



## CABINET

<b>DATE:</b>	<b>Friday, 16 February 2024</b>
<b>TIME:</b>	<b>10.30 am</b>
<b>VENUE:</b>	<b>Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE</b>

### MEMBERSHIP:

Councillor M Stephenson	- Leader of the Council; Portfolio Holder for Corporate Finance & Governance
Councillor I Henderson	- Deputy Leader of the Council; Portfolio Holder for Economic Growth, Regeneration & Tourism
Councillor A Baker	- Portfolio Holder for Housing & Planning
Councillor M Barry	- Portfolio Holder for Leisure & Public Realm
Councillor M Bush	- Portfolio Holder for Environment
Councillor P Kotz	- Portfolio Holder for Assets
Councillor G Placey	- Portfolio Holder for Partnerships

**Most Council meetings are open to the public and press. The space for the public and press will be made available on a first come first served basis. Agendas are available to view five working days prior to the meeting date and the Council aims to publish Minutes within five working days of the meeting. Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.**

**This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to 24 months (the Council retains one full year of recordings and the relevant proportion of the current Municipal Year). The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in, the meeting. In addition, the Council is obliged by law to allow members of the public to take photographs, film, audio record and report on the proceedings at public meetings. The Council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.**

**If you have any queries regarding webcasting or the recording of meetings by the public, please contact Ian Ford Email: [iford@tendringdc.gov.uk](mailto:iford@tendringdc.gov.uk) or Telephone on 01255 686584.**

**DATE OF PUBLICATION: THURSDAY, 8 FEBRUARY 2024**

## AGENDA

### **1 Apologies for Absence**

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

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

To confirm as a true record and sign the minutes of the last meeting of the Cabinet held on Friday 26 January 2024.

### **3 Declarations of Interest**

Councillors are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests of Non-Registerable Interests, and the nature of it, in relation to any item on the agenda.

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

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

### **5 Announcements by Cabinet Members**

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

### **6 Matters Referred to the Cabinet by the Council**

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

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

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

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

There are no matters referred to the Cabinet by the Leader of the Council on this occasion.

### **9 Cabinet Members' Items - Report of the Corporate Finance & Governance Portfolio Holder - A.1 - Annual Review of the Council's Constitution (Pages 17 - 70)**

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

### **10 Cabinet Members' Items - Report of the Partnerships Portfolio Holder - A.2 - Determination of a Nomination to Register an Asset of Community Value: The Lion Public House, The Street, Ardleigh, CO7 7LD (Pages 71 - 96)**

To determine whether The Lion Public House in Ardleigh meets the criteria set out in the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012 following its nomination as an Asset of Community Value by an unincorporated body made up of at least 21 residents from different households that are eligible to vote in the required area.

**11 Management Team Items**

There are no items that have been submitted by the Management Team for the Cabinet's determination on this occasion.

**Date of the Next Scheduled Meeting**

*The next scheduled meeting of the Cabinet is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 10.30 am on Tuesday 12 March 2024.*

## **Information for Visitors**

**TOWN HALL**  
**FIRE EVACUATION PROCEDURE**

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

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

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

The assembly point for the Town Hall is in the car park to the left of the building as you are facing it.

Your calmness and assistance is greatly appreciated.

This page is intentionally left blank

---

**MINUTES OF THE MEETING OF THE CABINET,  
HELD ON FRIDAY, 26TH JANUARY, 2024 AT 10.30 AM  
IN THE COMMITTEE ROOM, AT THE TOWN HALL, STATION ROAD, CLACTON-  
ON-SEA, CO15 1SE**

**Present:** Councillors M E Stephenson (Leader of the Council & Portfolio Holder for Corporate Finance and Governance) (Chairman), A P H Baker (Portfolio Holder for Housing & Planning), M Barry (Portfolio Holder for Leisure & Public Realm), M Bush (Portfolio Holder for Environment), P Kotz (Portfolio Holder for Assets) and G R Placey (Portfolio Holder for Partnerships)

**Group Leaders Present by Standing Invitation:** Councillors J B Chapman BEM (Leader of the Independents Group) and P B Honeywood (Deputy Leader of the Conservative Group)

