



RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE

AGENDA

DATE:	Monday, 13 March 2023
TIME:	7.30 pm
VENUE:	Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

Councillor M Stephenson (Chairman)
Councillor Scott (Vice-Chairman)
Councillor Allen
Councillor Amos
Councillor Barry

Councillor Codling
Councillor Griffiths
Councillor Morrison
Councillor Skeels

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DATE OF PUBLICATION: Friday, 3 March 2023

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 1 - 44)

To confirm and sign as a correct record, the minutes of the meetings of the Committee, held on 15 November 2022, 11 January 2023 and 1 February 2023.

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 Questions on Notice pursuant to Council Procedure Rule 38

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

5 A.1 Review of the Work Programme (Pages 45 - 72)

The report provides the Committee with an update on its approved Work Programme for 2022/23 (including 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 respect of enquiries undertaken and a list of forthcoming decisions for which notice has been given since publication of the agenda for the Committee's last meeting.

6 A.2 Council Procurement and Contract Management (Pages 73 - 98)

To inform the Committee of the outcome of the informal review of procurement and contract management at the Council ensuring it is functioning as it should and is fit for purpose.

7 A.3 Task and Finish Group - Planning Enforcement (Pages 99 - 150)

To consider the outcome of the enquiry undertaken by the Members who formed the Task and Finish Group into this matter.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Resources and Services Overview and Scrutiny Committee is to be held in the at Time Not Specified on Date Not Specified.

Information for Visitors

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**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW
AND SCRUTINY COMMITTEE,
HELD ON TUESDAY, 15TH NOVEMBER, 2022 AT 7.30 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Scott (Vice-Chairman), Amos, Baker, Codling, Griffiths and Skeels
Also Present:	Councillor Clifton and Wiggins
In Attendance:	Keith Simmons (Head of Democratic Services and Elections) and Keith Durran (Committee Services Officer)

8. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received on behalf of Councillors Barry, Morrison (no substitutions) and M Stephenson (with Councillor Baker substituting). Councillor Scott (as the Committees Vice-Chairman) chaired the meeting.

9. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the minutes of the meeting of the Committee held on Monday 17 October 2022 be approved as a correct record.

10. DECLARATIONS OF INTEREST

There were none on this occasion.

11. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

12. REPORT OF HEAD OF DEMOCRATIC SERVICES AND ELECTIONS - A.1 - WORK PROGRAMMING INCLUDING MONITORING OF PREVIOUS RECOMMENDATIONS AND SUMMARY OF THE FORTHCOMING DECISIONS.

The Committee had before it a report that provided them with an update on its approved Work Programme for 2022/23 (it included progress with enquiries set out in that Work Programme), feedback to the Committee on the decisions in respect of previous recommendations from the Committee in respects of enquiries previously undertaken and a list of forthcoming decisions for which notice had been given since publication of the agenda for the Committee's last meeting.

The Committee heard oral updates from the Chairmen of the following groups, set up by it:

Councillor Scott in relation to the Beach Hut Task and Finish Group.

Councillor Baker in relation to the Planning Enforcement Task and Finish Group.

Councillor Clifton in relation to the Cyber Security Task and Finish Group.

A short statement was also read out by Councillor Scott in relation to the Customer Service Task and Finish Group, chaired by Councillor M Stephenson, in the absence of the Groups Chairman.

The Committee heard an update on the Procurement and Contract Management enquiry. This enquiry was, as it stated in the report, being undertaken through informal meetings involving the whole Committee's membership. The first informal meeting for this enquiry was held on 17 October and the next meeting was now scheduled for 7 December 2022. Members of the Committee had been asked for their views on the issues covered at the meeting on 17 October. However no views were submitted from them. There was a lot of written material for Councillors to read through and so it was understood that some of that reading would take place after 17 October. As such, the view was expressed that if Committee Members could be encouraged again to submit comments etc in response to the email request from officers on this matter.

The issue of inflation in contract pricing for schemes approved for delivery by the Council, was something the Committee had already identified would be a matter it would specifically look at as part of its Committee's budget scrutiny work that would take place on 11 January at the full day process.

The Committee also heard that an update on progress with ambition towards achievement of Carbon Neutral by 2030 – The Off Agenda Briefing Paper – based on questions provided by the Committee's designated Carbon Neutral Champion (Cllr Barry) had been requested and it was anticipated that this would be provided by the end of this month. Once received it would be circulated to the whole Committee. The off agenda briefing paper would look at how the Climate Action Plan implementation was progressing.

How are we measuring carbon reduction?

What measures have

a) actually been implemented and what impact have they had

b) are planned in next 2-3 yrs and what are anticipated savings

c) what is planned 2025 – 2030 to continue commitment to achieve neutrality and what are obstacles and problems.?

It was reported to Members that the reply from the Portfolio Holder for Environment to the recommendations from the Committee on 30 July 2022 on Waste, Recycling and Littering was set out in recommendation 10 on Page 22 of the Agenda, Council approved on 12 July 2022 that 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.

On respect of the forthcoming decision item, "Proposed new TDC Road Closure Policy", there had not been the required notice to consider it at this meeting.

After a short discussion in relation to the Waste Item in the Recommendations Monitoring report it was moved by Councillor Skeels and seconded by Councillor Amos and **RESOLVED** that the reply from the Portfolios Holder to the Committees recommendations on the matter, can usefully be added to the Waste Enquiry which has been timed to take place in the Spring 2023.

The Head of Democratic Services and Elections confirmed that the sentiments of the Committee arising from the discussion of the proposed Road Closure Policy notice in the forthcoming decisions would be reported to officers and the relevant Portfolio Holders as follows:

- a) this policy should be aligned with the proposed Open Spaces that has previously been referenced to this Committee and;
- b) that it is vitally aware that consultation is undertaken prior to any adopted policy in this regard.

The meeting was declared closed at 8.17 pm

Chairman

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**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW
AND SCRUTINY COMMITTEE,
HELD ON WEDNESDAY, 11TH JANUARY, 2023 AT 11.00 AM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors M Stephenson (Chairman), Scott (Vice-Chairman), Allen, Barry, Codling, Griffiths and Morrison
Also Present:	Councillor Neil Stock OBE (Leader of the Council; Leader of the Conservatives Group), Councillor Carlo Guglielmi (Deputy Leader of Council; Portfolio Holder for Corporate Finance & Governance; Deputy Leader of Conservatives Group), Councillor Paul Honeywood (Portfolio Holder for Housing), Councillor Alex Porter (Portfolio Holder for Leisure & Tourism), Councillor Michael Talbot (Portfolio Holder for Environment & Public Space) and Councillors Andrew Baker and Jayne Nash
In Attendance:	Ian Davidson (Chief Executive), Damian Williams (Corporate Director (Operations and Delivery)), 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) and Keith Durran (Committee Services Officer)

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received by Councillors Amos and Skeels (with no substitutions).

2. DECLARATIONS OF INTEREST

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

3. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

4. BUDGET PROPOSALS FOR 2023/24

At the Committee's formal meeting on 11 January, it heard how the General Fund and the Housing Revenue Account (HRA) Budget proposals for 2023/24 had been considered by Cabinet on 16 December 2022.

The Committee had been provided, as part of the material for them to consider, the following:

- 1) Updated General Fund Financial Forecast Including Proposed Budget Changes in 2022/23 along with Budget Proposals for 2023/24 – the report considered by Cabinet on 16 December 2022.
- 2) Updated Housing Revenue Account Business Plan and Budget Proposals 2023/24– the report considered by Cabinet on 16 December 2022.

The format for the meeting provided for the following elements.

11.00am - 11.30am	Private meeting of Members of the Committee to make final arrangements for the rest of the meeting.
11.30am - 12.00noon	Public meeting opens and a presentation by the Section 151 Officer on an introduction to the 2022/23 current budget position, the proposals for 2023/24 and the MTFS
12.00noon - 12.30pm	Cllr Alex Porter, Portfolio Holder for Leisure and Tourism
12.30pm - 1.00pm	Cllr Michael Talbot, Portfolio Holder for Environment and Public Space
1.00pm - 2.00pm	Adjourn for lunch
2.00pm - 2.30pm	Cllr Paul Honeywood, Portfolio Holder for Housing
2.30pm - 3.00pm	Cllr Carlo Guglielmi, Portfolio Holder for Corporate Finance & Governance (Deputy Leader of Council)
3.00pm - 3.30pm	Cllr Neil Stock OBE, Leader of the Council

A series of questions were asked by the Committee and responses were provided in writing to the Committee. The Minutes of the meeting record those questions and responses in an Appendix. Further supplementary questions were asked of Cabinet Members and responses provided.

During the dialogue with individual Cabinet Members, the following commitments to written responses being provided were given to the Committee:

- Cllr Alex Porter, Portfolio Holder for Leisure, and Tourism - regarding the implemented measures to reduce energy costs in leisure facilities and the envisaged pay back position in cash terms for those measures and the CO₂ savings generated, the Council's position on sea defences at the Naze in Walton-on-the-Naze and, separately, about past and future surveys of relevant beaches in relation to the need for future recharges of sand on those beaches.
- Cllr Paul Honeywood, Portfolio Holder for Housing – in relation to empty Council housing stock, its liable for the same Council Tax premiums as a private dwelling and, how many empty Council homes were subject to the different premium levels levied for Council Tax.
- Cllr Carlo Guglielmi, Deputy Leader of the Council and Portfolio Holder for Finance and IT - question regarding the premium council tax rate on empty

homes, how many empty homes were there at the start of the year versus how many at the end of the year and if he considers the levying of the premium to be a success.

The Committee expressed their gratitude to the Council's Section 151 Officer for his support for the budget scrutiny process, and more generally in respect of the budgetary position of the Council. In addition, the Committee thanked the Members of Cabinet and the officers who assisted the process of the review over the days leading up to the meeting, and on the day of its meeting in considering the questions posed by the Committee and providing responses.

Having considered all of the information that had been provided, including the responses to the questions posed to Cabinet Members and Officers referred to in the Appendix, it was **RESOLVED** that the **CABINET** be **RECOMMENDED** that:

- a) Requests a comprehensive piece of work be undertaken to assess the true costs of services subject to discretionary Fees and Charges (including full on-costs) to ensure that cost recovery is being achieved and that inadvertent subsidy of services from Council Tax income does not exist where those full costs should be met through relevant Fees and Charges;
- b) Requests that progress be made (at pace) in the coming months to ensure that Zero Based Budgeting is applied consistently to all major net expenditure areas for the Council and that this process should involve robust challenges to ensure efficiency, effectiveness and economy of those service based budgets;
- c) Makes any necessary arrangements so that, particularly while the current economic conditions prevail, strict caution is observed around estimates of costs of proposed projects/schemes (provided in support of decisions around those projects/schemes) with a view to supporting realistic budgetary allocations being made that more closely align with the costs identified for the projects/schemes following procurement in respect of those projects;
- d) Records that the failure of the External Auditors (to conclude in a timely fashion the Audit of the Council's accounts for 2020/21) is an impediment to good governance, including through this Overview and Scrutiny process, and to support the sterling efforts by the Council's Audit Committee to address this failure with the External Auditors;
- e) Concurs that, for future years, the Community Leadership Overview and Scrutiny Committee, shall be requested to examine and enquire into the spend in relation to grants to statutory and voluntary sector partners and to submit its findings to the Resources & Services Overview and Scrutiny Committee in time for its budget scrutiny process;

- f) Takes measures (without delay) to ensure that the Housing Stock Survey of the Council's homes is commenced at the earliest opportunity (with a view to it being completed within 2023/24), that regular updates on the Survey be made to all Councillors and that steps be taken to dispose of vacant Council homes that have particular long term maintenance issues with a view to the disposal sum being re-invested in properties that are easier to maintain and, potentially, meeting housing need locally more closely;
- g) Supports the statements to the Resources & Services Overview and Scrutiny Committee, that the New Homes Bonus for 2023/24 be held without being allocated until after the 4 May 2023 elections;
- h) Proposes to Council that the shortfall between income and expenditure which would otherwise occur in 2023/24 be met by utilising the Forecast Risk Fund and that the use of the Corporate Investment Plan 'Reserve' and Building for the Future Use be applied to balance the budget in 2024/25 if required; and
- i) Arranges that an update on the approved and pipeline schemes within/through the Corporate Investment Plan, since its creation, being submitted to the Resources & Services Overview and Scrutiny Committee's meeting on 21 February 2023 to enable that Committee to undertake an enquiry into the process around that Plan.

The meeting was declared closed at 4.00 pm

Chairman

**Resources and Services Overview and Services Committee – 11 January
2023**

Questions to Portfolio Holders on the Budget

<u>Question to which Portfolio Holder</u>	<u>Question from Member of the Committee</u>	<u>Question to be asked (followed by supplementary question(s) based on response – initially from questioner – and others only if time permits)</u>	<u>Answer from Portfolio Holder (If time is tight the question and the response may be read into the record rather than spoken)</u>
Cllr Porter, Portfolio Holder for Leisure and Tourism (from 12 noon to 12.30pm)	Cllr Barry	We have heard about the severe financial challenges for the Council corporately over the next three years. From the Outturn Report submitted to Cabinet on 15 July 2022, the actual expenditure in your Portfolio area was £7.062m. This is the second largest budgeted net expenditure of any Portfolio Holder. So how do you plan to support the Council meet the budget challenges we face next financial year and the two years after that?	<p>I thank Cllr Barry for his question. Due to the significant financial pressure faced by the Council, I have asked Officer's to prepare a full review of options to reduce subsidies and make savings. It is prudent at this stage that we consider every option available to us, based on their respective cost and subsequent impact on Council priorities. That will allow a balanced decision to be taken about the future direction. Significant procurement processes have taken place over recent months</p> <p>You will be aware that the Council has already taken the difficult decision to no longer invest in joint use facilities, owned by an external organisation. A decision on how to allocate respective budgets for these facilities has yet to be taken.</p>
	Cllr Barry	If not answered in the	I thank Cllr Barry for his

		<p>response to the above:</p> <p>What specifically has been implemented/spent this year to reduce energy usage in leisure and tourism facilities? What plans are there to help reduce energy use in those facilities next year?</p>	<p>question.</p> <p>The following has been implemented in our Sport and Leisure Facilities to reduce our energy consumption and reduce costs:</p> <ul style="list-style-type: none"> - Sensor Lighting in Sports Facilities and Princes Theatre - LED Lighting in Sports Facilities and Princes Theatre - New Air Handling Unit in the Clacton Leisure Centre Wellbeing Zone - Timers have been installed to the Theatre heating and air movement systems to restrict to essential use - Variable Speed Drive Pumps in Swimming Pool Circulation Systems <p>Subject to funding and respective decisions, the follow projects are being considered for next year:</p> <ul style="list-style-type: none"> - Swimming Pool Covers at the Council's Sports Facilities - Quotations are being sought for a company to design a heat pump system for Clacton
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			<p>Leisure Centre and Building Management Systems for Walton on the Naze Lifestyles.</p> <ul style="list-style-type: none"> • We are looking at a proposal to remove the oil fired boiler at Clacton Leisure Centre • A consultant is developing the business case for solar power on TDC estate, including our leisure facilities <p>Further to the above, the service is resolved to consider energy efficiency in all its technical procurement processes and moving forward, will not be purchasing any lighting fixtures that have an LED alternative.</p>
	Cllr Barry	Can you outline the events the Council put on/financially supported in 2022/23, with the expenditure on each and whether you regard this as providing a good return on that investment? Will those events be repeated in 2023/24?	<p>I thank Cllr Barry for his question.</p> <p>Clacton Airshow Cost: £138,000</p> <p>An Economic Impact Evaluation Report prepared by an external organisation using nationally</p>

			<p>recognised modelling data estimated that the 2022 Airshow contributed a net value of approximately £12,155,000 net income to the area with 166 jobs sustained. During a recent Town Centre survey, 40% of businesses suggested they did more trade during events like the Airshow</p> <p>Illuminate Festival (Harwich) Cost: £65,000</p> <p>At this stage an economic impact assessment has not been commissioned for Illuminate, there is no formal value for money assessment. Feedback from local businesses suggests that the several thousand visitors bought significant local business to the area. The presence of regional news crews and wider regional media, will have raised</p>
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			<p>the profile of Tendring.</p> <p>Tour Series Cost: £90,000</p> <p>At this stage an economic impact assessment has not been provided for the Tour Series. In addition to the regional media (as per Illuminate), this event received national and international television coverage, via a highlights programme on ITV4 and Eurosport.</p> <p>We were pleased with the outcome of all events, particularly after an extremely challenging two years, where mass participation events were not possible. That being said, it is only right that we now review everything the Council does, which will include the events programme</p> <p>A decision on which events take place in 2023 will take place imminently and following that, a longer term review of the Council's events programme will be carried out, together with wider scrutiny of the Council's budgets before the end of 2023.</p>
	Cllr Stephenson	What direction have you given officers in reviewing fees and	I thank Cllr Stephenson for his question. I have directed Officers to

		charges for services/functions you are responsible for?	<p>undertake a root and branch review of all fees and charges under my portfolio. An evaluation of that work is currently taking place, so balanced decisions can be taken prior to the decision being published.</p> <p>In some cases the direction to Officers has been to consider how the service subsidy can be reduced through prudent setting of charges, e.g. Sports Facilities, Clacton Airshow. In others, I have asked Officers to make recommendations as to how fees and charges can contribute towards essential expenditure in that particular service area, e.g. Beach Huts.</p> <p>We must be mindful of the impact of an increase in fees and charges on our residents, which the review currently taking place will do. Of course, we are charging not trading: we are setting fees to best cover our costs, or manage the level of service subsidy, we are not seeking to make a surplus.</p>
	Cllr M Stephenson	What is known of the probability of cliff slippages at the sea front in Clacton-on-Sea and/or Holland-on-Sea over the next three years and what funding is	

		provided for in the Council's budget to address the costs of remedial action at those slippage sites in each of those three years?	
	Cllr M Stephenson	What is known of the levels of beach erosion and the need for recharge in Clacton-on-Sea and/or Holland-on-Sea over the next three years and what funding is provided for in the Council's budget to address the costs of remedial action at those beach erosion sites in each of those three years?	

<u>Question to which Portfolio Holder</u>	<u>Question from Member of the Committee</u>	<u>Question to be asked (followed by supplementary question(s) based on response – initially from questioner – and others only if time permits)</u>	<u>Answer from Portfolio Holder</u> <i>(If time is tight the question and the response may be read into the record rather than spoken)</i>
Cllr Michael Talbot, Portfolio Holder for Environment and Public Space <i>(from 12.30pm to 1.00pm)</i>	Cllr Barry	We have heard about the severe financial challenges for the Council corporately over the next three years. From the Outturn Report submitted to Cabinet on 15 July 2022, the actual expenditure in your Portfolio area was £9.701m. This is the largest budgeted net expenditure of any Portfolio Holder. So how do you plan to support the Council meet the budget challenges we face next financial year and the two years after that?	The largest expenditure area within the Portfolio is the collection of domestic refuse. As a statutory responsibility the Council cannot escape the costs involved or the increasing costs brought about by changing government requirements. The officer team is already working on the re-procurement of this service for future years as the Committee knows. Part of that exercise will include member and market engagement, aimed at optimising the value compromises within that. Additionally the government has indicated the provision of additional burdens funding in relation to changes in waste and recycling requirements. We remain vigilant in order to ensure that appropriate provision is made. Outside of the

			<p>statutory service there are likely to be some very tough choices ahead.</p> <p>The officer teams have already been active in:</p> <p>Seeking, maximising and using grant and other funding such as s106 monies, Levelling up Parks, tree planting and other funding sources. The volunteering programme in open spaces is gathering strength with the material benefit of promoting wellbeing in the communities.</p> <p>The officer teams are engaged in a range of small initiatives, subject to decisions and approvals to reduce costs such as: Partial switching from bedding to perennial planting, rewilding of some areas, developing charging and control policies for events, offering direct cremations, introducing charges for recycling container replacements and developing options for revised waste and recycling collections.</p> <p>There are also more wide ranging options for developing new income streams to the Council under</p>
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			<p>consideration that may require closer examination of risk, but with greater potential rewards. This includes:</p> <ul style="list-style-type: none"> • The development of a second chapel along with wake room facilities at Weeley Crematorium, • partnership with EV charge point operators for the use of Council land for electric vehicle charging points. • Charging for use of some public conveniences, • partnerships for green waste disposal / composting. • Beach hut construction and sale / lease. • Potential provision of services to partner organisations. <p>Care is needed in these areas in order to work within restrictions and to manage risk.</p>
	Cllr Scott	<p>On 11 October, I read a press release from the Council indicating that a small fee was to be introduced for replacement recycling boxes provided by the Council and increased charges for brown bins and for the garden waste</p>	<p>The charges for containers will start in April 2023. My decision to implement that was made earlier and published in the last few days.</p> <p>The fee for the garden waste service has not been reviewed since it</p>

		<p>service itself. Can you help the Committee with the approval process for those fees and whether they are to be introduced from 1 April 2023?</p>	<p>was introduced and the proposed increase reflects increased costs of delivering the service over time. The provision of containers for recycling has been ongoing since introduction and a large number of free containers has been issued. It is appropriate now to introduce fair charging for new containers seeking to recognise budgetary issues while acknowledging that a saturation of containers necessary for recycling purposes may have been reached and that households can use any container (in which the contents can be identified) to present recycling.</p>
	Cllr Scott	<p>Other than the fees and charges mentioned just now, what direction have you given officers in reviewing fees and charges for services/functions you are responsible for?</p>	<p>My request to the officer teams was to prepare proposals that fairly compromise between objectives to reflect rising service and overall costs, avoid compromising the affordability of services to users while having regard to the overall financial position of the organisation.</p>

<u>Question to which Portfolio Holder</u>	<u>Question from Member of the Committee</u>	<u>Question to be asked (followed by supplementary question(s) based on response – initially from questioner – and others only if time permits)</u>	<u>Answer from Portfolio Holder (If time is tight the question and the response may be read into the record rather than spoken)</u>
<p>Cllr Paul Honeywood, Portfolio Holder for Housing <i>(from 2.00pm to 2.30pm)</i></p> <p><i>(online to be arranged)</i></p> <p><i>Housing Revenue Account</i></p>	Cllr Stephenson	<p>Page 47 of the papers for today: Line 5 references Utility costs. For 2023/24 this is showing as costing ££505K. Can you set out detail about the utilities and the facilities that they relate to and the extent to which these are offset in service charges?</p>	<p>These charges relate in the main to communal power supplies and heating in our blocks of flats and sheltered housing schemes.</p> <p>Service charges are levied to tenants and leaseholders having regard to statutory caps on the total rents that can be charged. We anticipate that £164k will be recovered in 2023/24.</p> <p>Whilst the costs recovered are much lower than the costs incurred, we must be mindful of the current cost of living crisis and have limited the increase in service charges to 7% in line with the statutory cap on social housing rent. There is also a large degree of volatility in the energy markets and we hope that the anticipated expenditure is the worst case scenario.</p>
	Cllr Scott	<p>Pages 39 and 47 of the papers for today:</p>	<p>The Council has responsibilities both</p>

		Line 3 – Revenue Contribution to the major repairs allowance – This includes the replacement of kitchens in Council Homes. Are you confident that this expenditure is being spent efficiently? I have reports of certain properties with no new kitchen and others where there are multiple replacements in the same period.	to review kitchens at least as frequently as 20 years in line with the Decent Home Standard. They also have to be replaced in shorter timescales if they are in disrepair for any reason. Of course it is regrettable if components do not reach their full lifetimes for whatever reason but the Council cannot avoid the need for replacement if it exists.
	Cllr Scott	Can you update the Committee for 2022/23 to date as to how many Right to Buy properties have come out of the Council's Housing Stock and how many homes have been acquired through the different routes of being gifted, built or bought? What is the net gain/loss so far this year?	During the financial year to date the Council has sold eight homes through the Right to Buy scheme and one further property was sold as it was no longer considered suitable to retain in our housing stock. In total 16 homes have been acquired
	Cllr Stephenson	What direction have you given officers in reviewing fees and charges for services/functions you are responsible for?	My request to the officer teams was to prepare proposals that fairly compromise between objectives to reflect rising service and overall costs, avoid compromising the affordability of services to users while having regard to the overall financial position of the organisation.

