the licensing pages of the Council's website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) or through GOV.UK.
- (e) The Licensing Authority will notify the Responsible Authorities that an application has been received and will request confirmation that they have received their copy. If a copy of the application has not been received by any of the consultees by noon the day following the submission of the application to the Licensing Authority, the application will be rejected and all documents, including the fee received by the Licensing Authority will be returned. This will mean that the applicant will have to submit a completely new application.
- (f) If the application is confirmed as being complete, with the Responsible Authorities having received their copy of the application together with any supporting documentation, then the timescale laid down by the Government will commence.
- (g) The applicant and the Licensing Authority will be informed by the relevant consultee whether or not the application is valid, i.e. that their relevant Licensing Objective has been fully met within their business Operating Schedule and if a representation [objection] is to be lodged.

If a relevant representation is received a date will be set for the application to be heard by the Premises/Personal Licences Sub-Committee. In the meantime, if it is possible to do so, the applicant and the consultee are encouraged to make contact with one another to see if there is common ground between them whereby the applicant could offer measures that may mitigate the objection and lead to a withdrawal of representation and therefore make a hearing unnecessary for all parties concerned. The Licensing Authority is happy to facilitate such mediation if asked to do so and if it is possible to do so.

- (h) On the day that the application has been submitted, a notice to that effect has to be displayed on the premises for a period of 28 continuous days so that members of the public may be aware that an application has been submitted to the Licensing Authority allowing them to make representations if they so wish. The notice must be coloured blue and shall be no less than a minimum of A4 in size with a type size of not less than 12 pitch. The application will also be required to be advertised in a local newspaper in the area in which the premises are situated. If a representation is received which is relevant to one of the four Licensing Objectives, a Hearing will be required. A date for the Hearing will be set and all parties will be advised.
- (i) If no representations are received from any source by the relevant expiry date, the application will be dealt with by Council Licensing Officers and the licence issued on the terms and conditions as requested.
- (j) If an application is heard by a Licensing Sub Committee, the decision and the reasons that the Committee has arrived at that decision will be given in writing to all parties as soon as possible after the decision has been reached. The decision will be given verbally at the hearing. Any party who disagrees with the decision of the Licensing Authority has the right of appeal to the Magistrates' Court and they will be informed of their right of appeal when they receive notification of that decision.

## **2. VARIATION OF A PREMISES LICENCE**

- (a) The appropriate application pack will be issued, together with guidance notes, which will state the documents required to be submitted with the application. Applications can also be submitted online.
- (b) The application procedure for the variation of a Premises Licence will follow the same procedural steps as for the grant of a Premises Licence as set out in 1, above. The exception being that of a Minor Variation Application. Applicants for a Minor Variation are advised to contact the Licensing Section, 01255 686565 or by e-mail, [licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk), for advice prior to submission as it is at the discretion of the Licensing Authority whether it will accept a minor variation and there are criteria under which the Licensing Authority cannot accept a variation to the licence as a minor variation. It is therefore best to have an initial dialogue with the Licensing Authority before applying.
- (c) The Act states that a licence may neither be varied so as to extend the period for which the current licence has effect nor to seek to vary substantially the premises to which the existing Licence(s) relates. If applicants are in any doubt as to whether they should apply for a variation of their Premises Licence or make a grant application, they should seek advice from the Licensing Authority.

### **3. TRANSFER OF A PREMISES LICENCE**

- (a) The appropriate application pack will be issued, together with guidance notes, which will state the documents required to be submitted with the application. Applications can also be submitted online through the licensing pages of the Council's web site [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) or via GOV.UK.
- (b) Although procedural arrangements follow those set out in 1. above, it should be noted that only the Police Authority must be consulted and receive a copy of the application and that the period for the receipt of representations from this source is 14 days. For applications submitted electronically the Licensing Authority will serve a copy of the application on the Police Authority.
- (c) If no representations are received, the application will be granted in accordance with 1(i) above.
- (d) If a representation is received then a Hearing will be arranged in accordance with the procedure set out in 1. above.

### **4. DESIGNATED PREMISES SUPERVISOR**

#### **GRANT/SUBSTITUTION OF DESIGNATED PREMISES SUPERVISOR**

Where a licensable activity includes the sale of alcohol, the applicant has to include in his application details of the person he wishes to be specified in the Premises Licence as the Designated Premises Supervisor, unless the premises are Community Premises and a dispensation has been sought. Should it be necessary to request that the licence be varied so as to substitute another person to act as the Designated Supervisor the following procedure is to be adopted:-

- (a) An application shall be submitted to the Licensing Authority in the specified format, together with the documentation specified in the Guidance Notes. Applications can also be submitted online.
- (b) A copy of the notice shall be served upon the Police Authority. For applications submitted electronically the Licensing Authority will serve a copy of the notice on the Police Authority.
- (c) A copy of the notice shall be served upon the Designated Premises Supervisor [if there is one]
- (d) It will be necessary to state whether the application requires the variation to take immediate effect.
- (e) The procedure for determining the application follows the normal procedure set out in 3. above in that, if there are no representations from the Chief Officer of Police, the application must be granted.
- (f) If representations are received, the Licensing Authority will notify all parties and, unless the representation is withdrawn, a Hearing will be held in accordance with the procedure already detailed in this Appendix.