**Also Present:** None

**In Attendance:** Ian Davidson (Chief Executive), Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Damian Williams (Corporate Director (Operations and Delivery)), Lee Heley (Corporate Director (Place & Economy)), Gary Guiver (Director (Planning)), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Anastasia Simpson (Assistant Director (Partnerships)), Tim Clarke (Assistant Director (Housing and Environment)), Andy White (Assistant Director (Building and Public Realm)), Keith Simmons (Head of Democratic Services and Elections & Deputy Monitoring Officer), Ian Ford (Committee Services Manager), William Lodge (Communications Manager) and Bethany Jones (Committee Services Officer)

**68. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors I J Henderson (Deputy Leader of the Council & Portfolio Holder for Economic Growth, Regeneration & Tourism), J D Bray (Leader of the Tendring Residents' Alliance Group), G V Guglielmi (Leader of the Conservative Group), G G I Scott (Leader of the Liberal Democrats Group) and P J Harris (Deputy Leader of the Tendring Residents' Alliance Group).

**69. MINUTES OF THE LAST MEETING**

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

**RESOLVED** that the minutes of the meeting of the Cabinet, held on Friday 15 December 2023, be approved as a correct record and be signed by the Chairman.

**70. DECLARATIONS OF INTEREST**

There were no declarations of interest made by Members at this time.

**71. ANNOUNCEMENTS BY THE LEADER OF THE COUNCIL**

The Leader reported that it had been a busy month since the last Cabinet meeting taken up mostly with budget setting and budget scrutiny at two meetings of the overview and scrutiny committees. In addition, Government officials had visited the District last week to start work with the Council on the Levelling Up Fund projects and that this was likely to take up to three months to complete.

The Leader also referred to the Secretary of State's announcement the previous day on the Local Government Finance Settlement which had promised an extra, large amount of money for local government but not necessarily for District Councils such as TDC.

## **72. ANNOUNCEMENTS BY CABINET MEMBERS**

The Partnerships Portfolio Holder (Councillor Placey) was pleased to announce that the OfSTED report had rated the Career Track service as 'Good'. It was a reflection of all the hard work that the Officers in that Team had put in over the last year together with the dedication of the Apprentices on that scheme. On behalf of the Cabinet she congratulated everyone concerned.

Councillor Placey informed Cabinet that the Council had hosted a very successful STEAM event for nine primary schools on Tuesday that week. It had been supported by the NHS, Essex County Council and the University of Essex as well as by TDC.

Finally, Councillor Placey reported that she had been privileged to attend a meeting of the health and well-being school hubs held at Great Bentley Primary School. Going into their third year the Hubs had worked with 1,526 and their families and, as a result, at least 80% of those children had not subsequently been referred to statutory services. She paid tribute to the initial work carried out on this project by her predecessor, as Portfolio Holder, Councillor Lynda McWilliams and she was happy that the Hubs now covered 33 schools.

## **73. MATTERS REFERRED TO THE CABINET BY THE COUNCIL**

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

## **74. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - REFERENCE FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE - A.1 - SCRUTINY OF THE INITIAL BUDGET PROPOSALS FOR 2024/25**

Cabinet was informed that, in accordance with the requirements of the Budget & Policy Framework Procedure Rules the Resources and Services Overview and Scrutiny Committee ("the Committee") had undertaken its scrutiny of the budget for the Council. Prior to its meeting on 10 January 2024, the members of the Committee, had met informally on 3 January 2024 with the Section 151 Officer and the Head of Democratic Services & Elections. That informal meeting had aided the members of the Committee in developing key lines of inquiry for its formal scrutiny meeting that was duly held on 10 January 2024.

At the Committee's formal meeting on 10 January, it had been reminded that the initial General Fund and the Housing Revenue Account (HRA) Budget proposals for 2024/25 had been considered by Cabinet on 15 December 2023.



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

- 1) Updated General Fund Financial Forecast / Budget 2024/25 – the report considered by Cabinet on 15 December 2023.
- 2) Updated Housing Revenue Account Business Plan and Budget Proposals 2024/25 – the report considered by Cabinet on 15 December 2023.

Following the aforementioned informal meeting of the Committee held on 3 January 2024 a series of written questions had been circulated to Portfolio Holders and their responses had been circulated to the Committee prior to its formal meeting on 10 January 2024. The Minutes of that meeting record those questions and responses in an Appendix.

At the 10 January meeting further supplementary questions had been asked of Cabinet Members and responses provided including, in some cases, a commitment to provide a written response. The following such commitments to written responses being provided were given to the Committee:-

- Cllr. Andy Baker, Portfolio Holder for Housing & Planning - regarding whether the Council would pursue 'joint ventures' (such as 'lease back') as a way of increasing the housing stock.
- Cllr. Andy Baker, Portfolio Holder for Housing & Planning – in relation to how often the 30 year HRA Business Plan will be reviewed.