	Cllr Stephenson	<p>This time last year you advised this Committee that “A budget has also been included for a Stock Condition Survey, with a budget of £100k, the results of which will assist in setting future budgets.” Can you update the Committee with the use of that £100K and the stock condition survey? I ask this given the tragic circumstances in Rotherham where a 2 year old boy lost his life with the contribution mould in his Council home. The importance of knowing the full extent of the condition of Council Homes (as a landlord) is vital.</p>	<p>Work is under way to procure the condition survey. The organisation needs to refresh information on property condition, integrate existing data held in various formats, capture ongoing incoming data as well as combining all into a functional database. It is impossible to complete a physical survey of all of the stock can be achieved within the budget. A system of surveying archetypical or beacon properties is an industry standard way to address this. It is planned to combine such information with other data held and information to be gathered during the course of the various scheduled and routine visits and inspections carried out by the team and contractors.</p> <p>Naturally the teams are saddened to hear of the tragic events in Rotherham. The Corporate Director is leading a task group with the objective of reducing the risk of damp and mould in our stock not being properly addressed.</p>
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	Cllr Stephenson	<p>Pages 37 and 47 of the papers for today:</p> <p>Where Council Homes are vacant, the Council picks up the cost of Council Tax liability. It is therefore in the interests of the Housing Revenue Account (and therefore our tenants) that we reduce the amount and length of time Council Houses are vacant. I see that Council Tax on empty properties has been reassessed back to £130K for this financial year rather than the anticipated £76K. What assurances can be given that the £78K figure for next year will be achieved given the experience this year?</p>	<p>Indeed. There are also utility costs, lost rent and risk of damage or intruders. The Chief executive has chaired an officer group during the course of the year which has supported other officers to substantially reduce void times. The officer teams have also brought forward work on a small number of long term void properties which has brought them back into use.</p> <p>Void properties and the costs of them are a fact of life and I can't make promises to eliminate them but I am certain that the team has taken positive steps to address an issue and that further initiatives and ongoing effort will minimise the cost and lost opportunities.</p>

<u>Question to which Portfolio Holder</u>	<u>Question from Member of the Committee</u>	<u>Question to be asked (followed by supplementary question(s) based on response – initially from questioner – and others only if time permits)</u>	<u>Answer from Portfolio Holder</u> <i>(If time is tight the question and the response may be read into the record rather than spoken)</i>
Cllr Carlo Guglielmi, Portfolio Holder for Corporate Finance & Governance (Deputy Leader of Council) <i>(from 2.30pm to 3.00pm)</i>	Cllr Stephenson	From page 27 of the papers for today: As Portfolio Holder for Corporate Finance, your report to Cabinet on 16 December identified (before the use of balances, reserves etc.) a deficit in the General Fund of £3.433m for 2023/24, £3.722m for 2024/25 and a need for savings of £4.150m in 2025/26 to avoid a deficit in that year. I accept that Government funding through the Revenue Support Grant of £1.2m in 2023/24 was not known when these figures were prepared. But should residents be worried about the services they rely upon over the coming years?	As I have mentioned before, the long term plan has given us a really strong platform against which we can consider our longer term financial position. We have in effect given the new Administration from May this year the time to carefully consider what actions are required to deliver the long-term financial stability of the Council. Given the speed in which the current shortfall has materialised, as nobody could have forecasted the toxic combinations of events which have led to it, it is without doubt that the New Administration will face some tough decisions in terms of the current forecast and any financial framework that is established to manage the associated process. It will, of course, need to include the consultation with our residents as

			necessary, to make sure we can continue to reflect their expectations as far as is reasonably possible.
	Cllr Stephenson	I believe that the last point at which the Corporate Investment Plan list of approved and pipeline schemes was last published for Cabinet's meeting in March 2022. Are you in apposition to provide us with an update on those schemes and any subsequently approved or pipeline schemes added to the Plan since?	As set out in a report to Cabinet in July, it was highlighted that further reporting of the Corporate Investment Plan would be delayed until such time as the Council had a clearer position on its future financial position, given the scale of the challenges emerging during the year. This still remains the case. However, a number of urgent items have been subject to separate decisions during the year along with the unavoidable items set out in the budget report that was considered by Cabinet at its meeting on 16 December. I am happy to provide an update in due course as part of 'relaunching' the Corporate Investment Plan process going into 2023/24.
	Cllr Stephenson	From page 25 of the papers today: I see that in 2023/24 there is a proposal to apply £1.433m from the Corporate Investment	In terms of the 4 remaining years of the current forecast period, I have affectively looked at 2023/24 and 2024/25

		<p>Plan Reserve and £2.339m from the Building for the Future Reserve to 'balance' what would otherwise be the General Fund deficit in that year. However, the Forecast Risk Fund exists to provide that type of support for the General Fund and that is not proposed to be used in 2023/24. I understand that it is then proposed to be used in 2024/25. But my question is why the Forecast Risk Fund was not used first. Local Government Finance changes year to year – just look at the change from last year to this one – so would it not have been better to propose to use the Forecast Risk Fund first before exhausting the Corporate Investment Plan and Building for the Future Reserves?</p>	<p>together, with the proposed use of funding simply reflecting a practical approach. However given the funding that has recently been announced as part of the Government's Local Government's Financial Settlement, this will be reviewed in terms of updating financial position for reporting to Cabinet later in January.</p>
	Cllr Stephenson	<p>From page 25 of the papers today: I note that the former Council Offices in Weeley are still costing this Council £60K in this financial year and a projected £50K in next financial year. Could you remind the Committee of the decision to dispose of the Offices, when the Council ceased to use the offices for operational purposes and when the offices will be disposed of? The question is then</p>	<p>While I fully understand, and share the same frustration, as we too very much hoped that the disposal of the former Council Offices site in Weeley would have taken place by now, the decision was a rather complex one than simply an open market transaction. The Council has a duty of care to maximise the value of the site via</p>

		whether these costs were in any way avoidable?	<p>development to deliver new homes, including new and high quality Council housing for local people. Such decisions include the appropriation of land for planning purposes, planning permission, procurement, the requirements of the Council's Housing Acquisitions and Development Policy along with detailed negotiations with relevant parties.</p> <p>The various activities have remained on-going throughout 2022 and will continue in 2023 with the aim of concluding the disposal this year.</p> <p>In terms of complexities, it is also worth highlighting that the sequence of events have to be carefully considered to protect the Council as far as possible such as securing / receiving consideration for the land ahead of the land transfer, which in this case will be homes rather than monetary.</p>
	Cllr Griffiths	<p>From page 41 of the papers today: A budget of £0.6m was included in the HRA Capital programme for the redevelopment of the Spendells site.</p>	<p>As with any capital investment decision, an estimate of the likely project costs would be determined as part of the various steps in the decision</p>

		<p>However, the current estimate is that it will cost £1.4m. Is the Council's pricing strategy fit for purpose? Otherwise the Council will be approving schemes on one basis that then turns out to be a fraction of the actual cost.</p>	<p>making process. The actual cost of a project can only really be determined once the associated procurement process has been undertaken. It is also important to highlight that if a scheme is approved based on an estimated cost that is subsequently higher, then a further decision would be required as to whether to continue or not with the project, which would involve the usual value for money / business case considerations.</p> <p>Based on the above, it is not necessarily a question of a 'pricing strategy' not being fit for purpose, but rather around the strength of the wider governance processes that protect the Council's overall position.</p> <p>Notwithstanding the above, the accuracy of initial estimates is an important point to raise, which I will highlight as part of future investment decisions going forward; we must however all be very mindful that the current turbulent situation from an inflation point of view</p>
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			has caused havoc in many areas, especially with the raw cost of materials spiralling almost out of control.
	Cllr Stephenson	The Council is nearly half way through its 10 year financial strategy. I cannot see that the report references that strategy. Accepting that any forecast can only reflect what is known, but will Cabinet receive an updated or extended 10 year financial strategy which includes a review of what has occurred in the earlier years of that strategy?	The review of the long-term strategy is effectively undertaken each year as part of the wider budget setting cycle. As set out in earlier reports, it is proposed to review the long-term approach during 2023, which will be a key considered for the New Administration after May.
	Cllr Stephenson	What direction have you given officers in reviewing fees and charges for services/functions you are responsible for?	<p>This high level direction was set out in the report considered by Cabinet on 16 December 2022 – hopefully you are therefore happy for me to reference page 145 of that agenda rather than reproduce the detailed information here.</p> <p>In terms of the services / functions I am responsible for we have applied a 12% increase which will produce an extra £10k of income, with the exception of Solicitor's hourly rate which has been capped at 6% as this is an area where the Council cannot</p>

			make a profit but to recover costs only, therefore a lower increase around the rate of the pay award, which Unison averaged at 7% is justifiable. The 12% increase also applies to any external hire of the Connaught Room, the Whitelaw Room, and the Committee Room.
	Cllr Stephenson	The Council has entered into the agreement with Essex County Council to provide procurement services for it. What other areas for shared services with other Councils are being considered?	As discussed previously, shared services have been recognised as a potential element of the Council's wider response to the financial challenges that it faces rather than an issue that has been explored in any detail at the present time.
	Cllr Stephenson	For 2022/23, the Council introduced a premium for Council Tax on empty homes with a view to encouraging occupation of those homes. Can you tell me how many empty homes in the District there were at the start of the year (subject to the premium) and how many there are currently? And do you regard the introduction of the premium to be working?	The most recent position was set out in the reported to Full Council in November 2022, so hopefully you are happy for me to reference page 142 of that agenda rather than reproduce that information here. In terms of second homes, the Council does not have the power to levy such premiums at the present time. As set

		As an addition to the above, would it be possible to introduce a similar premium for second homes in the District where individuals live elsewhere and only visit the District occasionally?	out in the report Full Council highlighted above, the Government are however considering this and so it will be kept under review.
	Cllr Griffiths	On page 25 of the papers for today: I note the proposal to reduce the budget to support the Tendring-Colchester Borders Garden Community from £1.3m to £0.8m. Is Cabinet confident that this reduced level is sufficient to meet the need for support for the project? I ask this given the fact that the delivery timetable for the Garden Community will span, maybe, several general elections and Government policy will no doubt change. And how does the Cabinet consider that the costs of public open space and public buildings/facilities in the Garden Community will be met.	As part of reducing the budget from £1.3m to £0.800m, the issues raised were discussed with the relevant Service. The Council's involvement in the project largely reflects its planning authority / local plan responsibilities with an additional and on-going local plan budget available to potentially support the project moving forwards. It is also important to highlight that as part of the on-going development of the project, 'Stewardship' options to provide the necessary funding to support the on-going costs of assets such as open space and public facilities will be explored, with the aim of ensuring that such costs do not fall to the Council. The Members Steering Group has been very clear with

			Officers to task them to bring forward Stewardship options in the very near future so that a strong and sustainable model is put in place at the earliest opportunity.
	Cllr Stephenson	On page 14 of the papers for today: I note the statement about the New Homes Bonus. As I understand it, there is anticipated to be £1.4m to be received in 2022/23. What are your intentions around allocating the use of that funding?	I have referred to the New Administration several times above and I think it is important that they have financial flexibility to respond to the challenges that lie ahead. I therefore believe that it is important that the current Administration provides a strong financial foundation for the New Administration, and I propose setting this funding aside so that it forms part of the associated handover process in May.

<u>Question to which Portfolio Holder</u>	<u>Question from Member of the Committee</u>	<u>Question to be asked (followed by supplementary question(s) based on response – initially from questioner – and others only if time permits)</u>	<u>Answer from Portfolio Holder (If time is tight the question and the response may be read into the record rather than spoken)</u>
Cllr Neil Stock OBE, Leader of the Council (from 3.00pm to 3.30pm)	Cllr Stephenson	We have heard about the severe financial challenges for the Council corporately over the next three years. What is your assessment of those challenges and the plans to meet those challenges?	
	Cllr Stephenson	Do you still believe in the value of Freeport East and the financial gain this is supposed to bring?	
	The Committee may have further questions of the Leader based on the questioning/responses from individual Portfolio Holders during the day.		

In writing, with responses written into the record of the meeting, the question below to be sent to:

Cllr Jeff Bray, Portfolio Holder for Planning

Cllr Lynda McWilliams, Portfolio Holder for Partnerships

Cllr Mary Newton, Portfolio Holder for Business & Economic Growth

“What direction have you given officers in reviewing fees and charges for services/functions you are responsible for?”

The response to this question are as follows:

Cllr Lynda McWilliams, Portfolio Holder for Partnerships

“I regularly meet with the Assistant Director, Partnerships and other senior managers across the Department to review all high-level performance priorities and targets, including budgets. Each of the managers provide me with a regular update about progress across their service areas. We discuss budgets, income, bids that are being considered for various projects, that link to priorities. I encourage all of my Officers to seek funding opportunities where possible to deliver priorities that support the residents of Tendring. As part of my advice and direction, I also ensure that the Council’s governance processes are followed.”

Cllr Mary Newton, Portfolio Holder for Business & Economic Growth

*“There are no published fees and charges which fall under the jurisdiction
of Business and Economic Growth”*

*Cllr Jeff Bray, Portfolio Holder for Planning
“Awaited”*

**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW
AND SCRUTINY COMMITTEE,
HELD ON WEDNESDAY, 1ST FEBRUARY, 2023 AT 7.30 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors M Stephenson (Chairman), Scott (Vice-Chairman), Allen, Amos, Barry, Codling, Griffiths and Morrison
Also Present:	Councillor Baker and Clifton
In Attendance:	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Michael Carran (Assistant Director (Economic Growth & Leisure)), Keith Simmons (Head of Democratic Services and Elections), John Higgins (Head of IT and Corporate Resilience) and Keith Durran (Committee Services Officer)

5. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology was received from Councillor Skeels (no substitution).

6. DECLARATIONS OF INTEREST

Councillors Allen and Barry both declared a personal interest in the Beach Hut item as both were Town Councillors for Town Councils that owned Beach Huts with in the District of Tendring.

7. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

8. TASK AND FINISH GROUP - SCRUTINY OF THE COUNCIL'S PROPOSALS TO REVIEW THE BEACH HUT STRATEGY

The Committee heard that throughout the enquiry, the Task and Finish Group (T&FG) looked into the issues which the emerging Beach Hut Strategy proposed to address. In order to understand how the various issues would impact on the Council, residents, Beach Hut Licence Holders and other stakeholders, the T&FG spent time listening and asking questions of various stakeholders.

In preparation for Cabinet considering the emerging Beach Hut Strategy, the T&FG understood that the Council had consulted on the key issues included in the draft document. The T&FG Group reviewed each of those items to establish a view and make recommendations where appropriate.

For clarity, the eight points which formed the consultation were listed, together with what the Council was minded to implement once the strategy was adopted. The T&FG findings and comments were listed below each item:

1. RENTING OF BEACH HUTS

What was the Council considering?

“The Council is proposing to issue commercial agreements for those wishing to rent out Beach Huts for more than 10 days per year, which will regulate the market for rentals. It is proposed that commercial agreements are issued to those requesting them, but based on a criteria. This will cover key points such as accessibility and safety of huts, to ensure those with commercial agreements are able to provide a high quality service and support the appropriate points set out in the Council’s Tourism Strategy. New agreements would be through a lease and not a licence and as such, the cost would be identified by establishing a market value, which would increase the amount paid. A specific clause will be included on all other agreements to prohibit renting for more than 10 days per year. The annual charge for the lease will vary from location to location and will be based on an independent valuation”.

Comments from the Task and Finish Group

- The T&FG expressed concern about the potential cost of the lease and the proposed terms and conditions, which were unknown. The T&FG requested that Cabinet ensure future charges were set at a fair and reasonable level.
- The T&FG were originally concerned with the requirement to tender (in the original proposal which was consulted), but agreed with the new proposal for an application process;
- The T&FG expressed concern about the significant administration processes that may be involved in implementing the strategy and the subsequent cost to the Council of processing leases.

2. OWNING BEACH HUTS

What was the Council’s considering?

“The Council is considering whether to limit new beach huts licences to one per household. The Council is considering honouring multiple existing licences to one household. However, if a household already has a beach hut, then they would not be able to apply for a second licence. This would ensure that Beach Hut are more accessible to local people”.

Comments from the Task and Finish Group

- The Task and Finish Working Group agreed to the principal of this point

3. THE CURRENT BEACH HUT SPECIFICATION

What was the Council’s considering?

“The Council is minded to work through a review of the current specification and consider adding new products, such as modern cladding which do not currently meet the specification. This can also consider how beach huts could support the Council’s carbon neutral agenda”.

Comments from the Task and Finish Group

- The T&FG were supportive of bright colours and vibrant designs for Beach Huts. This followed their visit to Beach Hut locations during the enquiry.
- The T&FG requested that Cabinet acknowledge the differences in locations along the Tendring seafronts and their respective unique features, such as cliff slopes. Following the enquiry, the T&FG noted that appropriate adaptations in parts of the District were essential for reasons of access and should be included in the revised specification, e.g. appropriate access steps on cliff slopes. This should be considered on a location-by-location basis.
- The T&FG requested that a map was attached to the emerging strategy to clearly define which land was owned by Tendring District Council. During the enquiry, they noted that some Beach Hut locations were located on private land and were not under the jurisdiction of the Council
- The T&FG were minded to note and requested that no designs should be permitted that were contrary to current or emerging legislation.
- The T&FG requested that high standards were maintained on Beach Huts and dilapidated Beach Huts should be subject to appropriate enforcement action. This should be proportionate to the agreement holders personal circumstances, but ensured the design specification standards were maintained.

4. BEACH HUT ADAPTATIONS

What was the Council considering?

“Following a review of the specification, the Council is minded to work with licence holders to ensure a removal of those adaptations which fall outside of the revised specification”.

Comments from the Task and Finish Group

- The T&FG requested that Cabinet were mindful of their previous comments on the revision of the specification.
- The T&FG requested that Cabinet set a reasonable timescale for adaptations to be removed, which fall outside of the revised specification. The timescales recommended was a period of two years.

5. MONITORING OF BEACH HUT LICENCE CONDITIONS & COMPLAINT MANAGEMENT

What was the Council considering?

“The Council is considering additional staffing resources to ensure licence conditions are adhered to and taking appropriate enforcement action where necessary. The Council will also need to consider how this would be funded to ensure complaints are acted upon in a timely manner”.

Comments from the Task and Finish Group

- Where conditions were included in Beach Hut agreements, the T&FG asked that there should be appropriate resources to take action when they were not being adhered to. They were mindful that it was not good practice to allow conditions to be ignored and they cannot be addressed without appropriate resources.

6. AN IMPROVED DIGITAL SERVICE FOR LICENCE HOLDERS

What was the Council's considering?

"The Council is considering installing new software to improve services to licence holders and allow them to complete processes online. This would also be used to gather and record appropriate information about conditions, including which huts are licenced to rent and to make complaints easier to report and manage".

Comments from the Task and Finish Working Group

- The T&FG asked that those without access or ability to use digital platforms are still able to deal with a member of staff. As such, sufficient resources should be in place.

7. BUILDING NEW BEACH HUTS

What was the Council's considering?

"The Council is considering whether to build new beach huts around the District, which will be accessible through a lease. The amount of new huts will depend on the space available in appropriate seafront locations and the demand for new huts from local people".

Comments from the Task and Finish Group

- The T&FG requested that any new Beach Huts were made available through an affordable set of fees and charges
- The T&FG requested that any Council built Beach Huts built which were sold in the future were done so directly and through an equitable process; and not to use third parties.

8. A MOVE FROM LICENCES TO LEASES

What was the Council considering?

"It is suggested that licences are phased out over the next year and are replaced by leases from 1 April 2024. Leases will also provide those with beach huts on Council land with additional security of tenure, which they do not currently have with a licence agreement. The cost of a lease will increase the annual amount paid by those with beach huts, which will be identified by establishing the market value once the strategy has been adopted. The annual charge for the lease will vary from location to location and will be based on an independent valuation.

Further to this, consideration has been given as to how the revised specification could be embedded into Beach Hut Agreements. As such, the conditions for which beach hut users have to comply with for design, would form part of the agreement".

Comments from the Task and Finish Group

- Concern was expressed by the T&FG about the potential cost of lease agreements and the proposed terms and conditions – which were at the time of the meetings, unknown. T&FG requested that Cabinet ensure future charges were set at a fair and reasonable level.

- The T&FG requested that consideration be given to including a condition in future agreements, that third party Estate Agents were no longer able to sell Beach Huts on behalf of their respective owners. This would enable the Council to maintain a control on this process and ensure future sales were not priced excessively; and as such be unaffordable to many local people.

After a detailed discussion it was **RECOEMENDED** to **CABINET** that:

- a) The Task and Finish Group recommends the following to the Resources and Services Overview and Scrutiny Committee, to subsequently request that Cabinet take into account prior to consideration of the draft Beach Hut Strategy, on 17 February 2023:
- b) The Committee recommends that future charges for lease agreements are set at a fair and reasonable level. This is relevant for both commercial and mainstream leases. This should also be appropriate for any new Beach Huts made available for purchase or lease in the future.
- c) It is recommended that terms and conditions included in lease agreements are fair and equitable and in consultation with Beach Hut owners.
- d) The Committee recommends that appropriate resources are put in place for administration involved in implementing the strategy. They asked for consideration be given to the subsequent cost to the Council of processing leases and that subsequent costs are reported back to this Committee.
- e) The Committee recommends that bright colours and vibrant designs be included in the revised design specification for Beach Huts, when this is produced following adoption.
- f) The Committee recommends that there is acknowledgement of the differences in seafront locations along the Tendring District and their respective unique features, such as cliff slopes and how they impact Beach Hut design for the emerging specification review.
- g) Noting the point above, it is recommended that certain limited Beach Hut adaptations in parts of the District were included in the future specification for reasons of access, e.g. appropriate access steps on cliff slopes. This should be considered on a location-by-location basis.
- h) It is recommended that a map was attached to the emerging strategy to clearly define which land was owned by Tendring District Council.

- i) It is recommended that no Beach Hut designs should be permitted that are contrary to current or legislation.
- j) To ensure high standards were maintained on Beach Huts and their use, it is recommended that adequate resources should be in place for appropriate enforcement action.
- k) The Committee recommends that a reasonable timescale for adaptations to be removed which fall outside of the revised specification, is agreed. The timescale recommended is a period up to two years.
- l) The Committee recommends that the Council continues to support those without access or ability to use digital platforms are still able to deal with a member of staff. As such, sufficient resources should remain in place.
- m) That the New Beach Hut Strategy returns to the Resources and Services Overview and Scrutiny Committee for review in 12 months' time.

9. TASK AND FINISH GROUP - CYBER SECURITY

The Committee heard that the Cyber Security T&FG (Task and Finish Group) were tasked to:

- 1) *To challenge/ better understand the cybersecurity risks, defences, and mitigations the Council has in place.*

Following Full Council 22nd November 2022, the T&FG mandate was extended too additionally:

- 2) *Review different proposals of Members' access to emails and the current practice of auto-forwarding to personal email accounts, in line with the Council's Risk Management Framework, and make recommendations to Cabinet and Council along with relevant costings.*

During its first meeting the Cyber Security T&FG agreed to use the Department of Levelling Up Housing and Communities (DLUHC) Cyber Assessment Framework (CAF) document template as a self-assessment, auditing, and reporting framework template to review council cyber-security as referenced above.

It was reported to Members that the DLUHC CAF proved relevant to the review of Members' access to emails, auto-forwarding of council official business emails to personal devices and council data stored on personal devices as it included a number of National Cyber Security Centre (NCSC) compliance statements covering: data security and understanding, data protection in transit across the UK network, data storage

security, mobile device data security, media equipment sanitisation and disposal, secure device configuration.

CAF Explanatory Notes

The DLUHC Cyber Assessment Framework (CAF) provided the pragmatic basis to 'self-assess' the Council's own cyber security performance across the following activities:

- 1) Managing Cyber Security (organisational structures, policies, processes, understanding).
- 2) Protecting Against Cyber Attack - security measures to protect networks and systems.
- 3) Detecting Cyber Security Events ensuring effective security defences/ event detection.
- 4) Minimising The Impact of cyber security Incidents and their adverse impact.

The Committee was informed that the self-assessment CAF was a National Cyber Security Centre (NCSC) assessment document that was a mandatory cyber-security 'readiness state audit' document for critical UK national infrastructure providers since 2021. During 2022 the CAF had become mandatory for every central government department and whilst CAF completion was currently voluntary for local government DLUHC have repeatedly advised that it would become mandatory during 2023/24.

In this sense the CAF would replace the now defunct Public Services Network (PSN) IT Health Check annual audit/ certification process reporting local government cyber-security capabilities and fitness to remain securely connected and sharing data with central government Department of Works & Pensions (DWP). The reader should note that several council statutory service functions were completely reliant upon this connectivity, for example: Council Tax, Housing Benefit administration. Loss/ exclusion from central government connectivity would quickly stop those services from functioning.

With regards to the outcome, outlined recommendations were made by T&FG Members with due regard and consideration to:

- *The Full Council background information report.*
- *All Member's subject-matter comments received considered 23rd Jan'23.*
- *A newly published Information Commissioner's Office Freedom of Information (FOI) guidance note considered 23rd Jan'23.*

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- *The four costed options provided and their respective financial, cyber-security and Member-user working practicality satisfaction and non-satisfaction implications considered 23rd Jan'23.*
 - *A full copy of the council's Cyber Assessment Framework (CAF). For simplicity, CAF compliance was reviewed utilising 'traffic light' red, amber and green representing non-compliance, improvements required and full compliance respectively.*

Members heard that following CAF cyber-security compliance self-assessment, the T&FG identified that the council generally had robust cyber-security arrangements and working practices in place to manage, protect and safeguard the data that it held to deliver both statutory and non-statutory services. Its cyber-security event(s) detective arrangements utilising business industry-standard multi-vendor best-of-breed products were similarly robust and well managed.

However, the cyber-security self-analysis review also identified some areas of CAF cyber-security non-compliance, some areas where improvements could be made to further strengthen the Council's cyber-security.

The T&FG recommendations reflect improvements necessary to resolve CAF self-assessment key areas of non-compliance. Key areas considered by the T&FG were:

- ***Recruitment and resourcing*** key IT vacancies.
- ***Risks unresolved*** for prolonged periods.
- ***Information retention*** with data (including personal and sensitive data) stored for long periods of time with no clear business need.
- ***Generic account used*** or shared or default name accounts.
- ***Training and understanding*** individuals' contribution to essential cyber security.
- ***Formal Adoption*** of the new Cyber Incident Response Plan (CIRP).
- ***Members' email auto-forwarding to personal/ mobile devices***, including; identification and data management, data security in transit, physical and/or technical security protection against unauthorised access, lack of knowledge around which mobile devices hold data, allowing data to be stored on devices not managed by your organisation or to at least equivalent standard, lack of security on mobile devices, device disposal without data sanitisation, security builds that conform to your baseline or the latest known good configuration version.

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

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- a) As soon as is possible the Human Resources and Council Tax Committee with appropriate officers look at the salary(s) being offered for the advertised and unfilled senior IT posts and including cyber security senior technical positions.
 - b) By 31/03/23 a Portfolio Holder Cyber Security Working Group be established to periodically review the Council's cyber security performance against the Cyber Assessment Framework (CAF) and/or emerging mandatory security improvements and requirements.
 - c) By 31/07/23 the Council's Information Retention Policy be reviewed/ revised with due regard to UK Data Protection Act 2018 data 'minimisation' 'accuracy' and 'storage limitation' and applied throughout the organisation.
 - d) By 31/05/23 individual (non-generic) account access technologies be costed for accessing TDC terminals in locations such as leisure centres where numerous users sharing a terminal due to a retail environment operational need.
 - e) Commencing no later than May 2023 following the election of the New Administration Cyber Security and Information Governance training for all members after every election and for staff in their inductions with periodic refresher training for both be made mandatory.
 - f) As soon as possible in consultation with the Council's Monitoring Officer, to review existing Member guidance and explore Member training opportunities as to what constitutes party political activities in the context of using a TDC email account.
 - g) As soon as possible the new Cyber Incident Response Plan (CIRP) included as Appendix F to this report be adopted.

In reviewing the different options of Members' access to emails, reflecting the Council's Risk Management Framework, the recommendations to Full Council that the T&FG are submitting to the Resources and Services Overview and Scrutiny Committee and onwards to Cabinet are;

- h) That post-May 2023 local elections under the New Administration, that the Member practice of auto-forwarding of emails be ceased; and

- i) that subject to the associated funding of £8,000 being identified that the preferred Option 2 (*Appendix D refers*) - provision of a standard council-managed mobile Smartphone in addition to a council-managed laptop - be provided to those Members that want one to access emails and be contactable when mobile; or
- j) as an alternative to 'i above', that should it not prove possible to fund the Smartphone costs centrally, then each Member requesting a standard council-managed mobile Smartphone will be asked to fund the cost from allowances (circa two hundred pounds per annum).