#### **REMOVAL OF DESIGNATED PREMISES SUPERVISOR**

- (a) Where an individual wishes to cease being the Designated Premises Supervisor in respect of a Premises Licence he or she may give the Licensing Authority notice to that effect, the notice to be in writing together with the documentation required for the particular type of notice being given and detailed in the Guidance Notes.

Applications can also be submitted online through the licensing pages of the Council's web site [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) or via GOV.UK.

- (b) Within 48 hours of the notice being served upon the Licensing Authority, the individual must [unless he or she is the Premises Licence holder] serve a copy of the notice and another notice requiring the Premises Licence holder to send the Premises Licence to the Licensing Authority. The Premises Licence holder must comply with this request within 14 days of that notice.
- (c) Provided that the proper notices are served and documentation supplied within the specified timescales, the Licensing Authority will no longer treat that individual as the Designated Premises Supervisor.

## **5. PROVISIONAL GRANT APPLICATIONS**

The the 2003 Act, permits the granting of Provisional Licences to allow applications to be accepted for the grant of a Premises Licence where the actual premises has not been built or where works are necessary to be carried out to bring the building into use for any purposes covered by the Act. Guidance notes will be available for those persons wishing to make this type of application and may be obtained from the Licensing Authority upon request.

## **6. INTERIM AUTHORITY NOTICES**

- (a) Should a Premises Licence lapse due to the death, incapacity or insolvency of the licenceholder, then an application may be made to the Licensing Authority for an Interim Authority Notice to enable the premises to continue to trade pending a transfer application being made. This may be made in paper format or electronically through the licensing pages of the Council's website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) or via GOV.UK.
- (b) An application may be submitted by a Personal Representative, a person holding a Power of Attorney or an Insolvency Practitioner.
- (c) As soon as the Interim Authority Notice is given, the Premises Licence will be reinstated as from that time and the person who gave the notice will be considered to be the holder of the Premises Licence.
- (d) The Premises Licence will lapse after a period of 28 days unless a copy of the notice has been given to the Chief Officer of Police or a Transfer application has been submitted to the Licensing Authority.
- (e) If no representation is received, the application will be processed by Officers of the Licensing Authority.
- (f) If the Chief Officer of Police wishes to object to the transfer on the grounds that it will undermine the Crime and Disorder Licensing Objective he must, within 2 working days of receiving the notice, give notice to the Licensing Authority stating the reasons for this decision and, unless the representation is withdrawn, a Hearing will be arranged in accordance with the procedure set out above.
- (g) There is nothing to prevent the person giving the Interim Authority Notice from making a transfer application if it is made during the Interim Authority period or if the application for the Interim Authority application is rejected or withdrawn or if the licence lapses again at the time of rejection or withdrawal.
- (h) In certain circumstances, the Interim Authority Notice may be cancelled if the Crime and Disorder objective is being undermined and the Act provides the procedure which must be followed in this event.

## **7. REINSTATEMENT OF LICENCE**

The Act provides that an application for the reinstatement of a licence following the events set out in Paragraph 6 above can be made when the Interim Authority Licence ceases to have effect when it is cancelled or withdrawn.

The application must be made no later than seven days after the licence has lapsed and where an application for transfer has been made.

## **8. GRANT OF A PERSONAL LICENCE**

- (a) An application for the grant of a personal licence:-
  - (1) must, if the applicant is ordinarily resident in the area of a licensing authority, be made to that authority, and
  - (2) may, in any other case, be made to any Licensing Authority.
- (c) The application should be accompanied by the required supporting documentation or a statement as to why such documents are not being supplied.
- (e) Only one Personal Licence may be held by an individual at any one time.
- (f) The criteria to be met for the grant of a Personal Licence will be contained in the appropriate application pack.
- (g) Where the criteria are not met with regard to age, qualifications or forfeiture of a personal licence, the application will be rejected. In circumstances where the applicant has been convicted of a relevant offence under Schedule 4 of the 2003 Act, the Chief Officer of Police will be notified. If a representation is received from that source under the Crime and Disorder objective and is not withdrawn, or considered by the applicant, the Police and the Licensing Authority to be unnecessary, then a Hearing of the Council's Licensing Sub Committee will be held to determine the application.

## **9. Applications Submitted Electronically.**

All online applications must be submitted **either** by way of the GOV.UK Portal or, **via the Tendring District Council online forms, or by email [licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk)** . For further information, please go to GOV.UK or the licensing pages of the Council's web site [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)

**An application will only be valid once all documentation required and application fee is received successfully.**

## APPENDIX B

### DELEGATION OF FUNCTIONS

<b>Matter to be dealt with</b>	<b>Licensing and Registration Committee/ Council</b>	<b>Premises/Personal Licences Sub-Committee</b>	<b>Officers</b>
Application for Personal Licence		If a Police objection	If no objection made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor		If a Police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of Premises Licence		If a Police objection	All other cases
Applications for Interim Authorities		If a Police objection	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Police objection to a Temporary Event Notice		All cases	
Decision on whether minor variation application acceptable			All cases
Acknowledgement of Temporary Event Notice			All cases
Authorisation of officers to inspect premises			All cases