Those written responses had been duly circulated to the members of the Committee by email on 19 January 2024.

The Resources and Services Overview and Scrutiny Committee had resolved to submit the following recommendations to Cabinet:-

*“That:-*

- (a) Portfolio Holders review the individual cost pressures and cost savings across their respective service areas and explain how they are managing that process;*
- (b) this Committee must be consulted on both the review of the Housing Strategy and on any revised Strategy proposals that come forward before the Cabinet makes any decisions on this matter;*
- (c) a longer term Savings Plan be produced to ensure longer term financial sustainability and that it be submitted to this Committee for scrutiny in the first quarter of 2024/2025;*
- (d) a review be carried out of the Council's preferred service providers/contractors to ensure compliance with the Council's Procurement Procedure Rules; and*
- (e) a review be carried out on whether to introduce a "traffic light" risk management system to manage cost pressures.”*

The Leader of the Council (Councillor M E Stephenson) recorded his thanks to the Resources and Services Overview & Scrutiny Committee for all of their hard work and stated that he was happy to support that Committee's recommendations.

Having duly considered the recommendations submitted to Cabinet by the Resources and Services Overview & Scrutiny Committee:-

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

**RESOLVED** that the recommendations made by the Resources and Services Overview & Scrutiny Committee be welcomed and noted and that it be further noted that the responses of Portfolio Holders thereto will be considered as part of items 11 and 14 of the agenda.

**75. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - REFERENCE FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE - A.2 - REVIEW OF THE COUNCIL'S CURRENT PLANNING ENFORCEMENT ARRANGEMENTS**

It was reported that the Resources and Services Overview and Scrutiny Committee ("the Committee") at its meeting held on 10 January 2024, had considered an interim report from its Council Enforcement Arrangements Task and Finish Group which had been submitted following that Group's conclusion of the element of its enquiry concerning Planning Enforcement.

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

- 1) the Head of Democratic Services & Elections' covering report; and
- 2) the Interim Report of the Council Enforcement Arrangements Task & Finish Group following the element of its enquiry concerning Planning Enforcement dated 31 October 2023.

Those reports were before Cabinet attached as Appendices 1 and 2 respectively to item A.2 of the Reference Report from the Resources and Services Overview and Scrutiny Committee.

At that meeting on 10 January 2024 the Committee had resolved to submit the following recommendations to Cabinet:-

*"That:-*

- (1) the pilot monthly update list on planning enforcement cases (showing Ward, location, alleged planning breach and reference number) be rolled out to all Councillors from the start of January 2024 and that, in the list, those cases relating to the same premises be cross referenced or be shown sequentially and allegations of breaches around the creation of Houses in Multiple Occupation be clearly identified;*
- (2) moves be made to utilise the functionality built into the Planning computer software system, Uniform/Public Access, in order to provide up to date details on planning enforcement cases through the website. This use should be timed to commence from 1 April 2024 for new cases, that existing live cases be added as updates are made to those cases during 2024/25 and that in March 2025 a report be provided to*

---

*Councillors of those cases not available at that point on the website through the stated software packages;*

- (3) *the following be instigated in relation to arrangements across the Council to support joined up and effective enforcement:*
- a. *The pilot arrangements for action logs being created for meetings of the Operational Enforcement Group (that are associated with matters discussed at meetings of that Group (and are then monitored away from meetings of the Operational Enforcement Group)) be implemented fully going forward. These action logs would also include relevant responses concerning information held by other service areas of the Council about premises that are referenced to the Group by any one of the service areas who are represented on the Group (including 'NIL' responses if appropriate).*
  - b. *A mechanism of alerting service areas who are represented on the Operational Enforcement Group of live enforcement cases in each of the other service areas on that Group, an ongoing basis, be developed and implemented so as to improve the knowledge flow in the Council of allegations and provide for appropriate enforcement and timely interventions to be made to secure the best interests of the Council, its residents and businesses with a view to raising public confidence in the Council's competence to secure those best interests and deliver 'smarter' working across service areas.*
  - c. *A protocol be developed setting out the corporate expectations on individual service areas to identify the types of information that service areas hold, and examples of where that information could reasonably be expected to be utilised to support enforcement action or service delivery in that service area or another service area. By way of example, Council Tax Collection could usefully benefit from information around properties being empty for a year as the Council Tax payer may then be subjected to an empty property premium being applied to the Council Tax bill for the property. Another example would be around information that the Licensing Team were to revoke a Licence held by a Business and the potential need for swift action to recover unpaid Business Rates.*
- (4) *a mechanism for reviewing activity in respect of planning enforcement cases which have been live for over a year be developed and maintained with a view to avoiding the status quo continuing and resulting in an ever reducing harm assessment in respect of those cases to the point that the infringement/non-compliance becomes permitted by default/legal action is not an option as it is then out of time. The intention of the review is to ensure that issues are not missed and appropriate action is taken by the Council; and*
- (5) *as part of good and reasoned decision making, a policy statement be developed or reviewed on the use of 'public interest' within Planning Enforcement as the reason for either taking or not taking particular enforcement action. The policy statement is to set out the considerations officers must take account of. In each case where 'public interest' is to be utilised to support a planning enforcement decision, an assessment of the competing elements of the public interest in taking or not taking that particular enforcement action are to be set out in writing with an indication as to why taking or not taking action outweighs the other public interest and that assessment is to be endorsed by a more senior officer."*