The meeting was declared closed at 10.35 pm

Chairman

RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE

13 MARCH 2023

REPORT OF HEAD OF DEMOCRATIC SERVICES AND ELECTIONS

A.1 WORK PROGRAMMING – INCLUDING MONITORING OF PREVIOUS RECOMMENDATIONS AND SUMMARY OF FORTHCOMING DECISIONS

(Report prepared by Keith Durran)

PURPOSE OF THE REPORT

The report provides the Committee with an update on its approved Work Programme for 2022/23 (including 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 has been given since publication of the agenda for the Committee's last meeting.

INVITEES

None

BACKGROUND

The Council commissioned the Centre for Governance and Scrutiny (CfGS) to undertake an 'Overview & Scrutiny Development Review' in 2021 as a way of further improving that function at the Council. Two relevant recommendations arising from that review were:

“Further strengthening the annual process for developing work programmes for each O&S committee - Engaging Members, Officers, partners and the public to prioritise the topics for review. This could include a selection criteria to identify appropriate topics for the work programme. Currently the work programme is also the last item on the agenda at O&S meetings, we would recommend bringing it to the beginning, so it can be given greater priority and benefit from more considered discussion, rather than being subject to the inevitable end of meeting fatigue.

Reviewing how the recommendations are made and how impact is measured – This could include putting the ‘recommendations monitoring report’ at the beginning of agendas to orientate O&S towards outcomes-focused meetings, alongside an emphasis on finding strong recommendations from questioning to present to Cabinet (or partners) as improvement or challenge proposals.”

The Committee has previously received three separate reports on the issues of (1) Work Programme for 2022/23 (including progress with enquiries set out in its Work Programme), (2) feedback to the Committee on the decisions in respect of previous recommendations from the Committee in respects of enquiries undertaken and (3) a list of forthcoming decisions for which notice has been given since publication of the agenda for the

Committee's last meeting.

While (since the CfGS recommendations were made) the three reports referred to have been earlier in the Committee's agendas for meetings, the combination of them into one report seeks to further re-inforce the inter-relationship of the matters previously covered separately. As such, it is designed to further support consideration of work programming of the Committee and contribute to addressing progress with the Corporate Plan.

DETAILED INFORMATION

The detailed matters relating to the following matters are set out in the Appendix identified:

- (1) Work Programme for 2022/23 – See Appendix A;
- (2) feedback to the Committee on the decisions in respect of previous recommendations from the Committee in respects of enquiries undertaken – see Appendix B; and
- (3) a list of forthcoming decisions for which notice has been given since publication of the agenda for the Committee's last meeting – See Appendix C.

In considering work programming matters, the Committee is further reminded of the other recommendations from the CfGS review undertaken in 2021:

“Considering greater use of task and finish groups – This more informal type of O&S can allow improved cross-party working and detailed investigation of a single issue focussed on producing substantive recommendations.

Improved agenda planning and management - Committees should focus on one or two substantive items per agenda to allow for cross-cutting themes to be properly identified and explored, and different insights brought to bear on critical issues.

Considering how to engage the public in the work of O&S - This could include O&S going on more site visits in the community, inviting the public to offer ideas for work programmes, and greater use of social media channels for resident input and communicating the progress and impact of scrutiny work.

A clearer focus on democratic accountability - Scrutiny of Cabinet Members should form a key part of the work programme, providing an opportunity to hold the Leader and portfolio holders to account for delivery of the corporate plan and any other issues O&S feel is important.”

RECOMMENDATION

That the Committee:

- (a) Considers and notes the progress with enquiries set out in its Work Programme, feedback to the Committee on the decisions in respect of previous recommendations and the list of forthcoming decisions; and**
- (b) Determines whether any addition to, amendment of or rescheduling of Work Programme matters are required or other actions should be approved based on the content of this report.**

RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE
FOR ENQUIRIES TO BE UNDERTAKEN IN 2022/23

Work Programme

[Detailed Work Programme for 2022/23 outlining the progress made and otherwise planned for enquiries set out in the Work Programme. The report also details an update of the Task and Finish groups appointed by the Resources and Services Overview and Scrutiny Committees.]

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
Planning Enforcement – Review of current powers, policies, procedures, data on the use of current enforcement powers, effectiveness of approach and assessment of how cases should be prioritised.	At this Committee	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, Assistant Director of Planning	To ensure that the Planning Enforcement Service efficiently prioritises enforcement cases ensuring timely closure of casework.
Council procurement and Contract Management – using potential exemplars from: -The housing maintenance contract awarded to Rapid, its	At this Committee	Delivery of High Quality Services Effective and positive Governance	The Procurement Strategy Confirmation of procurement and contract management requirements	Management Team	To ensure that procurement and contract management at the Council is functioning as it should and is fit for purpose.

<p>delivery of work and the management of it.</p> <ul style="list-style-type: none"> - The management of the previous cremator 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. - The Leisure Centre Investment – specifications, securing contractors and delivery of those works and maintenance of the equipment at the Centres. 			<p>Details of the procurements in the exemplars</p> <p>Details of the contract management in the exemplars</p> <p>Details of measures to improve procurement and contract management at the Council</p> <p>Procurement Project Pipe Line for programming future projects</p>		
<p>Customer Service</p> <p>Particularly face to face, telephone and email contact across a range of services</p>	<p>Still in production</p>	<p>Delivery of High Quality Services</p>	<p>Customer Service Commitments</p> <p>Visitor and Call statistics</p>	<p>Relevant Portfolio Holders</p> <p>Relevant Directors</p>	<p>To provide an opportunity to assess the level of customer service provided against policies and</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 2023	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 comparator councils.	Relevant Portfolio Holders Relevant Directors	To identify what a high quality waste, recycling and litter should look like for Tendring District beyond 2026.
Carbon Neutral by 2030. The assessment of measures to	Off-Agenda Briefing Paper in the Autumn	Delivering High Quality Services/ A7 - Carbon Neutral by 2030	To be scoped by the Committee in August 2022	Not applicable	To ascertain progress against the Action Plan 2020-2023 prior 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)?					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.
COMPLETED ITEMS					
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.	Completed	Strong Finance & Governance	<ol style="list-style-type: none"> 1. Copy of All Member Cybersecurity Briefing Presentation 23/02/22. 2. Cyber incident log examples explained. 	Deputy Leader, Portfolio Holder for Corporate Finance and Governance, Head of IT & Resilience, Cybersecurity & Systems Manager	To challenge/ better understand the cybersecurity risks, defences and mitigations the council has in place.
Scrutiny of the Council's proposals to review the Beach Hut Strategy	COMPLETED	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	Portfolio Holder for Leisure and Tourism	To feed the committees views into the review of the Beach Hut Strategy, prior to

			subject to consultation with stakeholders.	Interim Corporate Director - Projects Delivery Assistant Director, Economic Growth and Leisure	consideration by Cabinet.
<p>Post decision scrutiny of the decision of the Portfolio Holder for Environment & Public Space (as follows):</p> <p>(a) To give consent for the use of the section of Frinton Greensward identified between 14 August 2022 and 5 September 2022 by the Frinton Summer Theatre subject to any necessary licences being obtained and conditions being adhered to; and</p> <p>(b) That the details of any consents given make it clear that consent</p>	<p>17 October 2022</p> <p>DONE</p>	Not specified	<p>A link to the decision on the Council's website is here:</p> <p>Decision - Frinton Summer Theatre - Application for Consent to use Frinton Greensward (tendringdc.gov.uk)</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</p>	<p>Portfolio Holder for Environment and Public Space</p> <p>Assistant Director – Building and Public Realm</p>	<p>To review the consultation with all the parties that will be affected by the decision along with the Councillors whose wards will be affected.</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>

<p>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 for four weeks on the Greensward at Frinton-on-Sea in the summer of 2022.</p> <p>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</p>			<p>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 on the Greensward following the end of the Summer Theatre's use of it.</p>		
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whose wards will be affected.					
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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

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Resources and Services Overview and Scrutiny Committee 13 March 2023

RECOMMENDATIONS MONITORING REPORT (Prepared by Keith Durran)

Recommendation(s) Including Date of Meeting and Minute Number	Actions Taken and Outcome	Completed, follow-up work required or added to Work Programme
<p><u>This Committee's meeting on 1 February 2023 (Minute 9 refers)</u></p> <p><u>CYBER SECURITY</u></p> <p><u>ENQUIRY RECOMMENDED</u></p> <p>That Cabinet –</p> <p>a) As soon as is possible the Human Resources and Council Tax Committee with appropriate officers look at the salary(s) being offered for the advertised and unfilled senior IT posts and including cyber security senior technical positions.</p> <p>b) By 31/03/23 a Portfolio Holder Cyber Security Working Group be established to periodically review the Council's cyber security performance against the Cyber Assessment Framework (CAF) and/or emerging mandatory security improvements and requirements.</p> <p>c) By 31/07/23 the Council's Information Retention Policy be reviewed/ revised with due regard to UK Data Protection Act 2018</p>	<p><u>The Recommendation was submitted to the Cabinet Meeting on 17 February 2023 (Minutes 122 refers) and the Portfolio Holder's Comments were as follows:</u></p> <p><i>"I would like to thank the Committee for the work it has undertaken in setting up the task and finish group chaired by Councillor Clifton, who looked at the various aspects and complexities of cyber security in a relatively short period of time. In respect of the recommendations a) to g), they reflect a pragmatic and reasonable approach to supporting the Council's cyber security arrangements, so I am therefore supportive of taking the various activities forward in 2023/24. Recommendations h) to j) of the Resources and Services Overview and Scrutiny Committee will be presented for consideration at Full Council on 2 March 2023. In respect of recommendation h), this reflects the position I have mentioned on a number of occasions over recent months. I appreciate the frustration that many Members have previously expressed, but I believe that the risk of continuing with the forwarding of emails</i></p>	

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<p>data 'minimisation' 'accuracy' and 'storage limitation' and applied throughout the organisation.</p> <p>d) By 31/05/23 individual (non-generic) account access technologies be costed for accessing TDC terminals in locations such as leisure centres where numerous users sharing a terminal due to a retail environment operational need.</p> <p>e) Commencing no later than May 2023 following the election of the New Administration Cyber Security and Information Governance training for all members after every election and for staff in their inductions with periodic refresher training for both be made mandatory.</p> <p>f) As soon as possible in consultation with the Council's Monitoring Officer, to review existing Member guidance and explore Member training opportunities as to what constitutes party political activities in the context of using a TDC email account.</p> <p>g) As soon as possible the new Cyber Incident Response Plan (CIRP) included as Appendix F to this report be adopted.</p> <p>(AMMENDED) That Council having considered the outcome of the enquiry into cyber security undertaken through the Resources and Services Overview and Scrutiny Committee determines to adopt the</p>	<p>to personal emails account is too great for various reasons, not least because of UK Data Protection legislation compliance, but also recognising freedom of information issues that have been highlighted by the ICO. Not only that, but the world of cyber security will keep evolving and there will be adverse consequences if we continued with current practices. We therefore need to remain alert to both current and future risks. Furthermore, if a breach was to take place the Council would be potentially liable to hefty fines by the ICO. I note that the following 4 options relating to how Members can access their Tendring District Council emails that were considered by the task and finish group: 1. Use of council managed laptops only 2. All members be provided with a Council managed smart phone 3. Introduce a 'Bring Your Own Device' Service Framework 4. A Member web 'portal' app Whilst acknowledging the Committee's practical recommendation of the provision of Council managed smartphones, in striking a pragmatic balance along with recognising how Members are increasingly reliant upon flexible access to their emails to effectively undertake their role as a Councillor, I would be supportive of exploring Option 4 above in more detail as a possible alternative. Although the provision of a mobile phone would provide a practical solution, I understand the frustration of some members where they are juggling more than one email account to reflect their 'political' roles with that of a being a ward Councillor along with trying to undertaking that role</p>	
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following as recommended by the Resources and Overview and Scrutiny Committee –

- a) *it is recognised that the provision of mobile phones would provide a practical solution to enable Members to access their TDC email accounts and that under the newly elected Council from May 2023, the practice of auto-forwarding of TDC Member Emails to non TDC accounts be ceased and that:*
 - i) *subject to the associated funding of £8,000 being identified, a standard council-managed Smartphone in addition to a council-managed laptop be provided to those Members that want one to access emails and to be contactable when mobile;*
 - ii) *should it not prove possible to fund the Smartphone costs centrally, then each Member requesting a standard council-managed mobile Smartphone be asked to fund the costs from their allowances (circa two hundred pounds per annum);*
- b) *subject to a), Full Council continues to acknowledge the ongoing risk to the Council that, in acting as Data Controller, it could potentially be in breach of the Data Protection Act 2018 and that risk*

efficiently. The responsibilities of Portfolio Holders giving direction and making decisions within their individual areas has also been taken into account. In recognition of the above, I am therefore proposing that Officers also explore in more detail the option of a Members' 'portal' as a flexible way for Members' to continue to use their own devices to access their Tendring District email account. Following the Council's consideration of the associated report at their meeting on 22 November 2022, the following resolution was agreed: 'the implementation of any and all changes required be planned for no later than 1st April 2023 in readiness for the commencement of the new Council, following the elections in 2023 and that the new Councillors be given the training'. My proposed approach will have an impact on the above, which is addressed in my recommendations."

Having duly considered the recommendations submitted to Cabinet by the Resources & Services Overview and Scrutiny Committee, together with the response of the Portfolio Holder thereto:- It was moved by Councillor G V Guglielmi, seconded by Councillor Stock OBE and:- **RESOLVED** that –

a) the Resources and Services Overview and Scrutiny Committee be thanked for the work they have undertaken and specifically the Members who participated in the associated

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<i>will remain whilst the auto-forwarding of Councillors' emails practice continues."</i>	<i>task and finish group, chaired by Councillor Clifton; b) the Committee's recommendations a) to g) are agreed and Officers be requested to undertake the associated activities as soon as practicable in 2023/24 in consultation with the Portfolio Holder for Corporate Finance and Governance; c) in respect of the Committee's recommendations h) to i), it is recommended to Full Council that: i) although it is recognised that the provision of mobile phones would provide a practical solution to enable Members to access their Tendring email accounts, Officers be requested to also explore the alternative option of a Members 'portal' before a final decision can be considered; ii) subject to ci) above, a further report be presented to Cabinet as early as practicable in 2023/24 that sets out the outcome from the proposed review of the Members' portal' option and recommendations are presented back to a future meeting of Full Council; iii) subject to ci) and cii) above, Full Council continues to acknowledge that the ongoing risk to the Council, in acting as Data Controller, could potentially be in breach of the Data Protection Act 2018 remains, whilst the auto-forwarding of Councillor emails practice continues; and iv) whilst the work in ci) and cii) is ongoing, all Members elected in May 2023 are advised of this and the Council's Information Governance</i>	
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	<p><i>requirements through their induction programme.</i></p> <p><u>The Recommendation was submitted to the Full Council Meeting on 2 March 2023:</u></p> <p><i>The recommend amendment was passed.</i></p>	
<p><u>This Committees meeting on 1 February 2023 (Minute 8 refers)</u></p> <p><u>BEACH HUT STRATEGY</u></p> <p><u>ENQUIRY RECOMMENDED</u></p> <p><i>“That Cabinet takes into account, prior to its consideration of the draft Beach Hut Strategy, that -</i></p> <p>a) <i>the Committee recommends that future charges for lease agreements are set at a fair and reasonable level. This is relevant for both commercial and mainstream leases. This should also be appropriate for any new Beach Huts made available for purchase or lease in the future;</i></p> <p>b) <i>it is recommended that terms and conditions included in lease agreements are fair and equitable and in consultation with Beach Hut owners;</i></p>	<p><u>The Recommendation was submitted to the Cabinet Meeting on 17 February 2023 (Minutes 118 & 119 refers) and the Portfolio Holder’s Comments were as follows:</u></p> <p>a) <i>An independent valuation of prospective lease charges was commissioned, to ensure Cabinet could fully consider the recommendation for the change in Beach Hut agreements. Although this is only an indicative cost at this stage (the valuation will be considered closer to implementation), it is hoped this provides reassurance that future charges would be set at a fair and reasonable level. Furthermore, the Committee should be reassured that agreement of a future non-commercial lease and related charges would be agreed by the Portfolio Holder through an Executive Decision. This will be subject to the Council’s Call in Procedure rules. The setting of charges and respective heads of terms for a Commercial Lease are being agreed through this report. Research from other Local Authorities demonstrates that the</i></p>	

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<p>c) <i>the Committee recommends that appropriate resources are put in place for administration involved in implementing the strategy. That consideration be given to the subsequent cost to the Council of processing leases and that subsequent costs are reported back to the Committee;</i></p> <p>d) <i>the Committee recommends that bright colours and vibrant designs be included in the revised design specification for Beach Huts, when this is produced following adoption;</i></p> <p>e) <i>the Committee recommends that there is acknowledgement of the differences in seafront locations along the Tendring District and their respective unique features, such as cliff slopes and how they impact Beach Hut design for the emerging specification review;</i></p> <p>f) <i>noting the point above, it is recommended that certain limited Beach Hut adaptations in parts of the District be included in the future specification for reasons of access, e.g. appropriate access steps on cliff slopes. This should be considered on a location-by-location basis;</i></p>	<p><i>doubling of appropriate charges for commercial agreements is fair and appropriate.</i></p> <p>b) <i>The Committee are directed to the response provided for the recommendation above.</i></p> <p>c) <i>The Committee should note that there are no financial commitments to the Council, as a result of this report. Any future additional resources will be subject to a separate report and decision. As such, they will be subject to due process, which can be reported back to the Resources and Services Overview and Scrutiny Committee.</i></p> <p>d) <i>The Committee should note that one of the key strands of the strategy, is to revise the current specification. It should also be noted that bright colours are referred to in the draft strategy, as below. The proposed revised and improved specification will provide the framework for improved aesthetics of Beach Huts. This will also ensure huts are more vibrant and visually impactful, through a move towards brighter and starker colours. As such, the Portfolio Holder is in agreement with this positive move to improve seafront aesthetics.</i></p> <p>e) <i>The points raised by the Committee are noted and will be considered in producing the revised design specification.</i></p>	
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<p>g) <i>it is recommended that a map be attached to the emerging strategy to clearly define which land is owned by Tendring District Council;</i></p> <p>h) <i>it is recommended that no Beach Hut designs should be permitted that are contrary to current or future legislation;</i></p> <p>i) <i>to ensure high standards are maintained on Beach Huts and their use, it is recommended that adequate resources should be in place for appropriate enforcement action;</i></p> <p>j) <i>the Committee recommends that a reasonable timescale for adaptations to be removed which fall outside of the revised specification, is agreed. The timescale recommended is a period up to two years;</i></p> <p>k) <i>the Committee recommends that the Council continues to support those without access or ability to use digital platforms so that they are still able to deal with a member of staff. As such, sufficient resources should remain in place; and</i></p> <p>l) <i>the new Beach Hut Strategy returns to the Resources and Services Overview and Scrutiny Committee for review in 12 months' time."</i></p>	<p>f) <i>The points raised by the Committee are noted and will be considered in producing the revised design specification.</i></p> <p>g) <i>The points raised by the Committee are noted and if approved by Cabinet, a map defining the land owned by the Council will be produced for publishing on the website.</i></p> <p>h) <i>The points raised by the Committee are noted and any statutory requirements will be addressed in production of the Beach Hut agreements.</i></p> <p>i) <i>As referred to in a previous response, there are no additional financial commitments to this strategy and as such, no additional resources are funded through this report. The Committee's point is noted and as referred to in this report, any future proposed resources would be funded through a standalone business case under a separate decision.</i></p> <p>j) <i>Once the revised design specification is complete, the Council will work with Beach Hut owners to ensure timely removal of any unauthorised adaptations. The timescales involved will be proportionate to the type of adaptation involved, the degree of complexity and any appropriate additional circumstances. The period of 'up to two years' recommended by the Committee is noted, but each situation will be based on a case by case basis.</i></p>	
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	<p>k) <i>The points raised by the Committee are noted and appropriate resources will remain in place to support those customers without access to digital platforms. Finally, the Committee's comment that the 'New Beach Hut Strategy returns to the Resources and Services Overview and Scrutiny Committee for review in 12 months' time' are noted.</i></p>	
<p><u>This Committees meeting on 11 January 2023 (Minute 4 refers)</u></p> <p><u>BUDGET SCRUTINY</u></p> <p><u>ENQUIRY RECOMMENDED</u></p> <p>It was RESOLVED that the CABINET be RECOMMENDED that:</p> <p><i>a) Requests a comprehensive piece of work be undertaken to assess the true costs of services subject to discretionary Fees and Charges (including full on-costs) to ensure that cost recovery is being achieved and that inadvertent subsidy of services from Council Tax income does not exist where those full costs should be met through relevant Fees and Charges;</i></p> <p><i>b) Requests that progress be made (at pace) in the coming months to ensure that Zero Based Budgeting is applied consistently to all major net expenditure areas for the Council and that this process should involve robust</i></p>	<p><u>AWAITING THE DETAILED REPSPONSE</u></p>	

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<p><i>challenges to ensure efficiency, effectiveness and economy of those service based budgets;</i></p> <p><i>c) Makes any necessary arrangements so that, particularly while the current economic conditions prevail, strict caution is observed around estimates of costs of proposed projects/schemes (provided in support of decisions around those projects/schemes) with a view to supporting realistic budgetary allocations being made that more closely align with the costs identified for the projects/schemes following procurement in respect of those projects;</i></p> <p><i>d) Records that the failure of the External Auditors (to conclude in a timely fashion the Audit of the Council's accounts for 2020/21) is an impediment to good governance, including through this Overview and Scrutiny process, and to support the sterling efforts by the Council's Audit Committee to address this failure with the External Auditors;</i></p> <p><i>e) Concurs that, for future years, the Community Leadership Overview and Scrutiny Committee, shall be requested to examine and enquire into the spend in relation to grants to statutory and voluntary sector partners and to submit its findings to the Resources & Services Overview and Scrutiny Committee in time for its budget scrutiny process; Resources and Services</i></p>		
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<p><i>Overview and Scrutiny Committee 11 January 2023</i></p> <p><i>f) Takes measures (without delay) to ensure that the Housing Stock Survey of the Council's homes is commenced at the earliest opportunity (with a view to it being completed within 2023/24), that regular updates on the Survey be made to all Councillors and that steps be taken to dispose of vacant Council homes that have particular long term maintenance issues with a view to the disposal sum being re-invested in properties that are easier to maintain and, potentially, meeting housing need locally more closely;</i></p> <p><i>g) Supports the statements to the Resources & Services Overview and Scrutiny Committee, that the New Homes Bonus for 2023/24 be held without being allocated until after the 4 May 2023 elections;</i></p> <p><i>h) Proposes to Council that the shortfall between income and expenditure which would otherwise occur in 2023/24 be met by utilising the Forecast Risk Fund and that the use of the Corporate Investment Plan 'Reserve' and Building for the Future Use be applied to balance the budget in 2024/25 if required; and</i></p> <p><i>i) Arranges that an update on the approved and pipeline schemes within/through the Corporate Investment Plan, since its</i></p>		
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<p><i>creation, being submitted to the Resources & Services Overview and Scrutiny Committee's meeting on 21 February 2023 to enable that Committee to undertake an enquiry into the process around that Plan.</i></p>		
<p><u>This Committee's meeting on 17 October 2022 (Minute 6 refers)</u></p> <p><u>FRINTON SUMMER THEATRE</u></p> <p><u>ENQUIRY RECOMMENDED:</u></p> <p><i>That Cabinet</i></p> <p>(a) <i>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</i></p> <p>(b) <i>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.</i></p>	<p><u>The Recommendation was submitted to the Cabinet Meeting on 4 November 2022 (Minute 68 refers) and the Portfolio Holder's Comments were as follows:</u></p> <p><i>In response thereto, the Environment and Public Space Portfolio Holder had submitted the following:-</i></p> <p><i>"I ask that the enquiry by the Resources and Services Overview and Scrutiny Committee into my decision be welcomed. Having considered the outcome of that enquiry by the Committee, I ask Cabinet to:</i></p> <p>(a) <i>note that the Committee supports the intended development of the proposal for a policy in respect of authorising use of Council owned Open Spaces (including criteria and charging), and</i></p> <p>(b) <i>record that consideration to any future requests for proposed events which are to be held on the Frinton Greensward will be given."</i></p> <p><i>Having duly considered the recommendations submitted by the Resources and Services Overview & Scrutiny Committee together with the Environment & Public Space Portfolio Holder's response thereto:-</i></p>	

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	<p><i>It was moved by Councillor Talbot, seconded by Councillor Bray and:-</i></p> <p>RESOLVED that the recommendations made by the Resources and Services Overview & Scrutiny Committee be noted and that the response of the Environment and Public Space Portfolio Holder thereto be endorsed.</p>	
<p><u>This Committee's meeting on 30 June 2022 (Minute 14 refers)</u></p> <p><u>WASTE RECYCLING AND LITTERING:</u></p> <p><u>ENQUIRY RECOMMENDED:</u></p> <p><i>"In respect of the recycling elements of the enquiry:</i></p> <p><i>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;</i></p>	<p><u>The Recommendation was submitted to the Cabinet Meeting on 15 July 2022 (Minute 37 refers) and the Portfolio Holder's Comments were as follows:</u></p> <p><i>"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."</i></p> <p><i>Having considered the recommendations of the Resources and Services Overview & Scrutiny Committee, together with the initial response of the Environment & Public Space Portfolio Holder thereto:-</i></p>	

A.1 APPENDIX B

<p><i>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.</i></p> <p><i>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);</i></p> <p><i>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</i></p>	<p><i>It was moved by Councillor Talbot, seconded by Councillor Bray and:-</i></p> <p><i>RESOLVED that Cabinet notes –</i></p> <p><i>(a) the contents of the report; and</i></p> <p><i>(b) that a full response from the Environment & Public Space Portfolio Holder will be submitted to the next meeting of the Cabinet.</i></p> <p><u>The Recommendation was submitted to the Cabinet Meeting on November 2022 (Minute 70 refers) and the Portfolio Holder's Comments were as follows:</u></p> <p><i>Further to Minute 37 (15.7.22) Cabinet considered the Environment & Public Space Portfolio Holder's detailed reply to the Resources and Services Overview and Scrutiny Committee's recommendations to Cabinet following its inquiry into elements of the waste, recycling and litter collection service. That detailed reply was set out in the Appendix to item A.3 of the Report of the Environment & Public Space Portfolio Holder. (See A.1 APPENDIX B1)</i></p> <p><i>Having duly considered the recommendations submitted by the Resources and Services Overview & Scrutiny Committee together with the Environment & Public Space Portfolio Holder's detailed response thereto:-</i></p>	
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A.1 APPENDIX B

<p><i>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</i></p> <p><i>(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.</i></p> <p><i>In respect of the public space litter elements of the enquiry:</i></p> <p><i>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;</i></p> <p><i>That the large blue litterbins used as part of the Summer Plan along the seafront should</i></p>	<p><i>It was moved by Councillor Talbot, seconded by Councillor Bray and:-</i></p> <p><i>RESOLVED</i> <i>that the detailed response of the Environment and Public Space Portfolio Holder to the recommendations made by the Resources and Services Overview & Scrutiny Committee be noted (both being set out in the Appendix to the Portfolio Holder's report) and that they thereto be approved.</i></p>	
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A.1 APPENDIX B

<p><i>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;</i></p> <p><i>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;</i></p> <p><i>(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</i></p>		
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A.1 APPENDIX B

<p><i>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;</i></p> <p><i>In respect of future service provision:</i></p> <p><i>(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.</i></p> <p><i>[Note: Further to item (10) in the above recommendations, the Resources and Services Overview and Scrutiny Committee had proposed to Council on 12 July 2022 that 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.]</i></p>		
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Recommendations monitoring for those recommendations from earlier meetings of the Committee have been previously reported to the Committee and, as such, are not repeated here as there is no further update to be provided on them.