<b>Matter to be dealt with</b>	<b>Licensing and Registration Committee/ Council</b>	<b>Premises/Personal Licences Sub-Committee</b>	<b>Officers</b>
Determination as to whether applicant for a Club Premises Certificate meets the statutory conditions.			All cases
Determination for requests for plans to be other than to scale 100:1			All cases
Determination of interim measures following an expedited review		If time permits a hearing	
Determination of representations (to be) made on a grant/variation application for a premises licence/club premises certificate as a Responsible Authority.			All cases
Service of Closure Notice			All cases



## APPENDIX C

### BIBLIOGRAPHY OF USEFUL CONTACTS / INFORMATION

	ORGANISATION	CONTACT ADDRESS	TELEPHONE
1.	The Licensing Authority <b>[Responsible Authority]</b>	The Licensing Team Tendring District Council Town Hall, Station Road Clacton on Sea Essex CO15 1SE	☎ 01255 686565 <a href="mailto:licensingsection@tendringdc.gov.uk">licensingsection@tendringdc.gov.uk</a>
2.	Essex Police <b>[Responsible Authority]</b>	Licensing Department (Alcohol) Essex Police Braintree Essex CM7 3DJ	☎ 101 or 01245 452035 e-mail: <a href="mailto:licensing.applications@essex.police.uk">licensing.applications@essex.police.uk</a>
3.	Essex County Fire and Rescue Service <b>[Responsible Authority]</b>	Essex County Fire and Rescue Service Colchester and Tendring Community Command Colchester Fire Station Cowdray Avenue Colchester Essex CO1 1XT	☎ 01376 576600  e-mail <a href="mailto:northeastgroupsdp@essex-fire.gov.uk">northeastgroupsdp@essex-fire.gov.uk</a>  <a href="http://www.essex-fire.gov.uk">www.essex-fire.gov.uk</a>
4.	Planning Services <b>[Responsible Authority]</b>	Tendring District Council Planning Services Tendring District Council Town Hall, Station Road Clacton on Sea Essex CO15 1SE	☎ 01255 686123
5.	Environmental Health [Noise Pollution and Premises Inspections] <b>[Responsible Authority]</b>	Environmental Department Tendring District Council 88-90 Pier Avenue Clacton on Sea Essex CO15 1TN	☎ 01255 686767
<b>USE THE ABOVE CONTACT DETAILS AT 5. FOR THE SAFETY ADVISORY GROUP</b>			
6.	Essex County Council Social Services <b>[Responsible Authority]</b>	Head of Child Protection [Licensing Applications] Essex County Council PO Box 297 County Hall Chelmsford Essex CM1 1YS	☎ 01245 436744
7.	Public Health <b>[Responsible Authority]</b>	Public Health Team Essex County Council Essex House 200 The Crescent Colchester Essex CO4 9YQ	☎ 07921 397530
8.	Essex Trading Standards <b>[Responsible Authority]</b>	Business Support Team Essex Trading Standards Essex County Council CG32 County Hall Chelmsford Essex CM1 1QH	☎ 01245 341888

9.	Arts Council England	Arts Council England 14 Great Peter Street London SW1P 3NQ	☎ 0845 300 6200 <a href="mailto:enquiries@artscouncil.org.uk">enquiries@artscouncil.org.uk</a> <a href="http://www.artscouncil.org.uk">www.artscouncil.org.uk</a>
10.	Association of Licensed Multiple Retailers (Includes BEDA)	9B Walpole Court Ealing London W5 5ED	☎ 020 8579 2080 <a href="mailto:info@almr.org.uk">info@almr.org.uk</a> <a href="http://www.almr.org.uk">www.almr.org.uk</a>
11.	British Beer and Pub Association	Market Towers 1 Nine Elms Lane London SW8 5NQ	☎ 020 7627 9191 <a href="mailto:web@beerandpub.com">web@beerandpub.com</a> <a href="http://www.beerandpub.com">www.beerandpub.com</a>
12.	British Board of Film Classification	3 Soho Square London W1D 3HD	☎ 020 7440 1570 <a href="mailto:helpline@bbfc.co.uk">helpline@bbfc.co.uk</a> <a href="http://www.bbfc.co.uk">www.bbfc.co.uk</a>
13.	British Institute of Innkeeping	Wessex House 90 Park Street Camberley GU15 3PT	☎ 01276 684449 <a href="mailto:reception@bii.org">reception@bii.org</a> <a href="http://www.bii.org">www.bii.org</a>
14.	Tendring Community Safety Partnership	Community Safety Manager <b>Tendring District Council</b> <b>Town Hall, Station Road</b> <b>Clacton on Sea</b> <b>Essex CO15 1SE</b>	☎ 01255 686359
15.	Essex Racial Equality Council	13 Northlands Pavement Pitsea Centre Basildon Essex SS13 3DU	☎ 01268 465068 <a href="http://www.essexrec.org.uk">www.essexrec.org.uk</a>
16.	Equity	Guild House Upper Martins Lane London WC2H 9EG	☎ 020 7379 6000 <a href="mailto:info@equity.org.uk">info@equity.org.uk</a> <a href="http://www.equity.org.uk">www.equity.org.uk</a>
17.	Institute of Acoustics	3 <sup>rd</sup> Floor St Peters House 45-49 Victoria Street St Albans Herts. AL1 3WZ	☎ 01727 848195 <a href="mailto:ioa@ioa.org.uk">ioa@ioa.org.uk</a> <a href="http://www.ioa.org.uk">www.ioa.org.uk</a>
18.	Musician's Union	60-62 Clapham Road London SW9 0JJ	☎ 020 7840 5537 <a href="mailto:eastsoutheast@musiciansunion.org.uk">eastsoutheast@musiciansunion.org.uk</a> <a href="http://www.musicians.org.uk">www.musicians.org.uk</a>
19.	Security Industry Authority	PO Box 8 Newcastle Upon Tyne NE82 6YX	☎ 08702 430100 <a href="http://www.sia.homeoffice.gov.uk">www.sia.homeoffice.gov.uk</a>
20.	The Portman Group	7-10 Chandos Street Cavendish Square London W1G 9DG	☎ 020 7907 3700 <a href="mailto:info@portmangroup.co.uk">info@portmangroup.co.uk</a> <a href="http://www.portmangroup.org.uk">www.portmangroup.org.uk</a>