---

Cabinet had before it the following comments submitted by the Portfolio Holder for Housing and Planning:-

- (1) *“Response: A weekly list of enforcement cases developed by Officers has been piloted with Members of the Task & Finish Group and this has been well received. I am happy to instruct the Director of Planning to have this list circulated to all Ward Councillors from now on. I hope it will be a valuable tool for Members in understanding some of the issues being investigated in their areas.*
- (2) *Response: Whilst, due to the sensitive nature of some planning enforcement issues, it might not be possible to put all information in the public domain; having a basic level of information on the website is a good idea – enabling interested residents to see for themselves the latest position with regards to local cases. I question the specific purpose of the suggested March 2025 report, given the amount of data that will be provided as matter of course through the regular list to Ward Members, but am happy to explore with Officers the best way of reporting back to Members any cases not, for whatever reason, listed for public view by that point.*
- (3) *Response: I completely support looking at measures to improve joined up and effective enforcement across the Council’s services – so long as we comply with necessary data protection rules. I am conscious that our Officers already work well together across the services both through operational enforcement group and on a day-to-day basis on cases where there could be multiple issues, but there is always room for improvement – particularly when it comes to raising public confidence in the joined-up approach. The specific suggestions put forward by the Committee are noted and will require further liaison with Officers and fellow Cabinet Members to explore the mechanics around introducing any specific measures.*
- (4) *Response: With a properly staffed Planning Enforcement Team now in place and the efforts that have gone into cutting in half the number of live enforcement cases on our files, the Council is now in a good position to take appropriate action in regard to both new cases and older cases with a longer history. I will explore with Officers the need for any additional mechanisms or safeguards in respect of cases that have been live for an extended period and will action accordingly having taken their advice.*
- (5) *Response: The Council already has its Planning Enforcement Policy and associated Harm Risk Assessment which does provide an explanation, in line with government guidance, how action is considered with regard to the wider public interest. As a living document that can be updated by the Planning Committee as and when required, I will explore with Officers whether any further improvements or explanation can be incorporated at a logical time for review. Officers already take a variety of factors into account in exploring the right course of action for different cases and these factors will differ from case to case, so having a list of considerations that Officers ‘must’ take account of will need careful consideration. The Planning Enforcement Team is however already developing a means by which a short report is completed on the closure of any case, which will comment on public interest considerations and referral to other services as appropriate; I hope to be able to give an update on that in due course.”*

---

Having duly considered the recommendations submitted to Cabinet by the Resources and Services Overview & Scrutiny Committee, together with the response of the Housing and Planning Portfolio Holder thereto:-

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

**RESOLVED** that the recommendations made by the Resources and Services Overview & Scrutiny Committee be welcomed and noted and that the response of the Portfolio Holder for Housing and Planning thereto be endorsed.

**76. LEADER OF THE COUNCIL'S ITEMS**

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

**77. CABINET MEMBERS' ITEMS - REPORT OF THE ECONOMIC GROWTH, REGENERATION & TOURISM PORTFOLIO HOLDER - A.3 - CLACTON AIR SHOW 2023**

Cabinet considered a report of the Economic Growth, Regeneration & Tourism Portfolio Holder (A.3), which set out options for the future of the Clacton Air Show based on a review requested as part of the Council's Budget Setting Process for 2023/24. As such, this Clacton Air Show Review set out the key purpose, impact and benefits to running the Air Show in future years based on the outcomes experienced during the 2023 event.