A.1 APPENDIX C

Resources and Services Overview and Scrutiny Committee **13 March 2023**

OVERVIEW AND SCRUTINY PROCEDURE RULE 13 – SCRUTINY OF PROPOSED DECISIONS

(Prepared by Keith Durran)

The below forthcoming decisions are those published since 7 November 2022 – the publication date for the Committee's last ordinary meeting.

In presenting the following, the Committee's attention is drawn to the agenda item notes in respect of Overview and Scrutiny Procedure Rule 13.

DESCRIPTION OF DECISION	KEY DECISION – YES/NO	DECISION MAKER	Decision Due Date
<u>Levelling Up Fund (LUF) - Clacton-on-Sea: Key decisions on Next Steps</u>	YES	Cabinet	23/06/23
<u>Electric Vehicle Charge Point Policy and Implementation Plan</u>	YES	Cabinet	23/06/23
<u>Events on Council Land Policy</u>	YES	Cabinet	23/06/23
<u>Update on Joint Working Arrangements with Essex Procurement and introduction of Social Value Principles</u>	YES	Cabinet	17/03/23

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RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE

13 MARCH 2023

REPORT OF DEPUTY CHIEF EXECUTIVE

A.2 COUNCIL PROCUREMENT AND CONTRACT MANAGEMENT

(Report prepared by Lisa Hastings)

PURPOSE OF THE REPORT

To inform the Committee of the outcome of the informal review of procurement and contract management at the Council ensuring it is functioning as it should and is fit for purpose.

INVITEES

Lisa Hastings, Deputy Chief Executive – Assistant Director for Governance and lead officer for topic presenting the report.

Informal meetings of the Committee were held on 17 October and 7 December 2022, where the Members received a range of information around the subject of Council Procurement and Contract Management, most of which is contained within this report. Senior Officers across the Council, involved in the subject area and the specific contracts referred to within the Scope (see below) supported this first meeting in October.

SCOPE - THE AIMS AND OBJECTIVES OF THE REPORT

Full Council at its meeting on 12th July 2022 agreed (Minute 29) the Committee's Work Programme for the 2022-23 Municipal Year, as set out in Appendices Ai and Aii to item A.2, for the Resources and Services Overview and Scrutiny Committee this included:

Council procurement and Contract Management – using potential exemplars from:

- ***The housing maintenance contract awarded to Rapid, its delivery of work and the management of it.***
- ***The management of the previous cremator 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.***
- ***The Leisure Centre Investment – specifications, securing contractors and delivery of those works and maintenance of the equipment at the Centres.***

(Note: Details of why these contracts were chosen by the Committee were not provided at the outset however, the requested information on each contract was provided to the Members of the Committee at its informal meeting in October. In December 2022, Members decided no further information was required on the contracts and due to the exempt nature of the information, would not be presented within this Report.

BACKGROUND

RESOURCES

The Procurement Team consisted of 2 FTE posts, both vacant (this has been increased through the restructure in 2022 by 3 additional posts, all remaining vacant – see below). The budget for the service consists of salaries and £22,670 for computer software.

At its meeting on 17th September 2021, Cabinet considered in Section 2 of its Financial Performance Update 2021/22 a small number of in-year budget adjustments set out in Appendix B to the Portfolio Holder's report, one of which reflected a proposed service level agreement being entered into with Essex County Council (ECC) to enable the Council to 'buy in' procurement services from them.

Following the last vacancy, discussions commenced with ECC in terms of a shared service / collaborative approach as a way of providing a more comprehensive procurement service to our internal departments. This approach would involve the Council purchasing a range of procurement services from ECC on a proposed 'hourly rate' basis via a service level agreement. Appendix B to the Cabinet Report set out a proposed adjustment, which would see budgets transferred from direct employee costs to 'contract' payments to ECC. This approach would also support the accelerated delivery programme where the Council would have access to specialist / expert advice along with additional procurement capacity e.g. supporting the procurement of replacement cremators. This arrangement will be kept under wider review as it may form part of a longer-term solution, where the Council could continue to have access to such advice as part of the future delivery of projects and activities along with 'usual' operational requirements expected of a procurement function / service.

Paragraph 2.3 of the Council's Procurement Procedure Rules set out in Part 5 of the Council's Constitution requires alternative delivery options for whole or part of services to be achieved in accordance with the Council's Procurement Strategy. The Strategy expressly refers to 'Our Partners in Procurement' and that the Council will seek to work with a number of partners to maximise any procurement opportunities and provide best practice. This includes other public bodies and shared services. Because the in-house procurement service has 100% vacancies, there were no employment issues to address and the Public Contract Regulations 2015 permit public sector shared service and collaboration arrangements within certain criteria, which are observed in any Service Level Agreement arrangement. The Council's Procurement Procedure Rules are observed in any bids or tender exercises managed by ECC on behalf of TDC.

Subsequently, Cabinet agreed in September 2021 that:

(2) That, in respect of the Council's Financial Performance for 2021/22, Cabinet:

(c) agrees an exemption to the Council's procurement rules in order to enable a Service Level Agreement to be entered into with Essex County Council to enable the Council to 'buy in' various procurement services from them to support its day-to-day operational activities and the delivery of one-off projects, as necessary; and

(d) authorises the Assistant Director (Finance and IT) and the Deputy Chief Executive to agree the terms of the Service Level Agreement, in consultation with the Portfolio Holder for Corporate Finance and Governance.

Following consultation with the Portfolio Holder for Corporate Finance and Governance, a Partnership Agreement was completed in August 2022; the services however commenced in October 2021 and will continue until October 2023 for an annual payment of £60,000. The agreement can be renewed annually for up to 5 years. **The Partnership Agreement is attached to the Report as Appendix A.**

Both Councils have obligations and responsibilities. Schedule 1 to the Agreement sets out the Key Procurement Activities, split into three areas:

- Category Planning
- Market Management
- Sourcing

Procurement 2022 Deliverables have been identified within the Partnership Agreement.

In December 2021 and May 2022, an Introduction to Procurement and the collaboration arrangements were presented to Council Officers as part of its Senior Managers Forum. The reasons why the Councils were working in partnership were covered:

- Increase resilience
- Increase expertise
- Enable collaborative savings
- Market influence
- Reduction of duplication
- Staff retention

Potential Category Areas have already been identified:

- Vehicles
- Facilities Management (inc. cleaning and security)
- Corporate spend for e.g. stationary

The Presentation Slides included a summary of the Procurement Process covering:

- Basics
 - The Regulations
 - Value for Money
 - Processes for different values of TOTAL spend
- Low Value Procurement - £10K to £50K
- Request for Quote Process - £10K to £50K
- Tender process - £50K +

It is important to highlight that there are various elements to the overall procurement process, with responsibilities being split across the Council, some functions are devolved into services, with others being undertaken centrally by the procurement team:

- Project approval and budget allocation - services
- Specification – services
- Market analysis - central
- Identify suitable contract/framework – centrally with consideration by services
- Prepare procurement documentation – central in consultation with services
- Publication – central

- Collate tenders for evaluation – central
- Evaluation – services with central support if required
- Due diligence - centrally together with services
- Contract awards to suppliers – centrally together with services

PART 5 CONSTITUTION - PROCUREMENT PROCEDURE RULES

The Council's Procurement Procedure Rules state the following:

Before undertaking any procurement, Departments should satisfy themselves that:

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

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

CONTRACT MANAGEMENT:

Contracts management is undertaken by the services and Key Personal and Contract Administrators are named within the contract documentation and are added onto their individual and existing roles. In some projects, contract management is commissioned as part of the project.

The Council has produced a standard TDC Contract for Services, which covers the terms and conditions for suppliers to adhere to when entering into a contract with the Council for values above £25,000. This must be used unless an exemption is sought. JCT and NEC suite of contracts are also used for construction works and engineering projects with widely recognised and accepted clauses within the industry, with differing options to be selected. Understanding the structure of these documents and arrangements is essential for contract management.

Contract management requires a commercial understanding, appropriate skills and capacity to be undertaken with maximum potential. Presently services are conducting contract management alongside their usual service delivery requirements, which can be extremely time consuming.

Within the agreed Scope, the Committee had requested certain information and are detailed below:

1. Confirmation of procurement and contract management requirements:

These are contained within the following documents: Council's Procurement Strategy and under Part 5 of the Constitution Procurement Rules of Procedure, which set out the policy and rules, the Council has adopted to be followed.

2. The procurement project pipeline:

Is an evolving piece of work and relies on the input of services to ensure that it is a useful exercise, in terms of allocating procurement resource and identifying budgets. The exercise will also benefit service areas in managing the process and subsequent contract management.

RELEVANT CORPORATE PLAN THEME/ANNUAL CABINET PRIORITY

Procurement and contract management comes within the Strong Finances and Governance Corporate Plan theme and effective and positive governance priority. It is important to ensure the Council's resources are being spent observing the Value for Money principle and managed prudently in accordance with its Budget and Policy framework whilst delivering against the wider priorities.

DESIRED OUTCOME OF THE CONSIDERATION OF THIS ITEM

A number of actions have been identified which are necessary to ensure the authority is working to up to date best practice, within its budget and policy framework, constitutional requirements, following internal audit reviews and generally lessons learnt through its duty to ensure continuous improvement through delivery of its services and functions.

The Committee was requested to give consideration to these actions and endorse the improvements and deliverables identified for future monitoring

STRATEGY & PROCUREMENT PROCEDURE RULES REVIEW

- The Council's current Procurement Strategy was last reviewed in 2012, although changes have been made to the Council's Procurement Procedure Rules, taking into account legislation changes; the overarching strategy needs a review and refresh following the National Procurement Policy Statement being issued in 2021. This sets out the strategic priorities for public procurement and how contracting authorities considers the following national priority outcomes alongside any additional local priorities in their procurement activities:
 - creating new businesses, new jobs and new skills;
 - tackling climate change and reducing waste, and
 - improving supplier diversity, innovation and resilience.
- Consideration should be given to the Local Government Association's toolkit developed to support councils to set objectives in relation to their maturity levels in each of the key areas of the National Procurement Strategy for Local Government in England 2022, and to assess their progress against those objectives.
- New legislation - On 11 May 2022, the Procurement Bill 2022 was introduced in the House of Lords. The Bill is the next step in the Government's plan to reform procurement policy in the UK following Brexit, as set out in its December 2020 green paper "*Transforming public procurement*" and follows the Government's response to the accompanying consultation. It is designed to introduce a simpler, more flexible and more commercial system. Currently, the Bill is at report stage in

the House of Commons.

- Produce a Social Value Policy for Procurement Purposes or set of Principles for the Council building upon the Public Services (Social Value) Act 2012, which places a statutory duty (*when proposing to procure the provision of services, whether alone or together with the purchase or hire of goods or the carrying out of works, with by contract or through a framework agreement*) to consider:
 - (a) how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and
 - (b) how, in conducting the process of procurement, it might act with a view to securing that improvement.
- It's important for the Council to maximise opportunities for social value but recognising these additional requirements to contractors, can increase the price of the contract, therefore they need to be of real added value for the area and the delivering of the Council's Corporate Plan, such as:
 - Use of apprenticeships
 - Increase use of local suppliers
 - Support SMEs
 - Community engagement and initiatives
 - Climate change requirements
 - Access for the voluntary sector
 - Sign up to the Military Covenant and other such initiatives

As part of improving the Council's social value requirement, a targeted approach was deployed as part of the Tendring for Growth business event, asking key questions as to the barriers faced by small to medium sized enterprises (SME) may face when approaching tender opportunities. From the feedback provided, a guide will be produced explaining the process and this will be publicly available, along with a proposed training video covering frequently asked questions.

SPEND AND CATEGORY ANALYSIS

- Tackle any disaggregation within services and across the Council as a route to circumnavigate the procurement routes for higher value contracts
- Lack of utilising opportunities for Value for Money and efficiencies
- Conduct spend analysis to form part of the Category Plan
- Develop Market Strategy for categories

ONGOING AWARENESS OF PROCUREMENT RULES TO ENHANCE COMPLIANCE

- Preventing practices of approaching certain contractors direct without tendering processes at the right levels

- When relying on frameworks, value for money still needs to be demonstrated

SPECIFICATION REQUIREMENTS

- Consideration needs to be given to the right skills and capacity to prepare a specification, which can be very technical and built into project timelines.
- Balancing technical detailed v. flexible outcome based specifications and being realistic on price and contract management abilities for quality assurances.
- Focus should be on affordability and within the allocated budget, compromises and managing expectations may be necessary.
- Social value requirements need to be considered as part of the statutory duty to do so.

EVALUATION CRITERIA

- Ensuring competency questions and verification requirements are undertaken as part of due diligence prior to award of contracts
- Consideration and review of approaches to Price v. Quality weighting
- Social Value considerations

CONTRACT MANAGEMENT

- Choosing the right type of contract and preparing the contract data prior to tender (JCT, NEC or Standard TDC Contracts for Services)
- Identifying resources and skills for contract management
- Regular monitoring and compliance with the terms and conditions of the contract

CONTRACT REGISTER

- The current register is incomplete and requires further input to ensure it is correct and up to date

PROCUREMENT PROJECT PIPELINE

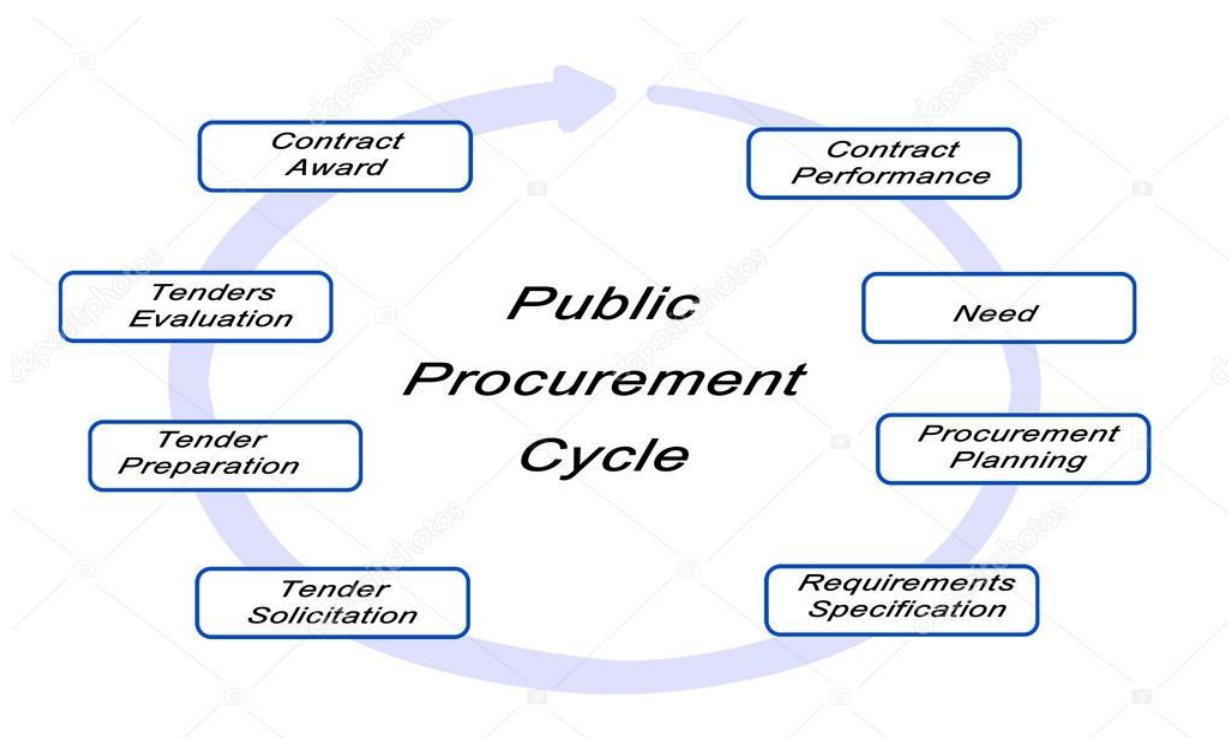
- New initiative evolving to dedicate resources and to programme delivery

DETAILED INFORMATION

Public sector procurement is subject to a legal framework which encourages free and open competition and value for money, in line with internationally and nationally agreed obligations and regulations. As part of its strategy, the government aligns procurement policies with this legal framework, as well as with its wider policy objectives.

The over-riding procurement policy requirement is that all public procurement must be based on value for money, defined as “the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought”. This should be achieved through competition, unless there are compelling reasons to the contrary.

The Public Procurement Process is described as a circle and its various stages are shown in the diagram below (contract management would be in the contract performance step). Attention must be given to all stages and at the core would be the Council’s Strategy, Policies, Rules and Procedures.



SOCIAL VALUE CONSIDERATIONS:

Although the Council is required to give consideration to Social Value in its procurement cycle, more could be achieved with earlier scoping through specification and evaluation criteria. As with other Essex Councils, it is now best practice to adopt a dedicated Social Value Policy, to set out how the Council wishes to achieve the social, economic and environmental strands through its commissioning.

It is considered that any Social Value Approach being drafted for adoption, should be scoped and shaped in consultation with Members, services across the Council, other local authorities, either as part of joined up working across Essex or through the Anchors organisations together with our stakeholders. A Draft Social Value Approach for Procurement Purposes is being considered with partners and will contain very high level principles on which further engagement can take place. In the interim, TDC will rely on its existing Procurement Procedure Rules and link to the Council’s Corporate Plan, Priorities and Projects.

FINANCIAL:

The Procurement Procedure Rules, set out the Constitutional requirements to ensure the correct budget is in place and value for money is demonstrated through any

procurement/contract award process.

LEGAL:

Procurement for wider public sector bodies, such as local government, health and education, is also subject to the **Public Contracts Regulations 2015**. Procurement within the meaning of the Regulations is defined as *“the acquisition by means of a public contract of works, supplies or services by one or more contracting authorities from economic operators chosen by those contracting authorities, whether or not the works, supplies or services are intended for a public purpose”*. These regulations apply to above threshold contracts with local authorities following the principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality where possible for lower value contracts.

The **Public Services (Social Value) Act 2012** is referred to within the body of the report.

In accordance with the **Equality Act 2010**, the Council is required to comply with the Public Sector Equality Duty when conducting public procurement.

The **Local Government (Transparency Requirements) (England) Regulations 2015** requires information about public contracts to be published in accordance with the Local Government Transparency Code 2015.

Part 5 of the Constitution contains the Council's Procurement Procedure Rules, which must be adhered to.

DELIVERY:

A procurement process and contract management are resource intensive and should be factored into delivery timescales and milestones.

IMPACT ON THE PUBLIC:

There are no additional implications to identify other than to ensure the Council acts openly and transparently in the manner in which it spends the Council's budget and manages its resources. Equality and Diversity policies and statements are sought through the procurement processes and contract requirements.

RECOMMENDATION

That the Resources and Services Overview and Scrutiny Committee:

- (a) is requested to give consideration and endorse those actions already identified as improvements and deliverables for the procurement and contract management framework, monitoring progress through a future work programme for the Committee;**
- (b) recommend to Cabinet and the Portfolio Holder for Corporate Finance and Governance that:**
 - (i) the Council's Contract Register is brought up to date as soon as possible, with services across the Council providing the necessary data on contracts held within their respective areas; and**
 - (ii) a Social Value Policy for Procurement Purposes be produced for consultation with the Resources and Services Overview and Scrutiny**

Committee at a future meeting.

PREVIOUS RELEVANT DECISIONS

Full Council 12th July 2022, minute no. 29

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Policies and Procedures

Article 14 Finance Contracts and Legal Matters
Draft TDC services contract

Procurement Service

Projects Register to demonstrate work undertaken with ECC since Oct 21
Contract Management training slides

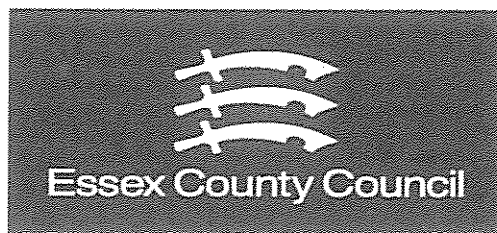
APPENDICES

Appendix A – Partnership Agreement for the provision of procurement services for Tendring District Council 2021/23

REPORT CONTACT OFFICER(S)

Name	Lisa Hastings
Job Title	Deputy Chief Executive
Email/Telephone	lhastings@tendringdc.gov.uk 01255 686561

Tendring
District Council



**Partnership Agreement
for the provision of procurement
services
for Tendring District Council
2021/23**

THIS AGREEMENT is made on DATE ^{24/8/}~~8~~ 2022

BETWEEN:

(1) ESSEX COUNTY COUNCIL of County Hall, Chelmsford, Essex CM1 1QH
("ECC")

(2) TENDRING DISTRICT COUNCIL of Town Hall, Station Rd, Clacton-on-Sea
CO15 1SE ("TDC")

("The Parties")

1. Introduction

1.1 The Parties have agreed to enter into this Partnership Agreement ("this Agreement") working collaboratively to pool resources to deliver the day-to-day Key Procurement Activities and wider specialist procurement advice and support relating to policy development, category management, market management and sourcing. Policy development may include advice and guidance on contract management to be carried out by TDC where TDC deems it relevant

1.2 Detail of the work being undertaken through this agreement is set out in **Schedule 1**.

1.3 This Agreement governs the Parties collaboration and sets out the terms on which the key procurement activities are to be provided to TDC by ECC.

2. Commencement and Duration

2.1 This Agreement commences on 1st October 2021 and shall continue for a period of 2 years unless terminated earlier in accordance with clause 10.

2.2 This Agreement will be renewed annually for period of 5 years. If a Party does not wish to renew for the next financial year then they must serve at least three (3) months written notice to the other Party prior to expiry of the current years agreement

3. Key Procurement Activities

3.1 The Services to be provided are set down in Schedule 1 (Specification) of this Agreement.

4. Charges

4.1 It has been agreed that TDC will pay a basic fee of £60,000 per annum to ECC for the Services.

- 4.2 This fee will fund resource employed by ECC to deliver the Key Procurement Activities as set out in Schedule 1 and enable TDC access to increased knowledge through the wider ECC in-house team.
- 4.3 During the term of this Agreement ECC may request additional contributions from TDC for access to further resources required for specific procurement functions and projects to be discussed and agreed in advance.
- 4.4 ECC will provide a quote to TDC for any additional project-based support on their estimate of the resources required to provide the additional services pursuant with Schedule 2 [Additional Project Costs]
- 4.5 Any review of the arrangements for the remainder term of the Agreement will normally be undertaken and the outcome agreed by 4th January, prior to the commencement of the next financial year.
- 4.6 In the event any variations are agreed which result in an increase to Charges, ECC will invoice TDC after the variation has been made and Charge agreed.
- 4.7 Charges for the provision of the services are based on current estimated sourcing volumes. Minor variations in demand for routine work will be accommodated within the charges agreed, but where ECC can no longer provide the base service as set out in Schedule 1 within the currently agreed annual charge, then they should inform TDC as soon as possible which will result in a review of the charge, with the possibility that a revised charge may need to be discussed and agreed or alternative service provision in line with clause 7. Requests for additional services will be separately negotiated and an additional charge may be made.
- 4.8 In the event of any further charges in relation to projects being progressed on behalf of TDC which include, but not limited to Legal support on projects, these costs are to be paid for by TDC to ECC and will be agreed in advance through other shared service arrangements.

5. Obligations and responsibilities

- 5.1 ECC are committed to providing a quality service which represents good value for money.
 - (a) adhere to best professional standards in accordance with TDC's Procurement Procedure Rules
 - (b) ensure that work is carried out by appropriately trained staff;
 - (c) be prompt, courteous and helpful in our dealings;
 - (d) produce timely, relevant and clear information and advice;
 - (e) show consideration for difficulties you may experience;
 - (f) seek to deliver any changes required to the services provided under this agreement;

- (g) treat the information that TDC provides in confidence and provide TDC with its own data on request during the course of this Agreement; and
- (h) comply with the requirements of the UK General Data Protection Regulations, Data Protection Act 2018 and the Computer Misuse Act 1990 and successive legislation and all other relevant laws in relation to the management and use of data.

5.2 TDC will:

- (a) treat any information provided by ECC in accordance with this Agreement will be pursuant to the provisions of the UK General Data Protection Regulations, the Data Protection Act 2018 and the Computer Misuse Act 1990 and all other relevant laws.
- (b) ensure they have acquired the necessary internal governance approvals for the necessary sourcing and required budgets.
- (c) provide relevant and complete information to ECC's Procurement Team to ensure timely issue of response to the market.
- (d) provide all documentation for computer input is completed accurately and in accordance with advice provided
- (e) ensure a steady flow of information is maintained including providing a monthly project pipeline avoiding unnecessary peaks and troughs where it is intended that TDC will require ongoing support from ECC
- (f) ensure all information is submitted in line with Corporate Procedures, Policies, Strategies and Financial Regulations unless otherwise agreed
- (g) pay the charges as they fall due under this Agreement

5.2 Failure to comply with the above will affect ECC's ability to deliver an effective service and may result in termination of this Agreement.

6. Review arrangements

6.1 This Agreement will be reviewed 6 monthly by both parties, with review in advance of the commencement of each financial year

6.2 Any amendment to the arrangements as an outcome of such reviews or variation of this agreement generally will be made pursuant to clause 7.1

6.3 Where the expectation is that ECC will provide services for more than one financial year, subject to paragraph 1 above, a minimum of three months' notice must be given in writing if either party wishes to vary the scope of this Agreement to allow ECC sufficient time to allocate resources.