## APPENDIX D

### TEMPORARY EVENT NOTICES

#### APPLICATION PROCESS / TIMESCALES

##### TEMPORARY EVENT NOTICES

If an event is to be held at a premises where the Premises Licence does not authorise the activity involved and/or for the times and days sought, an application should be made to the Licensing Authority for a Temporary Event Notice. The aim of the Temporary Event process is to minimise the regulatory burden on such events, this can be especially pertinent where they are run by community or charity groups.

The main points to bear in mind are:-

- ❑ Anyone aged 18 or over may apply to hold a Temporary Event [TEN] and, if the supply of alcohol is involved, they do not have to possess a Personal Licence.
- ❑ The applicant must be over 18 years old.
- ❑ The period of time over which the event is to be held must not exceed 168 hours.
- ❑ The maximum number of people attending the event, including staff, should not exceed 499 at any one time. If more than 499 people are to attend the event, then a Premises Licence would be required.
- ❑ There must be a minimum period 24 hours between one TEN and the next TEN.

The number of times that a premises may be used for a TEN or that an individual may apply for a TEN are restricted as follows:-

- ❑ The same premises cannot be used on more than 15 occasions in any calendar year. Also, each premises is subject to an overall aggregate of 21 days' use, irrespective of the number of individual occasions on which they have been used.
- ❑ The number of notices given by one individual within a given period of time is limited:-
  - (i) A Personal Licence Holder is limited to 50 Temporary Event notices (10 of which may be Late Temporary Event notices) in one calendar year, which is deemed to run from 1 January in each year.
  - (ii) Any other person is limited to 5 Temporary Event notices (2 of which may be Late Temporary Event notices) in the same period.
  - (iii) A Late Temporary Event Notice must be given no later than 5 working days and no sooner than 9 working days before the event.  
[N.B. This limitation applies to England and Wales, not just this Licensing Authority]
- ❑ There is also a limitation attached to 'Associated Persons' in order to prevent the above restrictions being exceeded. Generally, an Associated Person would be deemed to include the immediate family, down to child, parent, grandchild, brother or sister, an agent or employee of the original applicant and the agent's or employee's spouse.

##### **Temporary amendments for 2022 and 2023.**

For the duration of 2022 and 2023, the number of Temporary Event Notices that a premises user can give will also increase from 15 to 20 per calendar year and the maximum number of days a temporary event may be held at a premises will increase from 21 to 26 days per calendar year.

A single premise can have up to 20 TENs applied for in one year, as long as the total length of the events is not more than 26 days, for events taking place in 2022 and 2023 only.

**IF YOU ARE IN ANY DOUBT WITH REGARD TO THE ABOVE, PLEASE CONTACT THE LICENSING SECTION FOR ADVICE.**

### **APPLICATION PROCESS**

The application form should be completed in accordance with the printed instructions accompanying the form. An application fee of £21.00 is required to accompany the application and the form should be submitted in duplicate to the Licensing Authority, one copy of which will be returned to you signed on behalf of the Licensing Authority and a copy of the application form should also be sent to the Police. Applications can also be submitted online. In such cases the Licensing Authority will forward a copy to the Police.

You **must** give a full ten **working** days' notice prior to the event being held (a minimum of 5 working days in the case of a Late Temporary Event Notice) as; otherwise, your application will be rejected. Only the Police or Environmental Health are permitted to object to the granting of a Temporary Event Notice/Late Temporary Event Notice, however, if the granting of the application would exceed any of the limitations/conditions set out above, the Licensing Authority may issue a Counter Notice, which will cancel the Temporary Event Notice/Late Temporary Event Notice that has been submitted. The Licensing Authority is allowed to give advice on Noise, Nuisance or Health & Safety issues, etc., and applicants are advised to contact the Authority for such advice.

If the Police or Environmental Department wishes to object to the application, they must do so within 3 working days of the notification being received and in this case a Hearing will be convened of the Council's Licensing Sub Committee unless all parties, following discussions, agree that this will not be necessary. Any decision made at the hearing must be given no later than 24 hours before the date of the event. **The Licensing Sub Committee can attach conditions to the grant of a TEN if it is considered appropriate and proportionate to promote the licensing objectives, but only where those conditions already exist on a premises licence or club premises certificate.** If the Licensing Authority upholds the Police or Environmental Health representation, then a Counter Notice will be issued giving the reasons for the decision and copies of the Notice will be given to the Police and/or the Environmental Health Authority. However, if the Temporary Event notice/Late Temporary Event Notice is in order and no Counter Notice is given, the Licensing Authority will record the event in the Licensing Register and the event will proceed.