Members were aware that the Clacton Air Show had national recognition and was one of the largest events in Essex; it was well supported by local and national media and all of the emergency services. Attracting thousands of visitors to the District, the Clacton Air Show was a local event that residents felt proud of; with the recent Corporate Plan Consultation (2023) highlighting that the: *'air show is greatly loved by residents in the area'* and that a further 15.9% of people responding positively had stated that they would consider volunteering at the Clacton Air Show. In addition, feedback from visitors on social media and throughout the event, highlighted the positive excitement and energy that the event brought to the District.

The Clacton Air Show generated a significant amount of income to businesses within the local area. The Economic Impact report contained within Appendix B to the Portfolio Holder's report highlighted that an estimated 250,000 attendees came to the event over the two-day period and contributed a net value of approximately £12,155,000 to the area with 166 jobs sustained for the duration of the show.

Cabinet was informed that the Clacton Air Show Review outlined why Tendring District Council hosted the Air Show and evidenced its impact on local tourism and to the wider economy. It aimed to enable a balanced decision to be taken on the future of the event in respect of the significant financial challenges faced by the Council. The review also included a comprehensive strengths, weaknesses, opportunities and threats analysis and provided an opportunity to review areas of development and potential for growth.

It was reported that the total cost to run the Clacton Air Show in 2023 had been £192,272, this included a budgeted subsidy of £130,330 and income generation of £65,718. A full financial breakdown had been included within the review, this incorporated the total costs of running the Clacton Air Show, impacts to the Council, and

income generated. Alongside the budgeted financial subsidy for the Clacton Air Show, there were additional 'in-kind' costs incurred by the Council including staffing during the event and costs associated with Engineering and back office support.

Cabinet was made aware that the following options for the future of the Clacton Air Show had been considered:-

Option 1 – Air Show to be reviewed and agreed annually. Historically the decision to run the Air Show had been made annually following a review of the previous year's event. There was the option to continue making this decision on a yearly basis, which would enable current factors to be taken into consideration. The 2024 Clacton Airshow had been announced in the press, though a formal decision would need to be published to accompany this. This option would require an additional amount of up to £60,000 to be identified on an annual basis.

Option 2 – commitment to Clacton Air Show for 2024 – 2027. A four year commitment to Clacton Air Show with a full flight schedule for 2024-2027 would enable the Operational Tourism Team to explore economies of scale including multi-year core service procurement (including First Aid and Security), attracting external funding, exploring sponsorship opportunities including the potential to attract a headline sponsor and engage with specialist organisations to procure additional sponsors, digital enhancement, and explore Clacton Air Show official merchandise. An Annual Review would be carried out to provide a report on the Air Show and highlight any key decisions required for future events. This option would require an additional amount of up to £60,000 to be identified for each of the four years set out in this option.

Option 3 – to cease running the Clacton Air Show. There was the option to cease running the Clacton Air Show, however as the 2024 Clacton Air Show had been publicly announced this would be a reputational risk to the Council. Due to the significant economic and social impact that the event had on tourism in Tendring, Officers would need adequate time to consider what events could replace an event of this scale and impact.

Having duly considered and weighed the advantages and disadvantages of the three potential courses of action:-

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

**RESOLVED** that Cabinet –

- (a) formally agrees, subject to funding being allocated, to support the continuation of delivering the Clacton Air Show for the years 2024-2027, with annual reviews to be undertaken; and
- (b) requests Officers to explore sponsorship opportunities including engaging specialist resource support.

78. **CABINET MEMBERS' ITEMS - REPORT OF THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER - A.4 - UPDATED GENERAL FUND FINANCIAL FORECAST / BUDGET 2024/25**

---

Cabinet considered a report of the Corporate Finance & Governance Portfolio Holder (A.4), which sought its approval of:

- the latest financial forecast / budget proposals and council tax amount for 2024/25 for recommending to Full Council; and
- a delegation to the Portfolio Holder for Corporate Finance and Governance to agree the detailed budget proposals and formal draft resolutions / 'technical' appendices required for Full Council on 13 February 2024.

It was reported that, since the Cabinet's last meeting on 15 December 2023, additional changes had been required, primarily as a result of new or revised information becoming available which included the Government's Financial Settlement announcements. The changes required had resulted in a reduced deficit for 2024/25 of £1.715m, a change of £0.960m compared to the £2.674m deficit presented to Cabinet in December. Appendix A to the Portfolio Holder's report, along with comments set out later on in that report, provided further details across the various lines of the forecast, with the most significant change being the receipt of the revenue support grant and other associated funding from the Government.