7. Variations to the agreement

7.1 This Agreement will be reviewed 6 monthly, with review in advance of the commencement of each financial year

7.2 This Agreement will only be varied if in writing and agreed between the Parties.

8. Project Pipeline Management and Monitoring

- 8.1 To enable resource requirements to be determined and planned for in advance, at the start of each financial year, TDC should provide to ECC's Procurement Team an up to date and fully detailed project pipeline showing the envisaged projects to be supported that financial year.
- 8.2 After TDC has provided the project pipeline to ECC as set out in clause 8.1, TDC will advise ECC's Procurement Team each quarter, as to whether there are any amendments that have been identified which change the pipeline for schemes that need to be taken into consideration for resourcing purposes.
- 8.3 The Parties will throughout this Agreement work collaboratively together to ensure delivery of the public procurement function across Essex and keep each other informed through regular communication, with the method and frequency to be agreed on each project, adopting a 'one team' approach
- 8.4 Overall monitoring of this Agreement will be discussed at 3 monthly meetings. Where improvements can be made on ways of working these will be discussed in a constructive manner for the benefit of each Party, achieving value for money and effectiveness of service for both Parties.
- 8.4 The authorised representatives for each Party are as follows:

Karen Townshend and the Corporate Procurement and Contracts Manager
(once appointed)– Tendring District Council

James Sinclair – Essex County Council

9. Resolution procedure and complaints

- 9.1 If either Party feels that the other Party has not met any of their responsibilities set out in this Agreement, or a dispute or indifference arises between them, then either Party shall first refer the matter to

Lisa Hastings – Deputy Chief Executive and Monitoring Officer – Tendring District Council

Laura Lee – Head of Procurement – Essex County Council

- 9.2 Both Parties shall meet and discuss the issues raised and both Parties agree to share evidence, documentation or examples of the issues to assist their respective Heads of Procurement in reaching a resolution.
- 9.3 In the event that following the meeting in clause 9.2, matters still remain unresolved then the same process as set out in this clause 9 should also be followed in alerting either Party to major changes in volumes of work and/or projects impacting the work that ECC carries out on TDC's behalf. Further escalation will be via the relevant Director of Procurement.

10. Termination of the Agreement

- 10.1 This Agreement will be reviewed annually, however, either Party can terminate this Agreement or any individual service within this Agreement, by giving the other party a notice period of six (6) months. This may be subject to negotiation if there are no live projects underway or planned.
- 10.2 The notice should be in writing and can include notice by email, addressed to:
- (i) Laura Lee or Melanie Evans on behalf of ECC; Laura.lee@essex.gov.uk or melanie.evans2@essex.gov.uk
 - (ii) [Lisa Hastings or Richard Barrett on behalf of TDC](#)
- 10.3 Upon notice of termination by either Party, ECC will produce a plan for withdrawal of service which will include the transfer of data. Any work that may be required on the handover of services to new suppliers will be chargeable. A full estimate of charges will be made for TDC approval before work commences.

Either Party may terminate this partnership agreement with less than six months notice if:

- (i) One Party is in continuing or material breach of any terms of the agreement and the breach is incapable of remedy;
- (ii) One Party is in continuing or material breach of any terms of the agreement and, the breach is capable of remedy, but the Party fails to remedy such breach within fourteen (14) days service of a written notice from the other Party, specifying the breach and requiring it to be remedied;
- (iii) the breach is not, in the opinion of a Council, capable of remedy

11. Freedom of Information

- 11.1 The Parties acknowledge that both are subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and shall assist and co-operate with each other (at their own expense) to enable the other party to comply with these information disclosure requirements.

12. Data Protection and Confidentiality

- 12.1 ECC shall not without the written consent of TDC during this Agreement or at any time thereafter use for its own purposes, or disclose to any person (except as may be required by law) the any information identified by TDC to be confidential.
- 12.2 ECC shall not and shall ensure that its employees do not divulge to any third party any information which comes into its or their possession in the course of providing the services.
- 12.3 The terms of clauses 12.1 and 12.2 shall prevail notwithstanding termination of the contract.

13. Professional Indemnity Insurance

- 13.1 Any work undertaken by ECC shall be covered by its Professional Indemnity Insurance policy up to the sum of £10 million.

14. Entire Agreement Protection and Confidentiality

- 14.1 The Parties acknowledge that this Agreement sets forth the entire agreement between them with respect to the provision of the Services and supersedes and replaces all prior communications, drafts, representations, warranties, stipulations, undertakings and agreements of whatsoever nature, whether oral or written, between the Parties.

15. Law and Jurisdiction

- 15.1 The Parties acknowledge that this Agreement sets forth the entire agreement between them with respect to the provision of the Services and supersedes and replaces

The signatories to this agreement are signing to accept that the services above will be provided in accordance with the terms and charges detailed for the financial years 2021/23.

Agreement Signatures



Melanie Evans

Director of Procurement

On behalf of Essex County Council

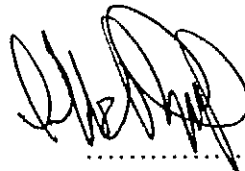
Date: 09 / 08 / 2022

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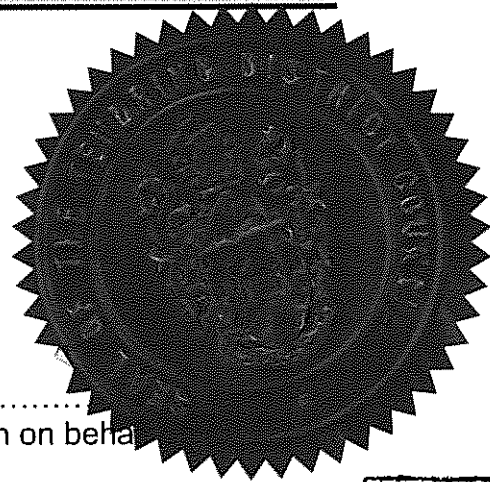
TENDRING DISTRICT COUNCIL

was hereunto affixed in the

presence of:



Solicitor for and on behalf of
the Council



Schedule 1

Key Procurement Activities

1. Core Service

1.1 ECC is able to offer a comprehensive procurement service with capability across Category Management, Market Shaping, Sourcing and Contract Management. The initial focus will be to deliver sourcing for TDC. Sourcing is defined as the process of vetting and selecting suppliers who best meet the organisations needs

1.2 Working with TDC and within the charges agreed above, ECC will:

- Deliver the projects detailed in the project pipeline as set out in clause 8 of this Agreement
- Engage with Assistant Directors, Heads of Service and colleagues across TDC, developing the contracts register and procurement forward plan for the TDC.
- Undertake analysis of spend against the contracts register and other financial data to identify where procurement is necessary to manage uncontracted spend and protect the authority from unauthorised/non-compliant expenditure and risk. Spend will be benchmarked against contracts held by ECC and other District Councils supported by ECC.
- Identify and promote the strategic procurement requirements of TDC and ensure that these meet the corporate aims and objectives laid down in the various policy statements and strategies.
- Ensure compliance with all relevant statutory and legislative requirements

1.3 ECC will also undertake the following activities within the agreed charge:

- a) Actively promote and implement the Council's Procurement Strategy in accordance with TDC's Procurement Procedure Rules
- b) Support the creation and Implementation of the Procurement Strategy as developed with Tendring District Council
- c) Development, production and review of procurement processes and procedures and other key procurement activities.
- d) Provide a central resource for the Council on procurement issues.
- e) To manage the liaison with external stakeholders such as suppliers, procurement framework organisations including Central Government.
- f) Provision of ad-hoc procurement modelling and appraisals as required.
- g) Maintain an up-to-date knowledge base for procurement issues relating particularly to services and works and to disseminate this information to the appropriate people where appropriate.
- h) To undertake interpretation and implementation of technical procurement guidance, advice and legislation.
- i) Coordinate the use of Procurement Portals such as Construction line and 'Market Place'
- j) Maintain the Councils registration to national e-procurement registers
- k) Liaise with Council Services to promote and guide sound procurement practice.
- l) Assist in the preparation and submission of quotations for services, materials and works.
- m) Meeting and negotiating with suppliers' representatives.
- n) Attend Essex Local Authority Consortium and other meetings as required.
- o) Support the provision of a central resource for the Council on procurement issues.
- p) Meeting and negotiating with supplier's representatives.
- q) To provide a front line service on the telephone and face to face to customers within the authority and external suppliers.
- r) To provide timely and accurate management information on procurement trends, usage and suppliers and the updating of relevant intranet/internet information.

1.4 ECC Specialist Procurement Advice and Support, as set out below will, where possible, be incorporated into delivery of the day-to-day Key Procurement Activities as provided in the project timeline on behalf of TDC and within the annual charge:

1.5 Category Management - Category Management is the strategic 'end to end' process whereby supply / market capability is fully aligned to business goals and customer requirements.

1.6 The Procurement Team will engage all stakeholders, to form a team (one team approach) who will analyse, understand and plan the future output and direction of this category.

1.7 The output of this work is intended to identify short / medium / long term procurement business plans to deliver best **quantitative** and **qualitative** outcomes for TDC.

1.8 The stages undertaken will be:

- Form team and kick off

- Conduct spend analysis
- Determine business requirements
- Conduct market analysis
- Develop market strategy
- Implement and deliver strategy

1.9 **Market Management** - Where required, the Procurement Team will support with market management and shaping activity including:

- Market engagement
- Market events
-

1.10 **Sourcing** Procurement will deliver the following services in accordance Tendring District Council's Procurement Procedure Rules.

- Provide sourcing documents and guidance for Request for Quotation and Request for Proposal activities
- Provide access to sourcing system to run electronic tenders over £50k
- Project preparation including any pre-market engagement and testing
- Prepare tender documents – specifications and all other applicable drawings/documents are to be provided by TDC
- TDC will provide their chosen Contract terms and conditions to be used prior to the Tendering stage
- Tendering stage of Supplier Selection Questionnaire (if being used)
- Tendering stage of Invitation to Tender
 - Ensuring compliant
- Contract Award
- Mobilisation support
- ECC Procurement will make it clear to all bidders that the Contracting Authority and end contract will be between TDC and the winning bidder.

1.11 **Additional Services** - In addition to the core service as provided above ECC may offer additional procurement services which can be discussed with TDC.

1.12 **Service responsibility matrix**

The table below sets out the actions, timescales and responsibilities for each party.

Essex County Council Service Level Agreement with Tendring District

Category	Task	Essex County Council Responsibility		Tendring District Council Responsibility	
		Description	Timescale	Description	Timescale
Category planning	Form team and kick off	<ul style="list-style-type: none"> Develop and set up project team and determine the appropriate timescales for the activity. 	<ul style="list-style-type: none"> Timescales to be agreed to cover the whole category plan process within 1 month of activity initiating. 	<ul style="list-style-type: none"> Support in the development of the project team and agreement of the timescales as well as the identification of appropriate resource to work through the different elements of the process. 	<ul style="list-style-type: none"> Timescales to be agreed to cover the whole category plan process within 1 month of activity initiating.
	Conduct Spend Analysis	<ul style="list-style-type: none"> Carry out the required analysis of the appropriate spend data to form the relevant sections of the Category Plan. Hold workshops to formalise and agree spend analysis findings and outcomes. Formulate the appropriate slides for inclusion on the category plan. 	<ul style="list-style-type: none"> Timescales as agreed in line with the Form team and kick off phase. 	<ul style="list-style-type: none"> Provide appropriate spend data to be able to support the spend analysis. Assist in the analysis of data where necessary and provide input as part of this process. Support and participate in workshops held to formalise the spend analysis. Support with the development of the appropriate slides for the Category Plan where required. 	<ul style="list-style-type: none"> Timescales as agreed in line with the Form team and kick off phase.
	Determine Business Requirements	<ul style="list-style-type: none"> Hold workshop to discuss and determine the business 	<ul style="list-style-type: none"> Timescales as agreed in line with the Form team and kick off phase. 	<ul style="list-style-type: none"> Support and engage with the workshop to determine the business requirements 	<ul style="list-style-type: none"> Timescales as agreed in line with the

Essex County Council Service Level Agreement with Tendring District

Category	Task	Essex County Council Responsibility		Tendring District Council Responsibility	
		Description	Timescale	Description	Timescale
		<ul style="list-style-type: none"> requirements for the category going forward. Formulate the appropriate slides for inclusion in the category plan based upon feedback and research carried out. 		<ul style="list-style-type: none"> going forward for the category. Provide input in the development of the appropriate slides as required. 	<ul style="list-style-type: none"> Form team and kick off phase.
	Conduct Market Analysis	<ul style="list-style-type: none"> Hold workshop to discuss and agree approach to carrying out market analysis and the elements required. Carry out the agreed market analysis and formulate the slides for inclusion in the category plan. 	<ul style="list-style-type: none"> Timescales as agreed in line with the Form team and kick off phase. 	<ul style="list-style-type: none"> Support and engage with the workshop to determine the approach to market analysis that needs to be taken. Provide input to the relevant stages of the market analysis slides and the different tasks where appropriate. 	<ul style="list-style-type: none"> Timescales as agreed in line with the Form team and kick off phase.
	Develop Market Strategy	<ul style="list-style-type: none"> Hold workshop to formulate and agree the market strategy for the category using the analysis developed during the previous stages. Formulate the Category Plan slides to represent the agreed market strategy approach. 	<ul style="list-style-type: none"> Timescales as agreed in line with the Form team and kick off phase. 	<ul style="list-style-type: none"> Support and engage with the workshop to formulate the market strategy for the category. Identify areas that could be considered as part of the potential market strategy for discussion. 	<ul style="list-style-type: none"> Timescales as agreed in line with the Form team and kick off phase.

Essex County Council Service Level Agreement with Tendring District

Category	Task	Essex County Council Responsibility		Tendring District Council Responsibility	
		Description	Timescale	Description	Timescale
Market management	Implement Market Strategy	<ul style="list-style-type: none"> Progress actions as identified in the Market Strategy (this may link into the Sourcing section of the SLA depending on the activities identified). 	<ul style="list-style-type: none"> Where activity includes a procurement element, timescales as detailed for sourcing activities to be followed. Timescales as detailed in the developed Market strategy. 	<ul style="list-style-type: none"> Support the progression of Market Strategy actions where required. 	<ul style="list-style-type: none"> Timescales as agreed in the Market Strategy or Procurement processes.
	Market engagement	<ul style="list-style-type: none"> Support and carry out market engagement requirements where identified. 	<ul style="list-style-type: none"> Timescales to be agreed within 1 month of activity initiating. 	<ul style="list-style-type: none"> Support and carry out market engagement requirements where identified. 	<ul style="list-style-type: none"> Timescales to be agreed within 1 month of activity initiating.
	Market events	<ul style="list-style-type: none"> Where market events are identified, hold and arrange these sessions and the development of required information. Support the market engagement events 	<ul style="list-style-type: none"> Timescales to be agreed as part of the planning discussions regarding the market events. 	<ul style="list-style-type: none"> Support and participate in the arrangements for the market events as well the preparation of materials. Attend and present at market engagement events. 	<ul style="list-style-type: none"> Timescales to be agreed as part of the planning discussions regarding the market events.
Sourcing	RFPs & RFQs	<ul style="list-style-type: none"> Provide sourcing documents and guidance for Request for Quotation and Request for Proposal activities where a self service option is selected 	<ul style="list-style-type: none"> Timelines for each project will be agreed on a case by case basis Timescales for resolving queries to be agreed on a case by case basis. 	<ul style="list-style-type: none"> Provide specification and background information and specifics of any suppliers to issue to 	<ul style="list-style-type: none"> Timescales for resolving queries to be agreed on a case by case basis.

Essex County Council Service Level Agreement with Tendring District

Category	Task	Essex County Council Responsibility		Tendring District Council Responsibility	
		Description	Timescale	Description	Timescale
	Sourcing System	<ul style="list-style-type: none"> Utilise the RFP and RFQ documents provided on all applicable requirements to ensure appropriate process is followed. Provide assistant with any queries arising from these processes. 			
		<ul style="list-style-type: none"> Provide access to sourcing system to run electronic tenders over £50k which enables the LLP to enter into contracts. 	<ul style="list-style-type: none"> Sourcing system to be provided throughout the life of the SLA. 	<ul style="list-style-type: none"> Ensure that no communication is carried out with suppliers outside the sourcing system being used. Where queries are identified these are routed through the Procurement colleagues to be communicated by the sourcing system. 	<ul style="list-style-type: none"> N/A
		<ul style="list-style-type: none"> Where market engagement/testing is identified for specific projects/schemes, provide guidance on the areas that could be considered. Support with the development of any market engagement events. 	<ul style="list-style-type: none"> Timescales for market engagement/testing to be agreed within 1 month of activity initiating. Timescales for individual elements/activities to be agreed as part of kick-off meeting. 	<ul style="list-style-type: none"> Ensure notification regarding the requirement for market engagement/market test is in a timely manner. Support with the development of any market engagement events. Support with developing the approach for market 	<ul style="list-style-type: none"> Timescales for market engagement/testing to be agreed within 1 month of activity initiating. Timescales for individual elements/activities to

Essex County Council Service Level Agreement with Tendring District

Category	Task	Essex County Council Responsibility		Tendring District Council Responsibility	
		Description	Timescale	Description	Timescale
Governance Approval (pre/post tender)		<ul style="list-style-type: none"> Support with the development of documents to be used for market testing. 		testing and any appropriate documents identified.	be agreed as part of kick-off meeting.
		<ul style="list-style-type: none"> Governance remains the responsibility of Tendring District Council 	<ul style="list-style-type: none"> n/a 	<ul style="list-style-type: none"> Development and progression of the appropriate report for each individual scheme. Identify the information that is required for inclusion in the paper regarding the relevant team in relation to procurement and raise with the supporting Procurement colleague. 	<ul style="list-style-type: none"> Timescales to be agreed on a case by case basis. Ensure that requests for information regarding governance papers are issued in a timely manner.
Development of Tender Documents		<ul style="list-style-type: none"> Identify the key documents that will need to be developed based upon the procurement route being taken. 	<ul style="list-style-type: none"> Timescales for this stage of the process will be developed as part of agreeing the timetable for the procurement process. This will include the deadline for when documents will be required by to enable the publication date to be met. 	<ul style="list-style-type: none"> Work with the Procurement colleagues to identify and agree the procurement documents that are required for each project/scheme and agree owners responsible for the development of these documents. 	<ul style="list-style-type: none"> Timescales for this stage of the process will be developed as part of agreeing the timetable for the procurement process. This will include the deadline for when documents will be required by to enable the publication date to be met.
		<ul style="list-style-type: none"> Develop a procurement timetable which identifies timescales for each of the key areas and agree the deadline for when documents are required to be completed by. 	<ul style="list-style-type: none"> Where the deadline for the documents to be completed by is not met, the timetable will need to 	<ul style="list-style-type: none"> Develop all applicable procurement documents for the process being followed by the agreed deadline date and provided to Procurement 	<ul style="list-style-type: none"> Provide the document by the agreed date

Essex County Council Service Level Agreement with Tendring District

Category	Task	Essex County Council Responsibility		Tendring District Council Responsibility	
		Description	Timescale	Description	Timescale
		<ul style="list-style-type: none"> Work with the Tendring District Council on the development of the appropriate documents including the provision of templates where applicable. Review and provide feedback on documents developed. 	be reviewed and an updated deadline agreed.	colleagues supporting the project/scheme. <ul style="list-style-type: none"> Timescales for the publication of the procurement will be reviewed where the provision of all applicable procurement documents is not met. 	
	Selection Stage (including clarifications and evaluation)	<ul style="list-style-type: none"> Publish the procurement opportunity on the eProcurement system and the appropriate adverts. Manage and record all clarification requests and send details for responses. Ensure declaration of interest process completed for all evaluators. Download all responses received. Where Constructionline is being used provide the relevant information 	<ul style="list-style-type: none"> Timescales as agreed as part of the development of the procurement timetable for the project (subject to change). 	<ul style="list-style-type: none"> Provided responses to clarifications within 48 hours of request where appropriate. Complete appropriate declaration of interest forms prior to evaluation. Evaluate and score all responses received for the identified questions. Provide completed evaluation matrix prior to the consensus meetings with full justification of scores. All evaluators to attend the consensus meetings to determine agreement to scores/comments. 	<ul style="list-style-type: none"> Timescales as agreed as part of the development of the procurement timetable for the project (subject to change).

FINAL REPORT OF THE PLANNING ENFORCEMENT TASK & FINISH WORKING GROUP

**FOLLOWING ITS INQUIRY INTO
PLANNING ENFORCEMENT
FUNCTION**

DATE: 13 MARCH 2023

TERMS OF REFERENCE OF THE TASK & FINISH WORKING GROUP

1.1 To carry out a review of the Council's Planning Enforcement function in relation to current powers, policies, procedures, data on the use of current enforcement powers, effectiveness of approach and assessment of how cases should be prioritised.

THE AIMS AND OBJECTIVES OF THE INQUIRY

2.1 Effective regulation and enforcement is one of the key priorities in the Council's Corporate Plan 2020-2024, under the heading of 'Delivering High Quality Services'. The need for a review of the Planning Enforcement function came about following concerns being raised by a number of Councillors in different parts of the District about its effectiveness in responding to a range of different planning enforcement related matters. Drawing on the key headings within the terms of reference for the Task & Finish Working Group, the aims and objectives of the inquiry were developed through discussion at the group's inaugural meeting on Monday 3rd October 2022 and evolved as the inquiry proceeded.

2.2 The aims and objectives are summarised as follows:

Current Powers

- To review the full set of powers available to the Council for the carrying out of planning enforcement, having regard to the fact that any action is discretionary on the Council and is always expected to be proportionate and appropriate.
- To gain a better understanding of the range of tools available to the Council's enforcement team to resolve complaints – ranging from no action, negotiation or minor interventions, through to formal enforcement action and legal prosecution.
- To explore how the powers and tool available to the Council can be better communicated to those with an interest, including District Councillors, Town and Parish Councils and members of the public.

Policies

- To review the Council's Planning Enforcement Policy which sets out the available powers and the approach that the Council will take when receiving, investigating and, where appropriate, taking action against alleged breaches of planning control.
- To review the associated 'harm risk assessment' which is used by Officers to prioritise the investigation of cases and to inform decisions about appropriate levels of action going forward.
- To recommend improvements to the Planning Enforcement Policy and harm risk assessment as deemed necessary to improve the effectiveness of approach.

Procedures

- To review the full process of dealing with enforcement complaints including the initial receipt of a complaint, responding to the complainant, visiting the premises, identifying and establishing any breaches, carrying out harm risk assessment, choosing a course of action and formal processes thereafter.
- To review the approach to communication with complainants, those the subject of action and other interested parties; and how this might vary depending on the nature of the issue.
- To explore how third parties, such as Town and Parish Councils, might be able to assist the District Council by exchanging information at a local level.
- To recommend improvements to procedures with the aim of improving the effectiveness of approach.

Data

- To gain an understanding, through the interrogation of data, of the scale and nature of enforcement issues in Tendring, including number of complaints/cases received, resolved or outstanding and how they are recorded and monitored – both for internal purposes and for public reporting.
- To develop and recommend a framework for reporting enforcement data and performance to the Planning Committee.

Effectiveness of Approach

- To invite honest feedback from Councillors and other interested parties on the effectiveness of the planning enforcement function based on experiences and issues in their areas.
- To review the resources available to the planning enforcement team when set against the scale and nature of the task – particularly in relation to management structure, number of Officers and skills, knowledge and experience.
- To explore and identify areas where improvements can be made to the effectiveness of the approach and to consider alternative ways in which the enforcement function could be undertaken.

Prioritisation of Cases

- To review the approach to prioritising the inspection of alleged breaches of planning control and determining the level of action required thereafter – having regard to the harm risk assessment.
- To recommend improvements to the harm risk assessment and the approach the Council takes in determining priorities for action.
- Reviewing the decision-making process and the level within the Council that key decisions are taken.

MEMBERSHIP OF THE TASK & FINISH WORKING GROUP

Cllr. Andy Baker (Chairman)
Cllr. James Codling
Cllr. Gina Placey
Cllr. Chris Amos
Cllr. Alan Coley

OFFICER SUPPORT FOR THE TASK & FINISH WORKING GROUP

Gary Guiver (Lead Officer) – Director of Planning
Keith Durran – Committee Services Officer
Hattie Dawson-Dragisic – Performance and Business Support Officer

INVITEES AND PARTICIPANTS

Cllr. Jeff Bray – Planning Portfolio Holder
Lisa Hastings – Deputy Chief Executive and Monitoring Officer
Joanne Fisher – Planning Solicitor
John Pateman-Gee – Planning Manager
Matt Deal – Planning Enforcement Team Leader
Matthew Ramsden – Development Technician – Planning Enforcement
Sharon Harwood-Bee – Planning Business and Support Manager

EXPECTED OUTCOME(S) OF THE INQUIRY

3.1 A series of recommendations aimed at improving the effectiveness of the Council's planning enforcement function in light of concerns raised by Councillors and better mutual understanding between Councillors and Officers of their respective positions. These outcomes to be reported to the relevant Overview and Scrutiny Committee and considered, for action, by the Planning Portfolio Holder and Director of Planning.

ACTUAL OUTCOME(S) OF THE INQUIRY

4.1 That senior Officers shared many of the concerns expressed by Councillors about the planning enforcement function and were already putting steps in place to improve the situation – reflecting a number of Councillors' suggestions. The 19 recommendations set out in this report therefore include some measures that have either already been put in place or are being put in place which respond positively to issues identified.