### **Service of Temporary Event Notice/Late Temporary Event Notice.**

In order for your Notice to be deemed as having been properly served, you should proceed in accordance with the Temporary Event procedures set out at the end of the application form. The form should be completed in accordance with the instructions contained in the form, which should be submitted as follows:-

- (a) One copy to the Licensing Authority at the following address:

The Licensing Officer, Licensing Section, **Tendring District Council  
Town Hall, Station Road, Clacton on Sea, Essex CO15 1SE**

- (b) One copy to Essex Police at the following Address:

Licensing Department (Alcohol), Essex Police, Braintree, Essex, CM7 3DJ

- (c) One copy to Environmental Department at the following address:

Environmental Department, **Tendring District Council, 88-90 Pier Avenue  
Clacton on Sea, Essex, CO15 1TN**

For applications submitted electronically the Licensing Authority will forward a copy to Essex Police and Environmental Department. On line applications can be made through **the licensing pages of the Council's web site** or via GOV.UK.

**N.B.** When accepting an application for a Temporary Event Notice/Late Temporary Event Notice, the Licensing Authority will assume that the applicant has ensured that all the necessary

permissions and planning consents have been obtained to enable the particular event to take place.

### **Appeals**

If, in the case of a Temporary Event Notice, as a result of Essex Police/Environmental Health lodging a representation, the Licensing Authority issues a Counter Notice, the premises user has the right of appeal. However, there is no right of appeal if a representation is made against a Late Temporary Event Notice or where the limits have been exceeded with regard to the number of persons attending the event or where the applicant has not given the required ten working days' notice (or minimum 5 working days notice in the case of a Late Temporary Event Notice).

Similarly, if the Police/Environmental Health lodge a representation and the Licensing Authority do not issue a Counter Notice, the Police/Environmental Health may appeal against that decision.

In both cases the appeal is made to the Magistrates' Court within 21 days, commencing on the day which either party was notified of the decision either to issue - or not issue - a Counter Notice. However, no appeal may be brought later than 5 working days before the first day of the relevant event period.

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## FULL COUNCIL

22 NOVEMBER 2022

### REPORT OF DEPUTY LEADER OF THE COUNCIL & PORTFOLIO HOLDER FOR CORPORATE FINANCE AND GOVERNANCE

#### A.9 INFORMATION GOVERNANCE

(Report prepared by Richard Barrett and John Higgins)

#### PART 1 – KEY INFORMATION

##### PURPOSE OF THE REPORT

To present to Full Council an update on proposals for IT changes. The ongoing work is aimed at reaching an outcome whereby members can undertake their role effectively, whilst ensuring that information held by the Council, is safe, secure and compliant with relevant legislation. This work will also include looking at various different IT solutions and the associated costs.

##### EXECUTIVE SUMMARY

Like all modern twenty-first century organisations, the Council is reliant upon information, data and digital services to deliver all our services. The Council securely stores and holds guardianship over some 60 terabytes of residents', customers', visitors', members' and officers' personal and special category data. To put this into context, 60 terabytes of data represents the equivalent of 390 million document pages or 15 million digital photos.

Members are reliant upon access to their emails to undertake their role as a Councillor. Members also have a responsibility to ensure that the sometimes sensitive personal or organisational information they are sent is kept safely and respects its confidentiality.

Throughout 2018-2021 the Council's IT Service implemented and achieved compliance with increasing NCSC technical security standards. The UK adopted its UK Data Protection Act 2018 and UK General Data Protection Regulation (GDPR) legislation on 25 May 2018.

The key Principles of UK Data Protection legislation require that the data is stored: **lawfully, fairly and transparently, adequate and relevant and limited** to what is necessary, **accurate** and where necessary kept up to date, **kept for no longer than is necessary** in a form which permits identification of data subjects, **ensuring 'integrity and confidentiality'** protecting against unauthorised or unlawful processing and against accidental loss/ destruction/ damage **through using appropriate security**.

***Processing of personal data*** - means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

The Department of Levelling Up Housing and Communities (DLUHC) commenced local authority security resilience audits in 2021. In December 2021 the DLUHC 'Health Check' scan identified the Council's auto-forwarding of emails practice and recommended that the

practice be phased out as soon as possible. These DLUHC local government cyber-security audits are being rolled-out to all authorities during 2023.

The DLUHC audit was considered and agreed by the Audit Committee and the March 2022 Corporate Risk Register reported the need to cease the practice of auto-forwarding of Councillors' emails. The minutes of the Audit Committee were reported to Full Council in July 2022.

The UK Data Protection legislation (6th Principle) requires that information and data are processed in a manner that ensures appropriate security of the personal data including protection against unauthorised or unlawful processing and against accidental loss/ destruction/ damage through using appropriate technical or organizational measures (integrity and confidentiality). In all matters of council business, the Council is the Data Controller and has legislative responsibility to ensure, and to evidence, that information is being managed and protected in accordance with the principles of the legislation.

The risk of cyber-attack is not new, but it is escalating in terms of frequency, severity and complexity. To counter these sophisticated attacks the Council's protected domain uses a range of best of breed, commercial-grade security services from multiple vendors.

The original proposal of ceasing auto-forwarding of emails was met with concern from some members as they felt it might curtail their ability to access information and fulfil their role. Therefore, the Portfolio Holder has instructed Officers to explore different solutions (including some new processes of creating an app for members to be able to access their emails securely on their own devices), whilst being mindful of ensuring the security of such information and protection against cyber-attacks.