RECOMMENDATION(S)

The recommendations that the Task & Finish Working Group wish to put forward for consideration by the Resource & Services Overview and Scrutiny Committee are as follows:

- 1) To note that in recent months, following the establishment of the Working Group and the introduction of a new Planning Manager and a new Planning Enforcement Team Leader, and with the full cooperation of the Planning Portfolio Holder and key Officers, notable improvements in Council's planning enforcement function have already been made in response to issues raised and suggestions put forward. These include:
 - the update and subsequent adoption of a new Planning Enforcement Policy and associated harm risk assessment to replace the previous version that had not been reviewed or updated since 2010;
 - an initial review, update and tidying of the Council's database of live enforcement cases to remove cases that have been closed, incorrectly recorded or otherwise superseded by events in order to establish a more accurate baseline of information;
 - more positive engagement of Planning and Planning Enforcement Officers in the Council's Corporate Enforcement and Operation Enforcement Groups to improve working across services on a wide range of enforcement matters;
 - a notable improvement in the willingness of Officers to engage and communicate with Councillors, members of the public and other interested parties in recognition of the concerns raised previously;
 - a notable reduction in the Planning Enforcement Team's reliance on the Council's legal Officers for advice and assistance in carrying out planning enforcement duties; and
 - a concerted effort to recruit new Officers to the Planning Enforcement Team on a permanent basis and by utilising channels to attract ex Police and armed services personnel with relevant transferable skills.
- 2) For the Council to retain the planning enforcement function in-house and to support continued efforts to reduce the Council's reliance on temporary staff employed through agencies and to recruit permanent staff to the Planning Enforcement Team – utilising channels aimed at targeting ex Police and armed forces personnel with transferable skills and with the offer of on-the-job training and development;

- 3) To require Officers to undertake a specific and immediate update to the Planning Enforcement Policy and associated harm risk assessment to incorporate changes, as detailed in Appendix 1 to this report, that are aimed at improving clarity, relevance and effectiveness and for the updated version to be reported to the Planning Committee for its consideration and approval at the earliest meeting practicable;
- 4) To thereafter require Officers to undertake an automatic review of the Planning Enforcement Policy and associated risk harm assessment every four years for the Planning Committee's consideration and approval to ensure it is kept up to date and responds accordingly to changes in law, policy, circumstances and trends in enforcement-related activity – allowing for earlier reviews where necessary;
- 5) To empower the Director of Planning, in consultation with the Chairman of the Planning Committee and the Monitoring Officer, to escalate and expedite (as appropriate) enforcement action where there are considered to be exceptional matters of public interest with implications for the reputation of the Council that are not necessarily identified through the standard scoring approach in the harm risk assessment;
- 6) For Officers to prepare quarterly reports on enforcement caseload and performance to go to the Planning Committee, for information, which will contain data on:
 - number of complaints received/registered in the quarter;
 - number of cases closed in the quarter;
 - number of live cases presented by category, electoral ward and time period since receipt; and
 - enforcement-related appeal decisions;
- 7) To support the continued work of the Council's internal Corporate Enforcement Group and Operational Enforcement Group in considering cross-service and cross-body enforcement matters;
- 8) For Officers to continue the process of reviewing cases recorded on the database system to remove closed/irrelevant cases and re-categorising them to provide an accurate baseline for case management and reporting of data going forward;
- 9) That Officers provide an annual training session, held in person, for all District Councillors covering the powers, policy and processes around planning enforcement together with case-study examples and exercises – with the first training session to be held within the two months following the May 2023 local elections (and following subsequent local elections);

- 10) That any Councillor who is a member of the Planning Committee (either as a permanent or designated substitute Member) to attend the planning enforcement training as a mandatory requirement;**
- 11) That the Director of Planning be asked to offer or facilitate similar training sessions for Town & Parish Councils;**
- 12) For Officers to incorporate within internal systems, reminders to automatically update complainants, interested Ward Councillors and other relevant parties (where appropriate) every 21 days with information on the progress of cases – even if it is to advise of no or limited progress – unless earlier or more frequent updates can be given or are required (these 21-day reminders will follow the initial 21-day notification currently in place following the receipt of a complaint);**
- 13) For Officers to respond within 48 working hours, to emails from Councillors relating to planning enforcement matters so they can be suitably informed when advising members of the public;**
- 14) To note that a significant proportion of live enforcement cases in the District relate to breaches of occupancy conditions at caravan and holiday parks, many of which are complex, sensitive and long-standing with a variety of issues to be taken into account. To resolve these breaches in full and deal with the implications thereafter would require significant additional and dedicated resources. It is therefore recommended that the Planning Policy and Local Plan Committee is asked to consider developing a strategy or policy to guide a coordinated and long-term approach to the application and enforcement of occupancy conditions across the District having regard to matters such as impact on the tourism industry, flood risk, health and safety, quality of life, ecology, disability and homelessness;**
- 15) That for site inspections, Officers must always use Council equipment for capturing photographs and other data and are supplied with hi-visibility clothing (preferably labelled ‘Tendring District Council Enforcement’);**
- 16) For Officers to pro-actively monitor compliance with planning conditions and obligations wherever practical and where resources allow – and work constructively with owners, developers and applicants to identify and resolve potential future compliance issues before they give rise to a breach of planning control and possible enforcement action;**
- 17) For the Planning Service to consider incorporating standard advice into pre-application responses and validation requirements for applications setting out, and seeking agreement to, the Council’s expectations for development to be carried out with the necessary consents and compliance thereafter with any planning conditions or obligations imposed;**

18)For Officers to review and update the form on the Council’s website for reporting enforcement complaints to make it more user-friendly and to allow complainants to provide as much information as they can to describe the issue they wish to report; and

19)For the Director of Planning to consider, on a case-by-case scenario and in liaison with the Council’s Communications Manager, publicising successful enforcement outcomes to demonstrate the Council’s commitment to planning enforcement.

CHRONOLOGY

Meeting 1: Monday 3rd October 2022

5.1 The inaugural meeting of the Working Group was held in person on Monday 3rd October 2022 and the main topic of discussion was the scope of the inquiry and matters for discussion. The matters covered, which would provide the basis for subsequent work included the following:

- Decision-making route for adoption of the Planning Enforcement Policy (why approval is by the Planning Committee and not the Planning Policy and Local Plan Committee or other body).
- The need to review and update the Planning Enforcement Policy and associated Harm assessment criteria on an ongoing basis (particularly given that the last policy had not been updated for many years).
- The staffing structure and staffing levels in the Planning Enforcement Team, whether they were sufficient, included the right knowledge, skills and experience and the reliance on agency staff.
- Concern about weaknesses in communication between the Council, Councillors, complainants and the community (given local examples where there has been a perception of no action, or a lack of willingness to take action).
- Communicating successes of enforcement action to the community, to ensure the Council is never seen as a ‘soft touch’ when it comes to taking affirmative action (mindful that some cases will require a degree of sensitivity and confidentiality in the way they are handled publicly).
- How Town and Parish Councils could assist the District Council by being eyes and ears on the ground when it comes to planning enforcement matters, but ensuring they have a sufficient level of understanding about what the District Council is and is not able to do and the need to take proportionate and appropriate action in the public interest.

- Concern about the scale of enforcement cases and the ability of the current enforcement team and resources within it to address that caseload – with a requirement for regular feedback on number of cases opened, closed and any backlogs.
- The need for proactive monitoring and enforcement – particularly on larger development sites where there are concerns about developers flouting planning conditions and not treating neighbours and the wider community with the respect they require.
- Whether enforcement officers should have a more visible presence, through their attire, so that residents, developers and others can see that the Council does carry out active enforcement and that planning enforcement matters are taken seriously (albeit understanding that some cases may best be dealt with discretely).
- Whether developers/builders or others with a track record of planning offences should be treated more rigorously or their issues be dealt with greater priority as a warning that the Council is not a soft touch and repetitious offences will not be tolerated (albeit understanding that it is the nature of the breach that justifies the course of action, as opposed to who caused it).
- To discuss whether there would be any benefit in considering outsourcing the Council's enforcement function to a private company or other contractor.
- Need for discussion on how enforcement cases are handled, recorded and how decisions are taken with regard to the appropriate course of action.
- That the Working Group would want to speak to the Council's Planning Manager, the new and previous Enforcement Team Leaders, the Council's Deputy Chief Executive (and Monitoring Officer) and the Council's Planning Solicitor, amongst others as part of future meetings.

Email to all Members requesting input: 6th October 2022

5.2 Following the inaugural meeting, the Chairman of the Working Group, through the Council's Committee Services Officer, reached out to all Members of the Council via email to ask for opinions on planning enforcement matters and for input into future matters for discussion. The email of 6th October 2022 was as follows:

"Dear Members

As you are aware there have been a range of Task and Finish groups set up to scrutinise certain areas of Tendring District Councils operations.

One group is looking at Planning Enforcement.

The Chairman of this Task and Finish group has asked for your input. He would like to hear your thoughts and experiences of dealing with Planning at Tendring District Council, whether they are first hand or what you may have heard from residents in your respective Wards.

What aspirations do you think TDC should thrive to achieve?

Your input is vital.

Please email democraticservices@tendringdc.gov.uk with your comments."

5.3 Responses to the email were received from three Councillors.

5.4 One Councillor described his experience of planning enforcement as 'abysmal' and referred to several issues where a successful resolution had not been found. They also cited an occasion where the service failed to attend a liaison meeting with residents and a developer to discuss blatant and constant planning breaches – leaving him to resolve the issues himself. That Councillor encouraged the Working group to look into the option of outsourcing planning enforcement and using in-house resources to focus on the determining of planning applications **[see recommendation 2]**.

5.5 Another Councillor was of the view, and it was the view of residents, that enforcement officers do not get out quickly enough to look at properties where work that could be a breach of planning was ongoing to issue stop notices if necessary. They also suggested that Officers needed to be more proactive in their dealings with builders who disregard their planning conditions, citing a large housing development **[see recommendation 16]**. This Councillor felt that more staff were needed in planning enforcement to look around the district more regularly and to send out the message 'not to mess with Tendring'.

5.6 The third Councillor raised the issue of a boundary fence in their Ward that had been erected without planning permission that was accepted by Officers as being in breach of planning but where Officers had determined, in line with the harm risk assessment, that it would not be expedient or in the public interest to pursue enforcement action. That decision was placing the Councillor in a difficult position in dealing with the complainant and giving rise to the impression that the Council does not take breaches of planning control seriously.

Meeting 2: Wednesday 26th October 2022

5.7 In the Working Group's second meeting on Wednesday 26th October 2022, which was held online, there was a run through the process for receiving and inspecting enforcement complaints, with input from the Council's Development Technician – Enforcement; an update on enforcement caseloads; and a discussion on the merits or otherwise of potentially outsourcing the planning enforcement function to an external body.

Process for receiving and inspecting enforcement complaints

5.8 The Council's Development Technician – Enforcement gave a PowerPoint presentation (see Appendix 2 to this report) setting out the approach to receiving and processing a planning enforcement complaint up to the point of deciding what enforcement action, if any, might be required.

5.9 The Council's enforcement team can receive enquiries via several channels including:

- The TDC website;
- Direct phone call;
- Planning support/reception enquiries;
- Via Councillors and Town and Parish Councils;
- Via email; and
- From employees.

5.10 Officers then consider whether or not the enquiry relates to planning matters over which the Council would have powers to enforce. If there is not considered to be a planning breach, or the issues raised fall under other powers or departments, the complainant will be notified of that within 15 days. Where a planning-related matter has been identified, it is logged as a case on the Uniform system, given a unique reference number and allocated to an Officer for further consideration. Complainants' details are recorded on the system but are kept confidential. An acknowledgement letter is sent via email or post to the complainant explaining the next stages of the process. Internally, there is a 21 day reminder on the system so that the complainant will be contacted, even if it is to let them know if the Officer is still investigating the case but yet to reach a conclusion. Relevant documents relating to the case are stored on the Council's IDOX document management system.

5.11 On day 1, having sent out an acknowledgment letter, the Officer will conduct a desktop study using available records and information to help determine the location, planning history, land charges register, use and relevant planning policies pertaining to the property.

5.12 On establishing whether or not there has been a planning breach, the Officer will carry out an initial triage using the harm risk assessment (appended to the Council's Enforcement Policy). Assessment against the criteria in the harm risk assessment will give the case a score which, in turn, will help to establish (using a traffic light system – red (priority 1), amber (priority 2) and green (priority 3)) the level of priority to be given to carrying out further investigation including a physical site visit. I.e. breaches causing a great deal of harm will be prioritised over cases where the harm is judged to be lower and action is less urgent.

5.13 Where a site visit is determined as being required, Priority 3 green cases will generally receive an Officer visit within 10 working days, Priority 2 amber cases will receive a visit within 5 working days and Priority 1 red cases will receive a visit within 2

days – or as soon as practicable (within 24hrs) depending on the nature of the complaint (e.g. works to Listed Buildings or Protected Trees might necessitate an urgent inspection). However, Officers will exercise judgement where certain factors suggest a higher priority should apply than indicated by a low score in the harm risk assessment.

5.14 When the inspection is carried out, photographs and other evidence are placed on the Uniform and IDOX system and the Officer will update the harm risk assessment accordingly if they see something on site that might indicate a higher or lower priority for further action should be given.

5.15 Having carried out the inspection and reassessed the severity of the case, Officers will then consider the most appropriate course of action going forward.

5.16 Members questioned at what level of seniority within the Officer hierarchy the decisions on prioritising cases are taken. Officers explained that the judgement can be taken by any enforcement officer dealing with the case – with the nature of many breaches being quite clear, similar and requiring a fairly standard and established course of action; however where cases exhibit factors that might indicate a greater level of complexity, a more junior officer will liaise with more senior staff including the Enforcement Team Leader, Planning Officers, Planning Manager or Director of Planning, as appropriate, in agreeing the best course of action **[see recommendation 5]**.

5.17 Members enquired as to how evidence is recorded and documented, if needed for the purposes of future action or prosecution. Officers explained that all information is uploaded onto the Council's IDOX document record management system but are kept secure and are only accessible to relevant Officers. All information uploaded onto the system are dated and uploaded on the day of receipt. The Chairman of the Working Group indicated some concern about how evidence is recorded and suggested that further discussion on this matter might be required.

5.18 There was a short discussion about whether Officers have the technology to take photographs on site and for them to be immediately and automatically uploaded to the system, or whether the Officer has to return to the office or to their computer to do the uploading. It was confirmed that Officers have to upload the photos after their visit. It was revealed that Officers were possibly using their own cameras and phones to take photographs – which represented a risk to the security and confidentiality of information being collected. The Director of Planning and Members agreed that this practice needed to end immediately and that TDC equipment must be used for data collection **[see recommendation 15]**.

Update on cases

5.19 The Director of Planning provided a short recap on a presentation given by the Planning Manager at an earlier all-Member briefing session which had provided an up-to-date account of the planning enforcement caseload and progress on other enforcement-related matters.

5.20 It was reported that the new Planning Enforcement Policy and associated harm risk assessment had been considered by the Planning Committee on 1st September 2022 and that an updated version, reflecting comments received, had been circulated to Members of that Committee for final comments before the policy was to be adopted and published.

5.21 It was also reported that a new Planning Enforcement Team Leader had joined the Council and had started work on 25th October 2022. The Director of Planning explained that even in his first couple of days, the new Team Leader was already making a positive impression on staff and had experience of undertaking a similar review of the planning enforcement function at his previous authority which would likely be of benefit to the current review. Advertisements for new Enforcement Officers, targeting ex-Police and Military Personnel were going through internal Human Resource processes but were expected to go public within a week.

5.22 It was explained that following the Planning Manager's review of the enforcement cases recorded on the Council's Uniform system, it had been possible to reduce the overall number from 459 on 5th October 2022 down to 269 on 22nd October. It had been discovered that a considerable number of cases should have been removed from the system having either already been resolved, having become irrelevant or having been recorded incorrectly. The 269 cases on the updated file still required further cleansing and the categories of breach to which they related would still require a review to ensure their categorisation was useful and accurate **[see recommendation 8]**.

5.23 It was reported that since April 2022 (over seven months), enquiries to the Council had averaged around 24 a month with closures at around 23 a month. The distribution of cases by Parish or non-Parished area broadly reflected the geographical character of the District with larger numbers of cases in the main urban areas (most notably Clacton, Harwich, Frinton/Walton) – as would be expected; albeit with the notable exception of St. Osyth being the location of the largest proportion of cases due to the number of caravan and holiday parks which are the subject of numerous cases covering a high number of individual plots, related to breach of winter occupancy conditions. Of the 269 cases, 83 related to caravan/holiday park occupancy with the other 186 cases relating more generally to a wider range of planning enforcement matters. It was confirmed that Bel-Air in St. Osyth was going to be the subject of particular investigation in the coming winter season **[see recommendation 14]**.

5.24 It was asked if the enforcement case data could be broken down by Ward rather than Parish to paint a more accurate picture of the geographic distribution of enforcement cases – particularly where larger urban areas are made up of a number of Wards – such as the unparished area of Clacton **[see recommendation 6]**.

Discussion on outsourcing Planning Enforcement

5.25 In response to the suggestion from some Councillors (outside of the Working Group) that the Council should consider outsourcing the planning enforcement function to an

external body, the Director of Planning gave an explanation as to why he would have concerns about that approach. There was no knowledge of any other local authorities that completely outsource their planning enforcement function, but like other authorities this Council does buy-in support from the private sector in the form of agency staff, where required to cover vacancies during periods where it is difficult to recruit or to deal with high levels of demand.

5.26 Whilst it was accepted that agency staff do provide valuable assistance to the Council in helping to manage workloads, they can sometimes (but not always) lack the local knowledge, political/community awareness and ability to get to the area quickly in response to urgent complaints offered by permanent or more locally-based Officers.

5.27 The Director of Planning expressed his reservations about putting the whole function out to an external body because the relationship between enforcement officers, elected Members, Planning Officers and other Officers within the Council is critically important to the sharing of useful information and intelligence, and achieving effective enforcement outcomes. These relationships would, in the Director of Planning's opinion, be lost if the function was dealt with externally as there would be a division between the local authority and the contractor. The close relationship between Enforcement Officers and Planning Officers and the ongoing work they do together to investigate planning history and the legal and policy aspects of cases was cited as a particular matter of concern if the authority were to consider outsourcing to an external body.

5.28 Another concern would be the resource available to the Council if an external contractor was failing to perform to the level expected by the Council's Members and Officers and the potential implications, complications, risks and costs associated with resolving any dispute over performance or having to suspend or cancel a contract. Whereas retaining the function in-house enabled Members and Officers to have frank and honest discussions about performance (as being carried out through the discussions of the Working Group) and to develop practical solutions together.

5.29 The Director of Planning concluded that getting the right team of Officers in place with the right set of skills and experience and with strong leadership would be a more appropriate approach to resolving Members' concerns about planning enforcement than outsourcing. There was general agreement from the Members of the Working Group with the Director of Planning's observations on the topic of outsourcing and not to pursue that option any further at this stage **[see recommendation 2]**.

Case studies

5.30 The Chairman of the Working Group invited Members to put forward any 'case study' examples of enforcement matters or complaints that they had been involved in to share their experiences.

5.31 One Member gave an example of an overgrown site where he had reported the issue to the Planning Enforcement Team but had not received any feedback for a number of

months and then, on having to chase Officers for some feedback, was informed that the case had been dropped. The case was then re-opened and it took a further two months to establish ownership of the land who was then instructed to tidy it, which resulted in a further two-month delay before a half-hearted attempt by the owner at tidying – leaving rubbish in the middle of the site during the dry months of summer. Eventually the site was tidied, but the whole process of reporting the complaint and resolution took over a year. The Councillor raised concern that the site might be allowed to get untidy again and asked whether Officers actively monitored sites following the resolution of an enforcement complaint to ensure they remain resolved.

5.32 Members of the Working Group went on to discuss the issue with communication and the failure of Officers to respond quickly to Councillor requests and to provide updates without having to be chased for them by the Councillors. It was suggested that officers build in to their processes, the need to automatically provide regular updates to Councillors and members of the public on progress on enforcement cases – even where there has been little or no progress. The Director of Planning agreed with the suggestion and, having learned that the Uniform system contains a 21 day reminder to update complainants following the registration of a complainant, would explore the potential to incorporate additional rolling reminders to provide ongoing updates. Improvements to communication would be the topic of further discussion **[see recommendation 12]**.

5.33 Members were asked to forward any other case study examples to the Chairman of the Working Group and the Director of Planning for discussion at future meetings.

Discussion on working with Town and Parish Councils

5.34 The Working Group went on to discuss how the District Council could work more closely with Town and Parish Councils as the potential ‘eyes and ears on the ground’ to assist in reporting and monitoring planning breaches. However, to fulfil such a role would require more information and training for Town and Parish Councils on the planning rules, the enforcement powers available to the District Council and the way it approaches enforcement complaints – to give them a level of confidence in determining what may or may not constitute a planning breach and what action might be appropriate and available **[see recommendation 11]**.

5.35 The Director of Planning accepted that in the past there had been regular training on planning enforcement and other elements of planning for both District Councillors and Town and Parish Councils but that it had been a number of years since the last session. With a new Planning Enforcement Policy in place, it might be the right time to re-instate such training. The Working Group agreed with the principle of more training but there would be both timing and resourcing issues to consider through the recommendations of this report. Also, most Town and Parish Councils have their own Planning Committee and it might be up to those Committees whether or not they wanted to take part in such training **[see recommendations 10 and 11]**.

Discussion on the comments received from Councillors

5.36 The email comments received from three Councillors were considered. The Director of Planning advised that, in his view, getting permanent staff in place with the right skills and strong leadership as well as reviewing processes and administrative processes were key to resolving all the issues raised. The introduction of the new Planning Enforcement Team Leader and the work already underway to improve the service were therefore steps in the right direction.

5.37 With that in mind, the Director of Planning was asked to confirm the number of positions in the structure for planning enforcement, the number of staff in post and how this compares with what might be needed. He confirmed that the structure included six positions – the Team Leader and five Enforcement Technicians – but that three of the four Technician posts were being covered by consultants employed through recruitment agencies. With the right management and processes in place and permanent staff who can be more responsive on the ground, it was felt that the number of posts ought to be adequate to deal with the scale of the workload – however, the new Enforcement Team Leader would need to be given time to assess whether that was correct, particularly given the scale of historic/backlog cases that would need to be addressed or otherwise closed.

Meeting 3: Thursday 17th November 2022

5.38 In the Working Group's third meeting on Thursday 17th November 2022, which was held online, there was an update from the Council's Planning Manager on caseloads, a discussion on the Planning Enforcement policy and criteria within the harm risk assessment, a discussion with the Council's new Planning Enforcement Team Leader about his experiences of reviewing the enforcement function at his previous authority and initial thoughts on the situation at Tendring.

Update on caseloads

5.39 The Planning Manager gave a short PowerPoint presentation providing an update on caseloads and progress on other improvements. This identified that, on 17th November 2022, there were 269 current enforcement cases under consideration of which:

- 100 breaches of planning condition (mainly related to holiday park occupation);
- 35 related to changes of the use of land;
- 55 related to building operations; and
- 18 were in relation to untidy sites.

5.40 A breakdown of cases per Officer was also given – showing that an enforcement Officer could at any time be dealing with between 50 and 70 cases but that some Officers had wider responsibilities including overall management and leadership of the team and monitoring development sites which would justify a lower number of general enforcement cases within their workload.

5.41 It was confirmed that one of the Council's Enforcement Officers employed through an agency was leaving the authority but that permanent Enforcement Officer positions had gone out to advert and that channels to target ex-Police and military personnel were being used **[see recommendation 2]**.

5.42 The Planning Manager noted that a lot of information was still being stored at the Town Hall in paper form and time and resource needed to be invested in digitising as much information as possible – relevant to enforcement and other sections of the planning service **[see recommendation 8]**.

Discussion on Risk Harm Assessment

5.43 Councillors Baker and Coley led the discussion on the harm risk assessment, highlighting criteria within it for questions and clarifications. A summary of the discussion is set out as follows and the specific proposals for changes to the harm risk assessment are set out in Appendix 1 to this report **[see recommendation 3]**.

- Criteria 1: Urgency

5.43.1 Questions over the respective meanings of 'stable' (0 points), 'ongoing' (1 point) and 'getting worse' (2 points) – particularly the difference between stable and ongoing – which could be construed to mean the same thing. Officers explained that there could be a differentiation between development that has already taken place and could therefore be classed as stable; and development that is in the process of construction and which could, if necessary, be stopped and where a higher priority to investigation and action might be justified.

- Criteria 5: Complainant

5.43.2 Questions over the need for a distinction between 'named' complainants (2 points) and 'anonymous/malicious' complainants (0 points) and a concern that anonymous complaints from people worried about revealing their identity will not be investigated.

5.43.3 Officers gave assurances that complainant details are kept confidential but also clarified that anonymous complaints won't be ignored, but in the context of the harm risk assessment, they receive a lower overall score which would affect the priority with which an investigation is carried out. Officers also explained that where an anonymous complaint highlights the possibility of a criminal offence being carried out (such as unlawful works to listed buildings or protected trees), that complaint will still be given a high level of priority. Members suggested that there will be many cases where anonymous complaints can be made to a Ward Councillor who can take the complaint up on their behalf.

- Criteria 6: Timescale

5.43.4 Questions over the meaning and justification for the different timescales before lawful rights exist and enforcement action can, by default, no longer be taken i.e. 'not applicable' (0 points), 'less than 3 months old' (0 points), 'more than 1 year' (1 point) and 'less than 6 months' (2 points). Officers agreed that these timescales are confusing and are less about the assessment of harm, and more about the risk of the Council losing the ability to carry out enforcement action by default by virtue of time elapsed and, potentially, the reputational damage that might come about. Members and Officers both agreed that the criteria relating to timescale was unhelpful and would best be deleted from the risk harm assessment when it is next reviewed.

- Criteria 7: Contrary to Local Plan policy?

5.43.5 Question as to whether a conflict with Neighbourhood Plans should also be included as a consideration – attracting 2 points in the harm risk assessment. It was explained that Neighbourhood Plans must, themselves, conform to the District Local Plan and together they form the wider 'Development Plan' for consideration by the Council in any planning matters. Suggestion that the wording could be amended either to say 'contrary to Development Plan policy' or 'contrary to 'Local Plan/Neighbourhood Plan policy'.

- Criteria 9: Is harm irreversible?

5.43.6 Questions over the rationale behind giving 2 points for irreversible harm and 0 points for where the harm is reversible, when it might appear more sensible to prioritise cases where the harm can be reversed. Officers explained that the intention was to give higher priority to those cases where, if development were allowed to proceed, the harm would be irreversible – for example damage to listed buildings which would, in any event, be given high priority; however the wording could potentially be improved. It was agreed that the wording could be improved to make the intention of the criteria clearer.

- Criteria 10: Intensity of activity

5.43.7 Questions asked as to what 'intensity of activity' actually means. Officers explained that intensity could mean different things depending on the nature of the development and could relate to the scale of the development, the intensity or length of time. Each case would require a level of judgement.

- Criteria 13: Previous enforcement action/planning history

5.43.8 Questions as to whether the previous enforcement action/planning history (attracting 1 point in the risk harm assessment) would relate to the site/premises in

question, or to the developer/owner. Officers confirmed that it would be relevant to the site/premises only and that the Council could not take action on the basis of the historic behaviour of a particular developer/owner/applicant which could be seen as persecution of an individual or company. Members asked that the wording be made clearer to clarify that point.

5.43.9 It was also explained that the planning history would be particularly relevant in cases where planning permission had been refused for a development, but the developer/owner went ahead and started building anyway. The case for action in such instances would be generally therefore be strong.

- Criteria 15: Undesirable present?

5.43.10 Officers explained that for this criteria, Officers would be considering whether taking no enforcement action would set a precedent for other people to carry out similar work. There was a short discussion of an example case where Councillors were concerned that no action could send the wrong impression to others who may wish to try something similar. It was later agreed that Criteria 15 was best removed from the assessment on the basis that all breaches of planning control are undesirable and have the potential to be copied by others where enforcement is not carried out.

5.44 As well as the suggestions in relation to existing criteria within the harm risk assessment, the Planning Manager suggested that an additional criteria specifically in relation to whether an alleged breach affected a listed building or protected tree might be beneficial in giving such cases additional prominence.

Reflections from the new Planning Enforcement Team Leader

5.45 The Council's new Planning Enforcement Team Leader was invited to talk about his experience of undertaking a similar review of planning enforcement function at his previous authority and for his initial reflections on Tendring's Planning Enforcement Policy and practices. He started by setting out his background and experience and talked about the 2020 review of enforcement practices at his previous authority.

5.46 At the previous authority there was no harm risk assessment, but there was a triage process involving senior Officers looking at cases when they came in and then deciding if any action was required before allocating to Officers with relevant experience. The previous authority also made more use of the Uniform system and had more formal processes in place that might benefit Tendring going forward.

5.47 An initial review of Tendring's Enforcement Policy had been undertaken along with a review of the formal notices used when undertaking enforcement action – which has revealed some elements of wording that are out of date and need to be improved to avoid legal problems or complications further up the line if action needed to be escalated. It was recognised that there had been problems with planning enforcement at Tendring in the past and it was hoped that the experience and knowledge gained from the previous

authority would assist in improving the situation going forward.

5.48 Members asked if there were elements of the Enforcement Policy that needed to be looked at and reviewed sooner rather than later or whether an ongoing process of review was required. The Planning Enforcement Team Leader felt that the basis of what was required in the policy was already in place; that there were no immediate areas of concern; but that the policy could be improved and evolved as necessary through regular ongoing review.

5.49 The Team Leader was asked for his initial thoughts on the size of the establishment (e.g. staff resources) at Tendring and whether it was sufficient to deal with the scale of the workload, particularly drawing on any comparisons with his previous authority. Whilst he did not believe the team was over-staffed, his very initial view was that the size of the team was potentially sufficient – pointing out however that his previous authority covered two districts and needed more staff as a consequence. He considered that caseloads per Officer were fairly similar to the previous authority but that problems around recruitment when people left the authority were just as relevant there, as they have been in Tendring. It was suggested that a more informative view on resources in the enforcement team might be given in six months, once the new Team Leader has had time to fully understand the issues and pressures and establish new processes and practices.

5.50 The Planning Manager added that time was still needed to ascertain whether the available resources were sufficient to deal with the backlog of cases and ensuring records were updated, corrected and digitised as appropriate – and that this was as relevant to other sections of the planning service as well as enforcement.

5.51 The Enforcement Team Leader did note that the main difference in the nature of cases in Tendring compared to other areas is the number of caravan and holiday parks and the issues around breach of occupancy conditions that relate to them **[see recommendation 14]**.

Approach towards 'repeat offenders'

5.52 Mainly covered under the discussion on Criteria 13 of the harm risk assessment, the Enforcement Team Leader confirmed that the Council can only consider enforcement action in relation to the breach of planning control on a particular site – not on the historic behaviours of the owner, developer or applicant. Whilst it was acknowledged that some individuals or companies may have built up a reputation for disregarding the rules, planning enforcement is not a punitive process.

5.53 However, where there are concerns about the behaviour of individuals or companies, it can be that such matters are escalated to Councillors or senior Officers such as the Director of Planning to have frank discussions with those concerned to apply appropriate pressure – pointing out the impact their behaviours may be having on their reputation and perception at the authority which could, in turn, have a bearing on maintaining positive relationships, trust and cooperation in achieving smooth progress and positive outcomes

on any current or future planning applications.

5.54 In the context of applying the risk harm assessment, it is the history of previous offences at the site that is relevant. The Planning Manager gave an example of where planning history on a site can be particularly relevant in considering enforcement action i.e. where planning permission had been previously sought for a development but refused, but where the owner, developer or applicant had ignored the refusal of permission and carried on building regardless – resulting in an inexcusable and blatant breach of planning control that would, in most cases, lead to enforcement action.

Discussion on how decisions are taken in determining the course of action

5.55 The Enforcement Team Leader was invited to talk through the process of investigating a case and determining what course of action to take – building on the advice given at a previous meeting by the Development Technician - Enforcement.

5.56 He emphasised the importance of trying to obtain as much information as possible on receipt of a complaint – with photographic evidence from the complainant being particularly useful **[see recommendation 18]**. He advised that he was reviewing closely the way that complaints, investigations, evidence and discussions are documented – wanting to introduce a better level of formality than currently exists. This is particularly important if evidence is to be relied on at a later stage for formal enforcement action or prosecution.

5.57 In establishing a breach of planning of planning control, Officers then consider the best options available for seeking to resolve that breach. In the Team Leader's previous experience, the majority of breaches can be resolved without the need to carry out formal action which will inevitably require a high level time and resource. Resolving breaches informally, through negotiation and discussion, is therefore always the preferred course of action.

5.58 In many cases, an owner will be asked to submit a planning application to regularise the development and resolve the breach, having considered the likelihood that planning permission would be granted through consultation with Planning, Heritage, Highways or other professional Officers as appropriate. It is generally not considered reasonable to resort to formal enforcement action or stopping a development in cases where it is likely that planning permission would be granted if an application were submitted.

5.59 If informal negotiations aimed at resolving a breach fail to resolve the matter, then consideration is given to formal action which could include a breach of condition notice or an enforcement notice. Where formal action is required, there could then be liaison with the Council's legal team. However, the Enforcement Team Leader mentioned that in his first few weeks at Tendring he had observed that there had possibly been too high a reliance on support from the legal team to provide planning judgement and opinion, when its advice is best sought on the word of law and the legal aspects of taking action. For planning judgement and opinion, drawing on the advice and experience of Planning

Officers is a better approach than placing unnecessary pressures on the legal team.

5.60 It was explained that the full enforcement process on some cases could take years, as there is a right of appeal against enforcement notices and even when appeals are dismissed, whilst the prosecution can result in a fine, the breach could remain unresolved and legal action to resolve the breach by forcing an owner to remove a structure or take other action can take a long period of time.

5.61 Based on his initial observations, the Enforcement Team Leader was quite surprised as to how quickly Tendring has been resorting to formal enforcement notices, resulting in the time and resources involved in dealing with any appeal, without having exhausted the informal avenues for resolving breaches. He also explained the need for the Council to be confident that, when issuing a formal notice, it has the evidence to fight an appeal and ensure there are no deficiencies in a notice that might result in a successful legal challenge and associated costs.

5.62 At his last authority, it was notable that of 657 cases he dealt with, only 17 required a formal enforcement action. The others were resolved through informal interventions.

5.63 When asked why Tendring might have historically been too keen to issue formal enforcement notices, the Enforcement Team Leader speculated around the reliance on agency staff with a limited presence in, and knowledge of, the area and there being less of a closer relationship with the Council's Planning Officers to determine the best course of action than was the case at his previous authority. He acknowledged that there could be a generally negative public perception about the use of retrospective planning applications to resolve breaches; however that approach is often the best way to achieve a resolution. Inviting retrospective planning applications also gives the Council the ability to impose conditions to mitigate or guard against any potential harmful impacts going forward.

5.64 The Council cannot force an owner to make a retrospective planning application, but in cases where the Council invites an application, but the owner ignores that advice and fails to make an application, Officers will need to consider the extent of the breach and how likely it would be that permission would be granted in deciding whether or not to escalate the matter to formal enforcement action. In some cases it might not be expedient to take further action and the breach is tolerated (which could impact on an owner's ability to sell the property at a later stage). However, where there are questions over whether a development would get permission, it may be expedient to take further action.

5.65 The Enforcement Team Leader was asked to give his view on when legal advice is sought with regard to the evidence required for enforcement action. He explained that, for the purposes of defending an appeal against an enforcement notice, the Enforcement Officers in liaison with Planning Officers would be able to determine what evidence is necessary. However, if clarification on any legal points were required or the case required an injunction or a prosecution, then legal support would be sought on compiling the necessary evidence which could include witness statements and video evidence.

5.66 The Director of Planning advised that, in exceptional cases where an appeal against an enforcement notice involves a Public Inquiry (as opposed to a hearing or written representations), then the Council might seek Counsel's advice and hire a Barrister to lead the evidence and carry out cross-examination.

Meeting 4: Tuesday 10th January 2023

5.67 In the Working Group's fourth meeting on Tuesday 10th January 2023, which was held online, there was a discussion with the Council's Deputy Chief Executive (and Monitoring Officer) and the Council's Planning Solicitor on the role of the legal team in planning enforcement matters and the governance of decision making; followed by some discussion with the Director of Planning on communication and Member expectations.

Discussion about legal input in enforcement matters

5.68 The Council's Deputy Chief Executive (and Monitoring Officer) and the Council's Planning Solicitor were invited to explain the role of the legal team in planning enforcement matters.

5.69 The Planning Solicitor confirmed that she would only tend to get involved in planning enforcement matters where legal advice has been sought, but would also provide assistance as necessary in advising on gathering evidence or carrying out interviews for the purposes of a potential prosecution. The decision as to whether or not to carry out a prosecution will lie with the relevant service Director in consultation with the Council's Head of Legal Services. For complex cases, where a more detailed report is required to document and justify the reasons for action, the Monitoring Officer will also be involved.

5.70 Historically, there had been an over-reliance on the legal team to provide advice on matters that should have been well within the capability and knowledge of the Planning Enforcement Team to progress. Since the introduction of the Council's new Enforcement Team Leader, there had already been a notable reduction in the amount of queries going to the legal team – indicating a much improved level of confidence and competence in dealing with day to day enforcement matters.

5.71 It was explained that, in deciding whether or not to carry out a prosecution, Officers needed to follow the Crown Prosecution Services' (CPS) advice on justifying action – including the need for there to be a realistic prospect of conviction; the need for sufficient and robust evidence; and consideration of whether prosecution would be in the public interest. It was made clear that determining the public interest in carrying out a prosecution in line with CPS advice was an entirely separate exercise to determining the public interest in investigating an enforcement complaint through the harm risk assessment.

5.72 It was explained that very few enforcement cases make it all the way to prosecution and that there were other legal tools, including formal cautions and injunctions that can be employed.

Governance in planning enforcement matters

5.73 The Monitoring Officer was asked to confirm the governance arrangements and the role of elected Members in enforcement matters. She explained that planning enforcement was not an executive function for Cabinet decisions, but a function of Full Council which, in line with the approach taken by most other Councils, is delegated to the Planning Committee which, in turn, is delegated to Officers. It was emphasised that this is the approach taken in most Councils and has been for many years.

5.74 There are however some cases of a complex or high profile nature where Officers may feel it necessary to revert certain issues back up to the Planning Committee for decisions. The example of enforcement action against the breach of occupancy conditions on caravan and holiday parks is one fairly recent example where the Planning Committee was invited to decide a course of action, with the details included in a confidential Part B report. On other matters, the Director of Planning would sometimes consult the Chairman of the Planning Committee before making a decision on how to proceed **[see recommendation 5]**.

Communication and Member expectations

5.75 In the discussion around communication and Member expectations, the Group reflected on the amount of information that had been obtained through the inquiry to date and that Member expectations of the planning enforcement process might be best managed by re-instating regular, in-person, training for Members on an annual basis and similar training for Town and Parish Councils **[see recommendations 9, 10 and 11]**. It was suggested that this begin as soon as possible following local elections in May 2023.

5.76 Members of the Group went on to share concerns and experiences around communication; with examples of cases where Councillors were not receiving any response from Officers on the progress of cases despite there being chronic and blatant breaches of planning control causing great distress to residents – who then chase their Ward Councillors for information. It was suggested that the Council's systems needed to incorporate more reminders to Officers to update complainants on an ongoing basis on any progress – over and above the single 21-day reminder following receipt of a complaint **[see recommendations 12 and 13]**.

5.77 It was suggested that the pre-application process could be used to set out some clear ground rules to owners, developers and applicants that planning conditions must be honoured or else face the consequences of enforcement action. The Director of Planning explained that not all applicants for planning permission use the pre-application process. The possibility of including some form of binding agreement or terms and conditions as a validation requirement for planning applications to re-affirm the Council's expectations around compliance was another suggestion **[see recommendation 17]**.

5.78 Members asked for the form on the Council's website for reporting enforcement complaints to be reviewed as it was considered not to be user-friendly and placed limits on the amount of useful information that could be provided. Given the advice of the Planning Enforcement Team Leader about the importance of obtaining as much up-front information as possible, it was agreed that an update would be beneficial and this should form one of the Working Group's recommendations **[see recommendation 18]**.

Meeting 5: Thursday 19th January 2023

5.79 In the Working Group's fifth meeting on Tuesday 19th January 2023, which was held online, the Group reflected on discussions and suggestions to date and discussed the approach to publicising successful enforcement outcomes to demonstrate to the public that the Council takes enforcement seriously and that there are consequences of failing to comply with the planning rules.

Giving regular updates

5.80 The Members agreed that following the initial 21-day reminder for Officers to update complainants following receipt of a complaint, the systems should build in further reminders to provide updates on ongoing 21-day basis and that the complainant or Councillor should be notified if Officers are minded to close a case **[see recommendations 12 and 13]**.

Publicising successful outcomes

5.81 On the subject of publicity, the Director of Planning explained that where there are successful outcomes to formal enforcement action, careful thought would need to be given to the nature of the case and public interest in the case before doing any publicity. For example, it might not be appropriate to draw media attention to smaller enforcement cases of a sensitive or personal nature with little wider public interest, but a successful action against a developer or persons committing a criminal offence might be justified. Each case would have to be considered carefully on its merits, and in consultation with the Communication's Manager and legal colleagues **[see recommendation 19]**.

Pro-active enforcement/monitoring

5.82 There was a discussion on whether the Council should be pro-actively monitoring developments and carrying out enforcement action against breaches as necessary, rather than responding to complaints. The Director of Planning explained that Officers do monitor the compliance of larger developments with conditions and legal agreements, but mainly to ensure that certain requirements have been met at certain 'trigger points' e.g. the payment of developer contributions before a set number of dwellings or occupied, delivery of highways works, transfer of open space etc.

5.83 Officers do not generally undertake unannounced spot inspections of developments due to the sheer number of schemes under construction at any one time (particularly in recent years when there have been many developments), however Officers are in regular contact with site managers, particularly on larger schemes if or when issues arise or if complaints are received and will inspect developments as necessary at key points. Members asked that consideration be given to utilising resources within the team to be more pro-active on such developments in light of previous concerns **[see recommendation 16]**.

Other discussions and updates

5.84 As well as discussion within the Task & Finish Group meetings, the Chairman of the Working Group had discussed with the Council's Planning Business and Support Manager the possibility of using apprentices to support the work of the Planning Enforcement Team as part of the Council's approach to addressing recruitment problems by 'growing our own' staff. Whilst the opportunity was acknowledged, it was felt that the sometimes confrontational aspect of the planning enforcement role required personnel with a base level of planning knowledge as well as experience and confidence in dealing with the public – and it would therefore not be appropriate to use young apprentices in this role until they had either progressed to Officer level and gained suitable confidence in such matters, or there was a permanent, well established and stable team around them for mentoring and support.

5.85 The Chairman also asked for updated caseload figures for the final version of this report. As of 17th January 2023, the figures updated figures were as follows:

- **Total: 258 cases**
 - 80 Breach of Planning Consent
 - 17 Change of use of Land
 - 1 Failure to build in accordance with Approved Plans
 - 144 Other types of Breaches and untidy sites
 - 1 Unauthorised Advert
 - 14 Unauthorised Building Works
 - 1 Work to TPO Tree

5.86 Finally, the Chairman asked for an update on recruiting new permanent staff to the planning enforcement team, as correct week commencing 23rd January 2023. A recruitment campaign was initiated following the appointment of the Planning Enforcement Team Leader in October 2022.

5.87 The campaign was targeted toward ex-Police and ex-military, officers, and alongside this ran the advertisements on the TDC website and social media pages. The campaign ran from November 2022 until early January 2023 with the aim of capturing as wide an audience as possible. Ten applications and CVs were received from a range of candidates including three as a result of advertising on the ex-police, and military, sites. Interviews have been arranged for 31st January and 6th February 2023 and all shortlisted applicants

have accepted the invitation to interview. It is anticipated that any successful applicants will be offered positions on 7th February with start dates dependent upon any required notice periods or completion of contracts.

DETAILED FINDINGS OF THE INQUIRY

6.1 An overview of the findings of the inquiry in response to each of the objectives is set out below.

Current Powers

6.2 Objective: To review the full set of powers available to the Council for the carrying out of planning enforcement, having regard to the fact that any action is discretionary on the Council and is always expected to be proportionate and appropriate.

6.3 Outcome: The inquiry has resulted in a greater understanding between the Members of the Working Group and Officers as to the powers available to the Council and the approach taken to prioritising and handling enforcement complaints; and the pressures faced by Councillors when approached, in their wards, about potential enforcement issues. The recommendations set out in this report are to widen that understanding through Member and Officer training sessions to be held following the 2023 local elections and thereafter on an annual basis; and that similar training be made available to Town and Parish Councils [see recommendations 9, 10 and 11].

6.4 Objective: To gain a better understanding of the range of tools available to the Council's enforcement team to resolve complaints – ranging from no action, negotiation or minor interventions, through to formal enforcement action and legal prosecution.

6.5 Outcome: As above (see 6.3).

6.6 Objective: To explore how the powers and tool available to the Council can be better communicated to those with an interest, including District Councillors, Town and Parish Councils and members of the public.

6.7 Outcome: As above (see 6.3).

Policies

6.8 Objective: To review the Council's Planning Enforcement Policy which sets out the available powers and the approach that the Council will take when receiving, investigating and, where appropriate, taking action against alleged breaches of planning control.

6.9 Outcome: It is recommended that the Planning Enforcement Policy is kept under

regular review – with an update date at least every four years to ensure it is updated in respect of legislation, national policy, pertinent issues and trends. An immediate review is also recommended to take on board the Group's suggested improvements to the policy and the harm risk assessment **[see recommendations 3 and 4]**.

6.10 Objective: To review the associated 'harm risk assessment' which is used by Officers to prioritise the investigation of cases and to inform decisions about appropriate levels of action going forward.

6.11 Outcome: That the Enforcement Policy be reviewed immediately to incorporate changes that embrace the Group's recommendations. In addition, a number of specific improvements to the harm risk assessment including the deletion of Criteria 6 (Timescale), renaming Criteria 7 to 'Contrary to Local Plan/Neighbourhood Plan?', wording improvements to Criteria 9 (Is harm reversible?) to make its purpose and meaning clearer and a specific criteria in relation to listed buildings and protected trees **[see recommendation 3]**.

6.12 Objective: To recommend improvements to the Planning Enforcement Policy and harm risk assessment as deemed necessary to improve the effectiveness of approach.

6.13 Outcome: As above, with the revised versions being reported back to the Planning Committee for its consideration and approval as soon as practicable **[see recommendation 3]**.

Procedures

6.14 Objective: To review the full process of dealing with enforcement complaints including the initial receipt of a complaint, responding to the complainant, visiting the premises, identifying and establishing any breaches, carrying out harm risk assessment, choosing a course of action and formal processes thereafter.

6.15 Outcome: The inquiry has resulted in a greater understanding between the Members of the Working Group and Officers as to the process of dealing with enforcement cases. There are however a number of recommendations for improvement going forward.

6.16 Widening the understanding of the process through Member and Officer training sessions to be held following the 2023 local elections and thereafter on an annual basis; and that similar training be made available to Town and Parish Councils is one recommendation **[see recommendations 9, 10 and 11]**.

6.17 Another recommendation is to include a requirement that complainants receive an update from Officers every 21 days on progress on their case **[see recommendation 12]** and ensuring Officers use Council-issued equipment only and, where possible and appropriate, wear marked high visibility clothing **[see recommendation 15]**.

6.18 Objective: To review the approach to communication with complainants, those the subject of action and other interested parties; and how this might vary depending on the nature of the issue.

6.19 Outcome: The inquiry has revealed some serious concerns about the level and quality of communication from Officers involved in planning enforcement matters in responding to complaints and keeping complainants and other interested parties (included Ward Councillors) updated on any progress. There were numerous examples given where Councillors had needed to chase Officers for updates, cases where Officers had been reluctant to meet or discuss matters with Councillors and other cases where issues had been ongoing for months where there the case had either been closed or no further progress had been made, but interested parties had not been updated to that effect.

6.20 Members of the Working Group and Officers were in agreement that significant improvements needed to be made to improve this aspect of the service as poor communication and engagement was undermining public confidence in the Council's ability to deal with planning enforcement matters in an effective manner. Ensuring the planning enforcement team had the right level of resources, strong leadership and the right balance of skills, experience and local knowledge were considered key to resolving the concerns around communication as well as systems being put in place to remind Officers to provide updates – even where it is to advise that there had been no progress **[see recommendations 12 and 13]**.

6.21 Objective: To explore how third parties, such as Town and Parish Councils, might be able to assist the District Council by exchanging information at a local level.

6.22 Outcome: The recommendation to widen annual training out to Town and Parish Councils would improve their understanding of planning enforcement powers, policy and procedures and give them more confidence in reporting and providing updates on issues within their areas **[see recommendation 11]**.

6.23 Objective: To recommend improvements to procedures with the aim of improving the effectiveness of approach.

6.24 Outcome: As above.

Data

6.25 Objective: To gain an understanding, through the interrogation of data, of the scale and nature of enforcement issues in Tendring, including number of complaints/cases received, resolved or outstanding and how they are recorded and monitored – both for internal purposes and for public reporting.

6.26 Outcome: The inquiry revealed that the Council's database of enforcement cases required a fundamental overhaul as it had been poorly managed over a number of years –

resulting in hundreds of cases being recorded as 'live' despite having been resolved or superseded by events; or otherwise recorded under a variety of categories which made data very difficult to interpret and report in a helpful and consistent manner. It was also determined that the software and systems available to Officers had not been used to their full potential and that the new Enforcement Team Leader was already considering how to better utilise them.

6.27 The Council's Planning Manager and Planning Enforcement Team Leader have already made significant progress in reviewing the cases on the database and removing and closing those cases that had either been resolved, incorrectly recorded or superseded by events with the aim of establishing an accurate baseline from which to work **[see recommendations 1 and 8]**.

6.28 Objective: To develop and recommend a framework for reporting enforcement data and performance to the Planning Committee.

6.29 Outcome: It had already been agreed by the Planning Portfolio Holder that the Planning Committee would receive quarterly reports on enforcement data and performance **[see recommendation 6]**; but the inquiry has assisted in determining the information and level of detail that can and should be contained in those reports going forward – following on from the Officers' work on tidying the database and establishing an accurate baseline **[see recommendations 1 and 8]**.

Effectiveness of Approach

6.30 Objective: To invite honest feedback from Councillors and other interested parties on the effectiveness of the planning enforcement function based on experiences and issues in their areas.

6.31 Outcome: As part of the inquiry, the Chairman of the Working Group invited all TDC Councillors to put forward their comments for consideration. With the exception of the Working Group Members themselves, direct responses were only received from three Councillors. However, Members and Officers were able to recall and draw upon their experiences of both historic and current cases where Councillors had raised concerns – which were broadly reflective and consistent with the matters raised in the Working Group discussions.

6.32 Objective: To review the resources available to the planning enforcement team when set against the scale and nature of the task – particularly in relation to management structure, number of Officers and skills, knowledge and experience.

6.33 Outcome: The inquiry revealed that there had been long-standing difficulties in recruiting permanent staff into the planning enforcement team – issues common to many local authorities. These issues are mainly attributed to the sometimes confrontational nature of the work (which require certain skills and personal attributes) and a general shortage, nationally, of people with relevant planning knowledge and experience. This had

led to a strong reliance on agency staff to cover vacant positions which, whilst helpful as a temporary arrangement in response to caseload pressures, could not be a sustainable approach going forward.

6.34 Aside from the costs of employing staff through an agency, such staff are often located away from the District and might be unable to respond to issues quickly when working remotely and, by virtue of their temporary nature, will often lack a degree of local knowledge and political awareness in dealing with certain matters. There will also be a limited level of commitment to long-term service improvement when contracts are let on a short-term basis. One clear recommendation from the Working Group is to therefore prioritise the recruitment of permanent staff to the positions within the enforcement team and reduce reliance on agency staff **[see recommendation 2]**.

6.35 The Working Group acknowledged challenges faced by the Council in recruiting permanent staff to enforcement and other planning roles, given the shortage of qualified and experienced planners in the market. It was therefore considered that an alternative strategy should be to target people with relevant or transferable skills from other career paths and offer training and support on the job. People with a background in the Police or the armed services, for example, are known to often make good planning enforcement officers due to their good communication skills, record keeping and ability to handle or diffuse confrontational situations.

6.36 Discussions with the Council's new Enforcement Team Leader suggest that the number of posts within the enforcement team is likely to be the right level, but this would need to be kept under review.

6.37 Objective: To explore and identify areas where improvements can be made to the effectiveness of the approach and to consider alternative ways in which the enforcement function could be undertaken.

6.38 Outcome: Agreement that the planning enforcement function be retained in house **[see recommendation 2]** and that improvements in communication and other practices, along with good leadership and permanent recruitment of staff would be key to addressing concerns raised.

Prioritisation of Cases

6.39 Objective: To review the approach to prioritising the inspection of alleged breaches of planning control and determining the level of action required thereafter – having regard to the harm risk assessment.

6.40 Outcome: The Members were provided with a detailed run through of the enforcement process from receipt of complaint, determining the right course of action and also the legal aspects and considerations when looking at injunctions or prosecution.

6.41 Objective: To recommend improvements to the harm risk assessment and the approach the Council takes in determining priorities for action.

6.42 Outcome: As set out in report above.

6.43 Objective: Reviewing the decision-making process and the level within the Council that key decisions are taken.

Outcome: The Working Group were appraised of the decision making process and the governance in place around delegation of powers to officers for enforcement purposes. Some concern was raised about Officers' ability to determine when action was or was not in the public interest, based on the findings of the harm risk assessment. It was however explained that, where necessary, the Council could expedite action where, despite the findings of the harm risk assessment, action was still judged to be in the public interest. It was also explained that the Director of Planning, in liaison with the Chairman of Planning Committee and the Monitoring Officer could escalate action if necessary, or in exceptional cases, reports could be taken to Planning Committee **[see recommendation 5]**.

IMPLICATIONS OF RECOMMENDATIONS

7.1 Recommendation 2: Retaining in-house planning enforcement, reducing reliance on agency staff and targeting ex Police and armed forces personnel for permanent recruitment.