Scrutiny has included Cyber-security in the work programme. In consultation with the Chair of Scrutiny, (Councillor Mark Stephenson), it is proposed that the remit be extended to include the issue of members' access to their information and the alternative solutions available, mindful of the recommendations of Audit Committee and the issues of confidentiality, Data Protection and cyber security. With all members having the opportunity to have an input and recommendations being brought back to a future Council meeting.

The original proposal to cease the auto-forwarding of emails emerged from an information governance / GDPR review undertaken by Internal Audit. The associated review, which supported this approach, was undertaken in line with the Council's existing risk management processes and included input from the Council's Data Protection Officer, S151 Officer, Internal Audit Manager and Senior Information Risk owner (SIRO). The risk management process highlighted above included the Council's Audit Committee, who after considering the matter at its January 2020 meeting, resolved that:

***The Committee supports the implementation, as soon as possible, of the proposal set out within the report for providing the necessary IT equipment and training to Members to ensure that only Council equipment is used when conducting Council business in order to reduce the financial and reputational risk associated with processing personal data.***

Although in a wider context, the matter also formed part of a report that was considered by the Resources and Services Overview and Scrutiny Committee at its meeting in January 2021.



Whilst this additional work is being explored, Members acknowledge that the ongoing risk of the Council, acting as Data Controller, potentially in breach of the Data Protection Act 2018 remains, whilst the auto-forwarding of Councillor emails practice continues. Individual Councillors may however voluntarily request that auto-forwarding is ceased for their email account, which is maintaining the status quo and has been adopted by 20 councillors.

The Council has all-out elections in May 2023, so it is proposed that all changes be implemented for the new Council in 2023.

It is also proposed that a workshop be scheduled for all members to highlight the requirements of Data Protection and the prevalent issues cyber breaches and security requirements. This will assist in mitigating the risks of breaches.

In terms of the proposed review by the Resources and Services Overview and Scrutiny Committee, it is worth highlighting the Councils' existing adopted Risk Management Framework seeks to address a number of key elements such as the identification of risks, the analysis of those risks and whether they can be 'tolerated' or need to be 'treated etc., with the latter including reviewing potential options. With the above in mind, it would seem logical / pragmatic to structure the proposed review around these existing risk management principles, which would have formed part of the original work undertaken by Officers and the Audit Committee. This approach would also complement a wider review of various cyber related issues as part of the Cyber Assessment Framework recently published by the National Cyber Security Centre (NCSC) that was considered at the first meeting of the relevant Resources and Services Overview and Scrutiny Committee Task and Finish Group on 27 October 2022.

Subject to the recommendations below, Members are invited to submit any comments or thoughts on the subject of cyber security and email forwarding for the Resources and Services Overview and Scrutiny Committee Task and Finish Working Group to take into consideration. This can be done via email to Democratic Services at [democraticservices@tendringdc.gov.uk](mailto:democraticservices@tendringdc.gov.uk)

#### **RECOMMENDATION(S)**

**It is recommended that:**

- 1. Full Council acknowledges that the ongoing risk of the Council, acting as Data Controller, potentially in breach of the Data Protection Act 2018 remains, whilst the auto-forwarding of Councillor emails practice continues;**
- 2. the Resources and Services Overview & Scrutiny Committee extend its work programme of cyber security to include reviewing the different proposals of Members' access to emails, in line with the Council's Risk Management Framework, and make recommendations to Cabinet and Council along with relevant costings;**
- 3. such proposals to be mindful of the recommendations of the Audit Committee, Data Protection Act requirements and cyber security;**
- 4. a workshop be scheduled for all Members to ensure awareness of the requirements of the Data Protection Act 2018 and cyber security; and**
- 5. the implementation be planned for no later than 1<sup>st</sup> April 2023 in readiness for the commencement of the new Council, following the elections in 2023 and the new Councillors be given the training as detailed in 4 above.**

## **BACKGROUND & PREVIOUS DECISIONS**

As communicated to Members recently, one of two key actions relating to Members use of IT, which has been deferred, is as follows:

***Stopping the practice of auto-forwarding council emails and official data to personal email accounts outside of the Council's protected domain.***

The other key action recently implemented was as follows:

***Locking down access to all council applications and non-public facing systems to council managed devices only within our council protected domain. (which came into effect on 29 July 2022)***

Both actions should be viewed as complimentary actions, as auto forwarding of emails would present an immediate conflict, as emails sent to an official Tending email account would instantly leave the Council's 'protected' domain. This point underpins the recommendation raised via the audit process below which concentrates on the underlying issue of only using a Council managed device when undertaking Council business.

A summary of the background to the associated governance and reporting actions within the Council to date are as follows:

**20 January 2020** - Following an information governance / GDPR review, a report of the Head of Internal Audit was considered by the Audit Committee. Within that report, the following issue was set out.