- Financial: Cost involved in targeting publications for ex-Police and armed forces for recruitment, but significant potential savings in reducing reliance on agency staff, if recruitment is successful. Cost involved in providing on the job training and mentoring both through formal training courses and internal training from Enforcement Team Leader – however, providing such training often helps to build commitment to the Council from the Officers.
- Legal: Avoids need to develop, manage or enforce any outsourced contract.
- Future Service Delivery: Seeks to recruit people with transferable skills relevant to the running of an effective planning enforcement service who can develop local knowledge and good political and community awareness. Retains the ability for close liaison between Enforcement Officers, Planning officers and other Officers within the authority to achieve best outcomes.
- Impact on the public: Improved service achieved by recruiting people with relevant skills who can develop local knowledge and political/community awareness.

7.2 Recommendations 3 and 4: Immediate and ongoing updates and amendments to the Planning Enforcement Policy and harm risk assessment.

- Financial: Covered within existing resources.
- Legal: Ensures the policy and the Council's approach is kept up to date with the relevant legislative frameworks.
- Future Service Delivery: Updates seek to ensure a more effective approach to planning enforcement and a more useable, unambiguous and understandable harm

risk assessment.

- Impact on the public: Ensures a more effective service to the benefit of the public.

7.3 Recommendation 5: Empowering the Director of Planning to expedite enforcement action on cases of public interest and reputational risk to the Council.

- Financial: Costs involved in Officer time and external support to pursue formal enforcement action in cases that might otherwise not be judged to be expedient following the standard harm risk assessment approach – with the risk of unsuccessful outcomes and associated costs.
- Legal: Potential for unsuccessful outcomes and associated costs in pursuing formal enforcement action in cases that might otherwise not be judged to be expedient following the standard harm risk assessment approach.
- Future Service Delivery: Need to ensure that departures from the harm risk assessment to expedite action are exceptional, justified, genuinely in the public interest and not politically biased.
- Impact on the public: Risk of raised expectations around the likelihood of the Council expediting enforcement action where certain case are singled out.

7.4 Recommendation 6: Quarterly reports to the Planning Committee on enforcement caseload and performance.

- Financial: Covered within existing resources.
- Legal: Some sensitive information will not be able to be reported as part of the Committee report for public inspection – requiring much of the data to be anonymised and high-level.
- Future Service Delivery: Provides for a better level of accountability and transparency on performance which is key to future improvement.
- Impact on the public: Better transparency around the scale and nature of enforcement work the Council is involved in.

7.5 Recommendation 7: Continued engagement of planning enforcement in corporate and operational enforcement groups.

- Financial: As current.
- Legal: As current.
- Future Service Delivery: As current.
- Impact on the public: As current.

7.6 Recommendation 8: Continued review and tidying of the database of live enforcement cases.

- Financial: Cost of Officer time and possible temporary dedicated resource required to complete the exercise whilst allowing day-to-day enforcement work to continue.
- Legal: Need to ensure the legal status of any live enforcement cases are properly recorded and retained within the records.
- Future Service Delivery: More accurate and up to date data will enable the more effective deployment of resources to deal with new and backlog caseload.
- Impact on the public: Enables more useful and accurate data to be reported to the Planning Committee and for resources to be deployed in the most effective way to

serve the public.

7.7 Recommendations 9 and 10: Annual training on planning enforcement for Councillors and for it to be mandatory requirement for Members to sit and vote on Planning Committee.

- Financial: Cost of Officer time and possible external support to carry out the training.
- Legal: Requirement to record and ensure Councillors have received the mandatory training when sitting and voting on Planning Committee. Need to ensure training is legally up to date and correct.
- Future Service Delivery: Improved knowledge of planning enforcement amongst Councillors and Officers will enable a more effective service delivery – both in considering enforcement action and making planning decisions.
- Impact on the public: Enables Councillors and Officers to provide more informed guidance and advice to members of the public when asked about potential planning enforcement matters.

7.8 Recommendation 11: Annual training on planning enforcement for Town and Parish Councils.

- Financial: Cost of Officer time in preparing, facilitating and running the training.
- Legal: Need to ensure training is legally up to date and correct.
- Future Service Delivery: Improved knowledge of planning enforcement amongst Town and Parish Councils will enable them to assist the District Council in identifying and monitoring potential planning breaches.
- Impact on the public: Enables Town and Parish Councils to provide more helpful guidance and advice to their residents when they raise issues relating to planning enforcement.

7.9 Recommendation 12: Automatic updates for complainants, interested Ward Councillors and other relevant parties on progress with enforcement cases every 21 days.

- Financial: Cost of Officer time to give regular updates – albeit set against the cost, and reputational issue, of dealing with aggrieved complainants who have to chase for updates. Some Officers will be spending considerable time phoning or emailing customers in and around dealing with cases. With good management and processes in place, this cost could be covered within existing resources but will need to be kept under review.
- Legal: It may not always be possible to share information of a sensitive nature or report positive progress which could bring about some frustration for Councillors or members of the public.
- Future Service Delivery: Better level of service to complainants who will feel that the Council is taking their case seriously and that progress is being made.
- Impact on the public: As above.

7.10 Recommendation 13: Responses within 48 working hours to Councillor emails.

- Financial: Covered within existing resources and saves Councillors having to chase Officers for information.
- Legal: It may not always be possible to share information of a sensitive nature or report positive progress which could bring about some frustration for Councillors.
- Future Service Delivery: The better and more quickly informed Councillors are about issues in their ward, the better placed they will be to assist and advise members of the public.
- Impact on the public: As above.

7.11 Recommendation 14: Strategy/policy for coordinated and long-term approach to caravan and holiday park occupancy conditions.

- Financial: Significant additional temporary resource to update the Council's records on occupancy at caravan and holiday parks and compile a robust report. This is set against the potential to reduce the number of enforcement cases (and associated costs) relating to caravan and holiday parks if the Council comes to a view on whether to regularise some breaches.
- Legal: There will be a variety of factors including planning law, national and local planning policy and human rights to take into consideration when devising an appropriate strategy. External legal advice might also be required. A significant change in policy would likely need to be incorporated into a future review of the Local Plan.
- Future Service Delivery: Would potentially enable resources to be more focussed on addressing breaches of occupancy condition on a selected number of sites, retaining capacity to deal with a wider range of enforcement matters.
- Impact on the public: Mixed views amongst the public as to whether caravan and holiday parks should be allowed permanent year round occupation with particular concerns around flood safety in some locations, impact on tourism industry, crime and disorder, deprivation and living standards. Any strategy would need to carefully weight up various factors in the public interest.

7.12 Recommendation 15: Use of Council equipment for site inspections and provision of high visibility clothing.

- Financial: Cost of additional equipment and related insurance.
- Legal: Issues around the security and confidentiality/privacy of captured data. Also consideration of staff safety and the implications of high levels of visibility.
- Future Service Delivery: Further processes would need to be put in place to ensure the appropriate use of equipment and ongoing maintenance.
- Impact on the public: Need to consider carefully the use of high visibility clothing depending on the nature and sensitivity of cases.

7.13 Recommendation 16: Pro-active monitoring of compliance.

- Financial: Depending on the extent of pro-active monitoring and the number of developments being monitored at any one time, the cost of Officer time alongside the need to respond to complaint-related cases. The resource requirement might

extend significantly beyond existing staff numbers in the structure depending on how pro-active the team is expected to be.

- Legal: Pro-active monitoring is already carried out to a degree under the powers available to the Council, but this recommendation may require additional resource.
- Future Service Delivery: Either additional staff resources would be required to take on additional pro-active monitoring, or otherwise existing resources diverted away from reactive enforcement – depending on the level of pro-active monitoring expected.
- Impact on the public: Reduced likelihood of public complaints about non-compliance in cases where the Council has identified breaches through its own investigations.

7.14 Recommendation 17: Standard advice on Council's expectations around compliance to be incorporated into pre-application advice and validation process.

- Financial: Covered within existing resources.
- Legal: No additional weight can be given to the case for enforcement action if an applicant chooses not to follow the advice given. All alleged breaches of planning control will be dealt with in line with the Enforcement Policy and the wider legislative framework. Some applicants might object to an additional validation requirement, when the imposition of conditions themselves imply the Council's expectations around compliance.
- Future Service Delivery: Unlikely to have a significant impact.
- Impact on the public: Unlikely to have a significant impact.

7.15 Recommendation 18: Update of online complaint form.

- Financial: Achievable within existing resources – could reduce the amount of desktop and on-site research needed if complainants are given the opportunity to provide a greater level of detailed information.
- Legal: None – so long as personal and sensitive details remain confidential.
- Future Service Delivery: The more information can be provided by the complainant, the more effective the initial investigation can be.
- Impact on the public: Officers might be able to investigate more cases in a shorter period of time if complainants are given the opportunity to provide more detailed information to assist initial investigations.

7.16 Recommendation 19: Publicity of successful enforcement outcomes.

- Financial: Cost of Officer time in preparing press releases and dealing with subsequent press/other enquiries.
- Legal: It may not always be possible nor prudent to share information of a sensitive nature. Possible libel action if the subject of enforcement action takes exception to what the Council says in the media.
- Future Service Delivery: None.
- Impact on the public: Could potentially send a message that the Council is serious about planning enforcement and deter people from trying to circumvent the planning rules.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Current Planning Enforcement Policy

https://www.tendringdc.gov.uk/sites/default/files/documents/planning/planning_policy/Enforcement Policy acc.pdf

Current Harm Risk Assessment Prioritisation Scheme [Planning Enforcement Harm Assessment Prioritisation scheme \(tendringdc.gov.uk\)](#)

APPENDICES

Appendix 1: Recommended changes to the Planning Enforcement Policy and Harm Risk Assessment Prioritisation Scheme

Appendix 2: Slides from the presentation given by the Development Technician – Enforcement at meeting 2.

Appendix 3: Slides from the All Member Briefing presentation given by the Planning Manager, (as referred to by the Director of Planning in meeting 2).

REPORT CONTACT OFFICER(S)

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APPENDIX 1: Recommended changes to the Planning Enforcement Policy and Harm Risk Assessment Prioritisation Scheme

Planning Enforcement Policy

The first paragraph on Page 19, to be updated with the addition of the following underlined wording:

The result of the harm assessment by the twentieth day will allow the decision on “harm” to be incorporated in the 21 day update letter sent to complainants to inform them of the investigation findings and proposed action. Where the Council decides that action is required, it will thereafter aim to update the complainants at least once every 21 days on any progress, or as otherwise necessary.

Harm Risk Assessment Prioritisation Scheme

Under section 3 ‘Operational Aspects’, to include the following additional wording to the second paragraph:

The result of the harm assessment by the twentieth day will allow the decision on “harm” to be incorporated in the Service’s normal 21 day update letter to complainants informing them of the Service’s findings and intended action or, where applicable, that no additional is to be taken. Where the Council determines that action is required, it will thereafter aim to update the complainants at least once every 21 days on any progress, or as otherwise necessary.

In the harm assessment form, to make the following changes (deletions shown as struck through and additions shown as underlined):

Points Allocation			Score
1	Urgency: Is the breach <u>enforcement matter</u> :	Ongoing (1) Getting worse (2) <u>Stable/Paused</u> (0)	
2	Highway safety issues:	Yes (2) No (0)	
3	Danger to public or animal safety:	Yes (2) No (0)	
4	Does the alleged breach cause a statutory or serious environmental issue such as noise pollution, odour, flood risk?	<u>Causes Flood Risk</u> (2) <u>Noise/disturbance concerns</u> (2) <u>Pollution/odour</u> (2) <u>Light pollution</u> (2) <u>Other</u> (1) Yes (2) No (0)	
5	Complainant: <u>(Note that all complainant details will be kept confidential, however providing a named contact will enable the Council to update the complainant and seek potentially useful additional information from them)</u>	TDC Member (2) Named member of public (2) Statutory agency (2) Member of staff (2) Parish Council (2) <u>Named</u> (2) <u>Anonymous / malicious</u> (0)	

6	<p>Timescale i.e. time remaining before enforcement action can no longer be taken & lawful use rights exist (i.e. 4 years & 10 year enforcement period)</p> <p><u>Affects listed buildings, protected trees, Conservation Areas or other protected assets:</u></p>	<p>Less than 3 months (1) More than 3 months (2) More than 4 years if exempt (0) More than 10 years (0)</p> <p><u>Yes (2)</u> <u>No (0)</u></p>	
7	<p>Contrary to Local the Development Plan or <u>including Neighbourhood Plan</u> policy?</p>	<p>Yes (2) No (0)</p>	
8	Extent of harm	<p>Widespread (2) Local <u>(e.g. within the street area)</u> (1) None (0)</p>	
9	Is harm irreversible (e.g. has it, or could it, result in the loss of irreplaceable assets?)	<p>Yes (2) No (0)</p>	
10	Intensity of activity	<p>High (2) Low (1) Negligible (0)</p>	
11	<p>Breach of planning condition <u>(including divergence from approved plans)</u>?</p>	<p>Yes (1) No (0)</p>	
12	Impact on <u>residential</u> amenity	<p>Long term (2) Short term (1) <u>N/a (0)</u></p>	
13	<p>Previous enforcement action/ <u>relevant</u> planning history <u>at the site/premises</u></p>	<p>Yes (1) No (0)</p>	
14	Safety hazards (specify)	<p>Yes (1) No (0)</p>	
15	Undesirable precedent?	<p>Yes (1) No (0)</p>	

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Planning Enforcement

1

How Receive an Enforcement Enquiry

There are several ways for the Enforcement Team to receive an enquiry

- TDC Website (most ideal as it captures all the relevant information)
- Direct phone call 01255 686120
- Planning support (reception)
- Members / PC emails
- Emails direct to Planning Enforcement
- Employees

2

Enquiry's Received

Once the enquiry is received a Development Technician is to assessed if the subject raised falls within the remit of Planning Enforcement.

If this is determined not to, an initial responses are sent within 15 working days.

All other cases are raised onto Uniform and allocated to officers

3

Acknowledgement

Once a case is raised a unique case reference number is raised, all details of contact and a general description of the alleged breach are inputted

An acknowledgement letter is sent out via email or post

A 21 day update letter reminder is set

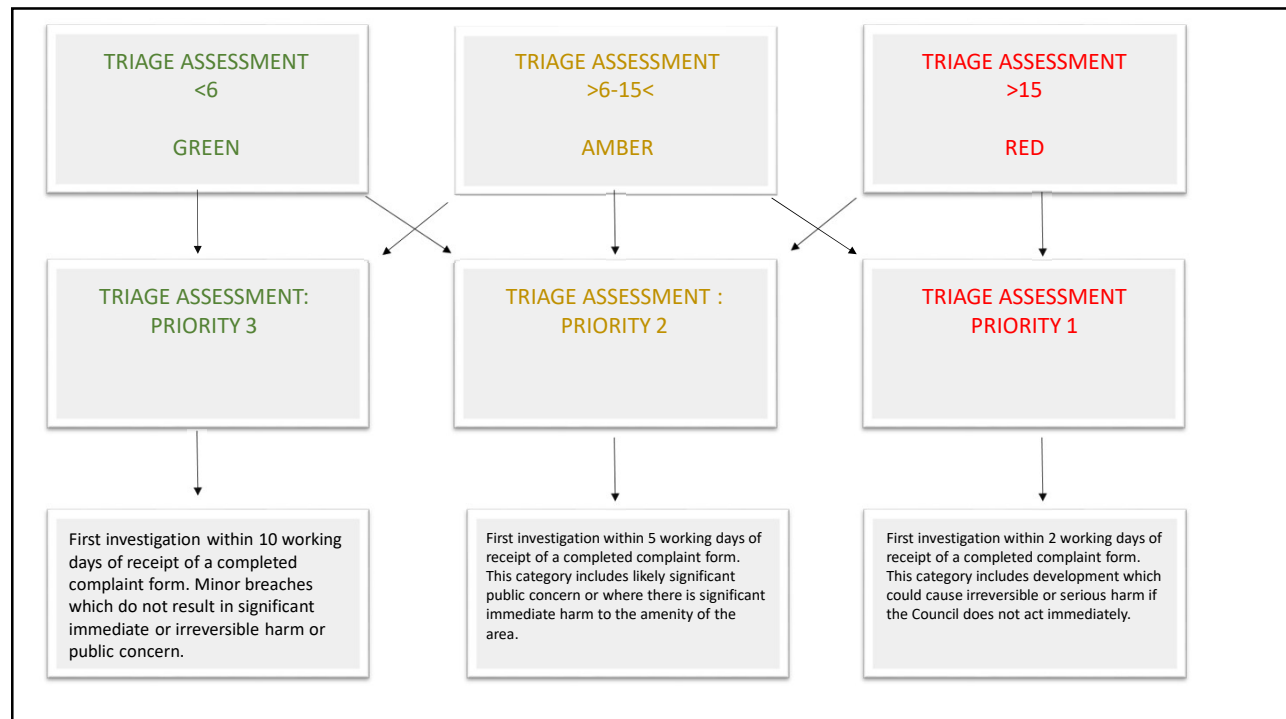
All documents uploaded onto IDOX

4

DAY 1

- Enforcement Officer receives enquiry details and conducts a desktop study
- Triage Harm assessment form completed and IDOX
- Based on Triage assessment a traffic light system indicates possible harm being coursed
- Based on triage assessment a score indication on priority of when a site visit should be conducted

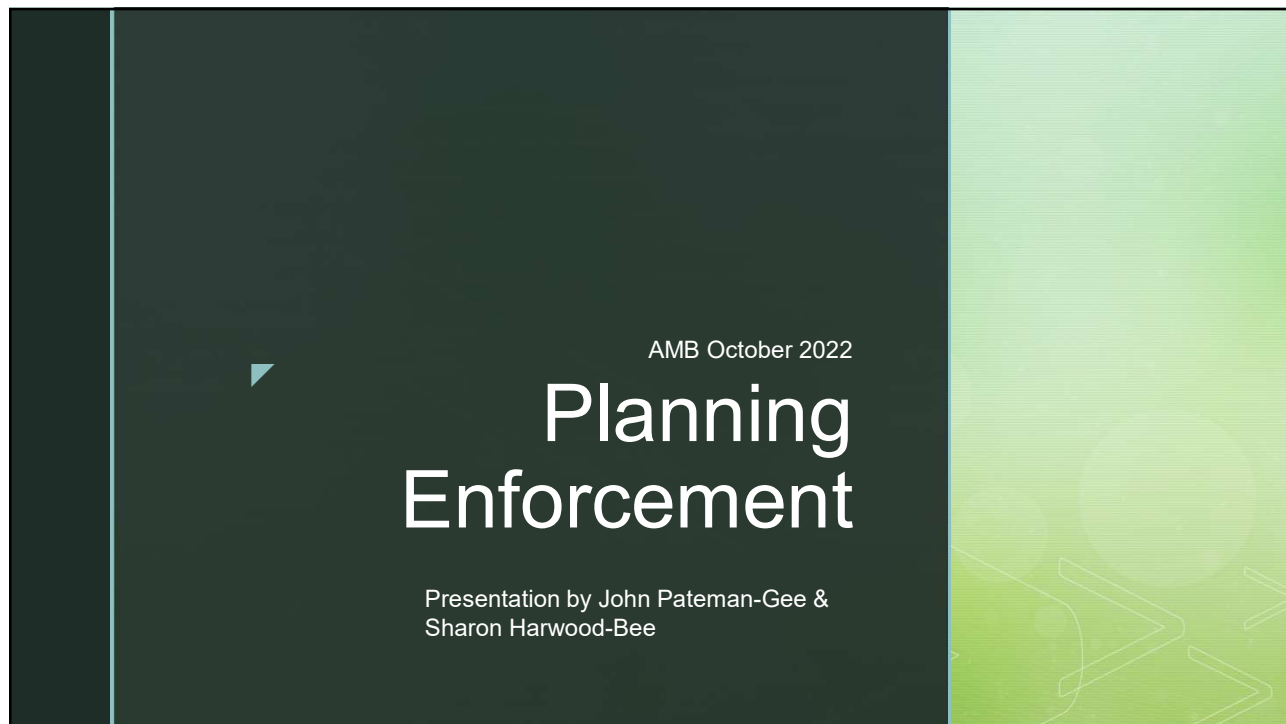
5



6

Day 2 Onward

- Based on Harm assessment triage an initial site visit is conducted
- Uniform is updated, photos and evidence uploaded to IDOX
- Harm assessment completed and IDOXED, traffic light and priority updated on uniform



1



2

Enforcement Policy & Harm Assessment

Following the feedback from Planning Committee, the Enforcement Policy has been adopted. A new traffic light system Harm Assessment document has been created to

- a) triage the complaint, then
- b) assess complaint for priority and finally
- c) form part of the final harm assessment to determine next action.

3

Recruitment & Vacancies

Following a successful recruitment campaign, a Planning Enforcement Team Leader, Matt Deal was appointed and takes up his post on 25th October 2022.

Alongside this appointment, a drive to recruit ex-police or ex-military personnel to the posts currently filled by agency staff, has commenced. Aim to have 3 permanent staff in post by January / February 2023.

4

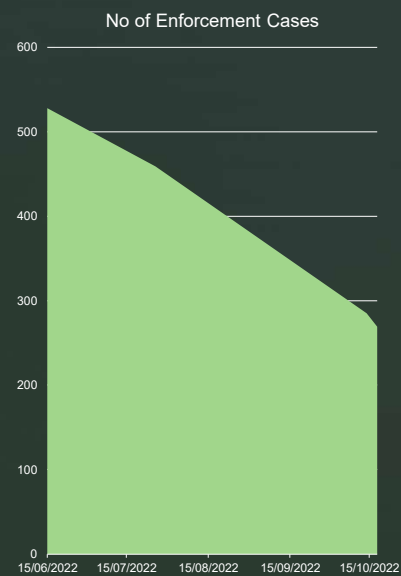
Case Numbers

It was found that historic cases were still open on the Uniform system and were distorting the number of 'live' cases on hand.

A significant number of cases have now been closed alongside a review of historic cases, providing the Planning Management team with a more accurate reflection of case numbers and priorities.

5

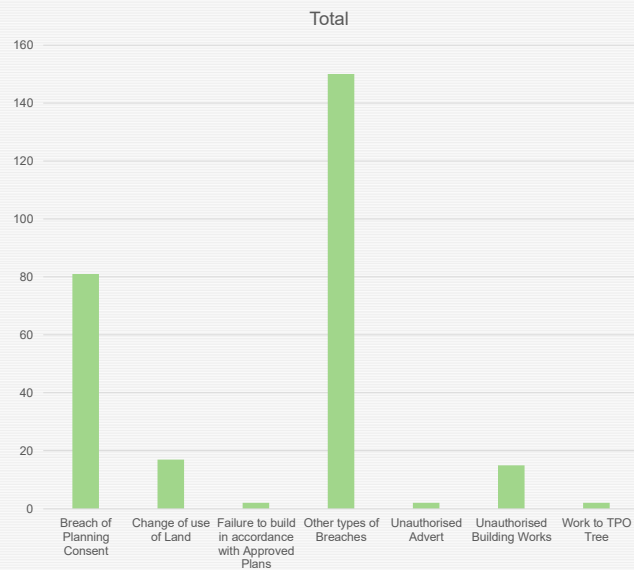
Current
Enforcement
Cases at 269
(18th Oct 22)



6

Of the 269, this is a rough breakdown of type.

However, a data cleanse is needed.



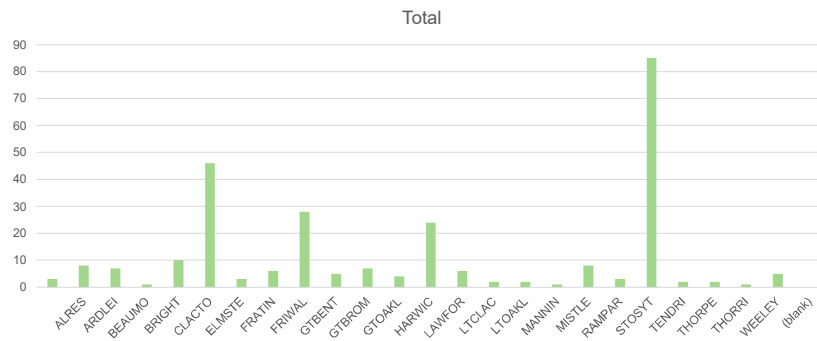
7

Example of need for data cleanse

Breach of Condition	49
Breach of Condition - Dust Clouds	1
Breach of Conditions	3
Breach of Conditions	1
Breach of Discharge Condition	1
Breach of Occupancy Condition	50

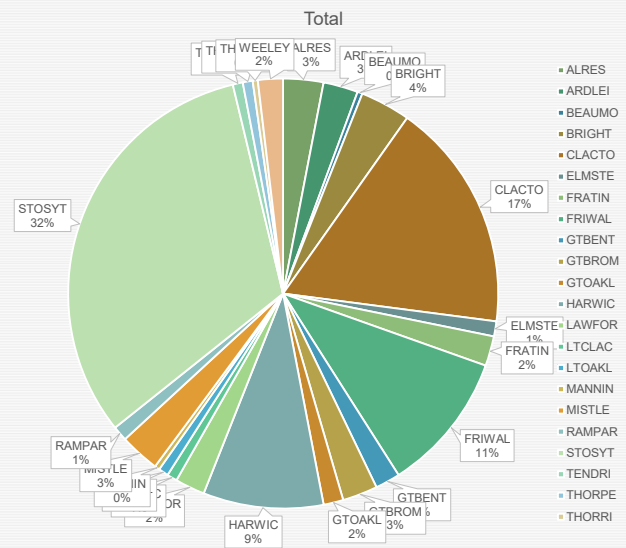
8

Number of Enforcement Cases by Parish



9

The same by percentage



10

Further Breakdown

Of 269 current Cases, 83 are matters of winter occupancy or similar breaches of occupancy condition and the majority relate to static caravans and forms of holiday chalets.

We have commenced a review of Bel Air and working on a new data base on current status there as well as enforce this winter. This is also potentially able to be mapped.

This leaves 186 other types of enforcement matters.

11

Processes & Procedures

The new Enforcement Team Leader will be tasked with reviewing processes and procedures to ensure a robust recording, monitoring and reporting process is in place at each point of the enforcement process.

Regular reporting of case numbers, priority cases and success stories will be taken to Planning Committee.

This will include showing the traffic light scheme now implemented that is being applied to new cases and will need to be applied to existing cases as we process.

12

Summary

- Work to decrease cases continues.
- We have achieved a new electronic register of notices
- Implementation of winter occupation review of sites, starting with Bel Air
- Implementation of Enforcement Policy and Harm Assessment along with priority system for site visits and traffic light scheme.
- Data cleanse to commence soon.
- New enforcement leader to start next week. Adverts for further recruitment out now.
- Task and finish group for enforcement open for member comments on enforcement for us to review and continue improvements to service

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