*An issue of non-compliance with the Data Protection Act 2018 was identified for consideration along with proposed actions by the Audit Committee.*

*There have been occasions in the past where personal and special category TDC data has been forwarded to personal emails by both Officers and Members. It is however recognised that this is for ease of use rather than anything malicious. However Data Protection Act 2018 legislation, particularly Article 5, Paragraph 1(f), requires personal data to be "processed in a manner that ensures appropriate security of the personal data". We are unable to demonstrate compliance in this regard as personal devices and their cyber-security remain outside of the sphere of Council knowledge, control and management. It is therefore recommended that Officers be reminded of the need to ensure that TDC data be retained within TDC encrypted, secure 'official' emails and not forwarded to personal emails. In respect of Members, the recommended control is that only Council issued equipment and email addresses should be used to prevent the need of forwarding data to personal emails and increasing the risk of non-compliance and the wider financial and reputational consequences if personal data is not secure.*

Following consideration of the above, the Audit Committee resolved:

***The Committee supports the implementation, as soon as possible, of the proposal set out within the report for providing the necessary IT equipment and training to Members to ensure that only Council equipment is used when conducting Council business in order to reduce the financial and reputational risk associated with processing personal data.***

The minutes from the above meeting were included within the Full Council agenda on **15**

## **September 2020.**

**29 May 2020** – As part of a review of the Council's Constitution, Cabinet considered an associated report where the following resolution was agreed:

***That Cabinet endorses that all Councillors conduct all Council business through their Tendring District Council online accounts using the corporate IT kit supplied to them for the smooth facilitating and running of remote meetings.***

**15 September 2020** – The above was included within the various documents considered by Full Council as part of formally agreeing a number of changes to the Council's Constitution.

**3 December 2020** - Members may also recall various discussions relating to using Council managed devices, when previous devices such as Microsoft Surface GO's were replaced with laptops, a key action in supporting the move to restricting system access to only Council managed devices. This was a matter that was considered by the Resources and Services Overview and Scrutiny Committee at its meeting its meeting in December 2020.

The record of the discussion as set out in an extract from the minutes of the meeting is as follows:

*The emerging digital picture was therefore, perceived as an opportunity to assist councillors in their community leadership role. Through providing each councillor with a standard, managed device backed up by IT training and supported via the Council's IT service desk intended benefits and improvements were, and remain, as follows:*

- *To assist Councillors to improve their efficiency and access to stored digital information.*
- *Strengthen cybersecurity (and cybersecurity awareness) and further reduce any possibility of a data breach and Information Commissioner's Office (ICO) data loss.*
- *Enhance Councillors' digital engagement.*
- *Enhance mobile working and flexible working capabilities and thereby work/ life balance*
- *Further reduce reliance (and the costs) of printed information.*
- *Councillor IT equipment standardisation would in turn enable officers council-wide to standardise the range services that they provide which would achieve efficiency savings for both Councillors and Officers.*

*Members heard how the strategy had been to purchase high quality Microsoft Surface Go tablets during 2019 and at the beginning of 2020 for Councillors to undertake their council-related duties. With some Councillors struggling with the tablet screen size Officers had additionally offered Councillors: connection hubs, full size keyboards, 24" screens, cabled mouse. This gave Councillors a blend of home-based digital access with the ability to go mobile with their tablets when required.*

*As a result of COVID-19 and an emerging understanding as to its longevity, officers had become conversant with new face-to-face restrictive working arrangements and the use of virtual Microsoft Skype meetings had become a key 'new working norm'. Likewise, virtual meeting MS Skype capabilities had needed to be extended to Councillors to enable them to perform their duties, which was not an intended original use of the previously purchased tablets.*

*The Committee was informed that the Council now had a pressing financial, technological and*

*support need to migrate fully from Microsoft Skype to Microsoft Teams. Teams offered a range of additional meeting business functionality benefits over Skype but it was far more demanding in terms of computing processing power. As such, it was close to the limit and was very likely to become beyond the processing capabilities of councillor tablets as Microsoft invested in further enhancing Teams functionality.*

*With a view to giving Councillors the very best experience possible during multi-party video conference calls, the decision had now been taken to allocate funding to quickly replace Councillors' tablets with the same Lenovo laptops that officers used. Those laptops were tried and tested, high specification devices that had enabled officers to perform the full range of council business demands.*

*The Committee was also informed in addition, and based upon approaches from several senior Councillors, that providing Members with a council tablet had unintentionally been seen as an 'imposition' by some Councillors, despite Officers' best intentions. Likewise, Officers had now acknowledged Councillors' desire to be increasingly involved in their use of digital technology and how they worked and engaged with council business.*

*With engagement firmly in mind but reflecting the need to standardise equipment across Officers and Councillors as far as was possible, Councillors would now be asked on an individual basis whether they would benefit more from having a smaller, lighter more portable 13" council laptop, or a larger 15" laptop with a bigger screen and near full-size keyboard. Council provided ancillary devices – keyboards, screens, mice, hubs – would continue to be offered to Councillors and those who already had them would be able to connect and continue to use them with their replacement laptops.*

Following the consideration of the above, the Committee resolved:

*That the Cabinet be informed that this Committee endorses the principle that Councillors be consulted on the IT kit that is to be provided to them to fulfil their roles as Members.*

**29 January 2021** - The consultation process was undertaken as highlighted above along with Cabinet considering the above comments from the Resources and Overview and Scrutiny Committee at their meeting in January 2021, where the following comments from the Portfolio Holder for Corporate Finance and Governance were included and endorsed:

*I thank the Committee for their comments, and I am delighted to state that all Members of the Council have now been furnished with a brand new device of their individual choice. The roll out of these during the current lockdown has been carried out impeccably by our IT guys, who going by the comments I have personally received and fed back from colleagues, have done this in safest possible manner, and for which I am very grateful."*

The Council maintains a Corporate Risk Register that is reviewed on a 6 monthly cycle by the Audit Committee. The two relevant risks included within the register are as follows:

- Ineffective communication / management of information
- Ineffective Cyber Security Physical and Application (software) Based Protection Management

Updates against the Committee's earlier recommendation from their January 2020 meeting have been included within these reports with the following extracts worth highlighting:

**27 May 2021** - Whilst our information governance continues to strengthen, the Information Commissioner's Office (ICO) continues to 'raise the bar' on compliance matters. We are currently reviewing how Councillors access, utilise and manage personal and sensitive information and we must work to introduce changes to Councillor working practices to strengthen this aspect of Council information governance during 2021 or risk being found potentially in breach of General Data Protection Regulation legislation by the ICO. The key issue here is that having provided every councillor with a managed council device we must cease the councillor practice of forwarding council emails to personal email accounts where we have no control over cyber security protective measures. Ongoing vigilance with regard to Information Governance resources and training and budget to minimise the risk of an information breach or failure to comply with legislation as this work area volume increases significantly.

**31 March 2022** – The above matter was highlighted during a cybersecurity audit by the Department for Levelling Up Housing and Communities (DLUHC) as a significant cybersecurity risk that must be ceased. We will therefore work to achieve this during early 2022 in a supportive manner with additional training provided if required.

**12 July 2022** - The minutes of the above Committees were reported to subsequent Council meetings, with the latest minutes being presented to their meeting in July 2022.

In support of the above, a note was recently sent to all Members as part of the Chief Executive's regular member briefings to provide advance notice of the proposals to cease the automatic forwarding of emails and access to the Council's network from a non-TDC managed device.

The culmination of the above was the email recently sent to Members highlighting the proposed implementation of the two key actions set out at the beginning of this section of the report. The deferral was requested by Members to allow a debate at Full Council to take place.

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## COUNCIL

22 NOVEMBER 2022

### REPORT OF DEPUTY CHIEF EXECUTIVE & MONITORING OFFICER

#### A.10 FREEPORT EAST LTD. APPOINTMENT OF ALTERNATE DIRECTOR

(Report prepared by Lisa Hastings)

At its meeting held on 25 March 2022, Cabinet resolved (minute no. 151 refers) that:

- *the Leader and Officers participate in the governance proposals set out in the Full Business Case for Freeport East on the principle that Tendring District Council becomes a member of the body set up to govern Freeport;*
- *any decision to formally become part of the governing body would be taken by the Leader, in accordance with previous delegations, following consultation with his Portfolio Holder Working Party; and*
- *it approves the Leader of the Council appointing a Member representative to that governing body.*

Having considered the recommendations made by the Freeport East Portfolio Holder Working Party, at its meeting held on 31<sup>st</sup> August 2022, the Leader made the following Executive Decision on the 17<sup>th</sup> October 2022, namely that:

- Tendring District Council joins the Freeport East Company as a founding Member;*
- Tendring District Council enters into a Members' Agreement with other partner organisations in Freeport East; and*
- The Leader of the Council is to join the Board of the Company as the Member representative Company Director from Tendring District Council.*

Clause 16 of the Articles of Association provide for Alternate Directors to be appointed by any Public Sector Director (the Appointor) who is an officer or employee, or an elected member, of their appointing Member as an alternate.

Each alternate shall be appointed to exercise the Appointor's powers; and to carry out the Appointor's responsibilities.

The appointment or removal of an Alternate must be effected by notice in writing to the Company signed by the Appointor. The appointment or removal shall take effect when the notice is received by the Company or on such later date (if any) specified in the notice. The Board will be responsible for registering any Alternate Directors at Companies House.

The Leader of the Council has decided, in acting as a Director of the Company that he wishes to appoint Ian Davidson, Chief Executive as the Alternate Director. However, this proposal requires the endorsement of Full Council in accordance with Part 3.4 of the Constitution, Schedule 1, Responsibility for Local Choice Functions.

Full Council has delegated authority to the Chief Executive for the appointment of any individual –

- (a) to any office other than an office in which they are employed by the authority;
- (b) to any body other than –
  - (i) the authority;
  - (ii) a joint committee of two or more authorities; or
- (c) to any committee or sub-committee of such a body.

and the revocation of any such appointment.

However, it will be appreciated that the Chief Executive cannot exercise these powers for his own appointment(s) and therefore, it is:

**RECOMMENDED:**

**That Full Council endorses the appointment of Ian Davidson, acting as Chief Executive of Tendring District Council, as Alternate Director to Freeport East Ltd.**

**LISA HASTINGS**  
**DEPUTY CHIEF EXECUTIVE & MONITORING OFFICER**



## **QUESTIONS PURSUANT TO COUNCIL PROCEDURE 11.2**

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

### **Question**

**From Councillor Bill Davidson to Councillor Carlo Guglielmi,  
Corporate Finance & Governance Portfolio Holder:**

*“Will the Portfolio Holder for Corporate Finance and Governance please advise the Council of:*

- (a) the amount that TDC received from the Government in revenue support grant for the year 2013-14; and*
- (b) the amount that TDC received from the Government in revenue support grant for the year 2022-23?”*

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By virtue of paragraph(s) 3, 4 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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