The most up to date savings schedule and cost pressure summary were set out in Appendices B and C respectively to the Portfolio Holder's report.

Cabinet was advised that in order to enable the detailed estimates along with the various resolutions / 'technical' appendices required for Full Council's meeting in February 2024 to be finalised, a delegation to the Portfolio Holder for Corporate Finance and Governance had been included within the Portfolio Holder's recommendations. A further delegation had also been included in order to enable a business rate relief policy, associated with the continuation of a mandatory Government relief scheme in 2024/25, to be finalised in advance of bills being printed and sent out before the start of the 2024/25 financial year.

Members were reminded that the budget position set out in the report would change as further adjustments were required as part of finalising the budget for presenting to Council on 13 February 2024, with a further delegation included in the Portfolio Holder's recommendations to reflect this.

Cabinet was informed that, based on the final proposed budget for 2024/25, the Council Tax requirement was £10.048m, which was based on a 2.99% (£5.62) increase for this Council's services, with an annual Band D council tax of £193.73. Those figures would remain unchanged and therefore would be reflected in the various budget resolutions / 'technical' appendices proposed to be delegated to the Portfolio Holder for Corporate Finance and Governance.

The Council's annual budget and the district and parish elements of the council tax would be considered by Full Council on 13 February 2024 with approval of the 'full' council tax levy for the year being considered by the Human Resources and Council Tax Committee later on in February 2024.

Members were reminded that, as set out in earlier reports, despite the challenging financial and economic environment, confidence in the long term approach to the forecast remained, which was supported by the Forecast Risk Fund. The Council had

maintained a prudent and sustainable approach to its long term plan, which provided the 'platform' against which it could continue to consider its financial position in response to the very challenging economic outlook it faced.

As highlighted in the Cabinet's December 2023 report, both Appendix B and Appendix C included related in-year adjustments for 2023/24. Those would be subject to further review before being finalised for inclusion in the Quarter 3 Financial Performance Report that would be presented to Cabinet later on in the 2023/24 financial year.

The Leader of the Council (Councillor M E Stephenson) read out the following statement:-

*"The forecast has been subject to further updates since Cabinet in December, which are set out in the report. Just before Christmas we received the provisional draft Local Government Finance Settlement, which included over £1m of additional funding for us. A note of caution is that we cannot take this for granted and it is unlikely that will continue for any meaningful length of time. In following on from previous commitments, the budget now also reflects a percentage increase in the LCTS grant paid to Town and Parish Councils – the increase reflects our own revenue support grant increase.*

*As we set out in the report in December, work remained on-going in terms of potential further cost pressures. An additional £229k of cost pressures have been included in the budget following this review. This includes making money available to support the Clacton Air Show, which hopefully everyone is pleased to see us continue. There are a few budget adjustments that remain outstanding that will be finalised in readiness for reporting to Full Council on 13 February.*

*In terms of the Full Council meeting in February, we will be recommending a Band D Council Tax amount of £193.73 in 2024/25, a 2.99% increase or just over 50p a day, which I am sure we all agree continues to represent excellent value for money for our residents.*

*As set out in the report, we face many more cost pressures which I will be looking at with my Portfolio Holders and Officers over the coming weeks and separate decisions will be made as necessary.*

*Some of you will have heard me say that we have delivered a balanced budget but not a fully funded budget. This will be the case until we identify the necessary savings to enable us to move away from reliance on the Forecast Risk Fund. In terms of savings, I know that Members are keen to see what we are planning. As you know, we are committed to openness and transparency and we will share options and plans as soon as we can.*

*The additional Government funding in 2024/25 has provided additional flexibility as it has reduced the call on the Forecast Risk Fund in 2024/25, but we acknowledge that we need to use the time and this flexibility wisely and make sure we get ahead of the savings targets as soon as we can. We can't shy away from the challenge ahead and the support and input from all Members will be important to deliver a financial sustainable future for the Council.*

*The Chief Executive and I did provide a response to the Provisional Local Government Finance Settlement. We asked the Government for extra cash and increased flexibilities,*



*with the latter point also picking up a discussion we had at the recent RSO&S Committee about lobbying Government whenever we can – for example when it comes to setting our fees and charges.*

*We will also provide a copy of our response to our local MPs. I note recent headlines in the press about a number of Conservative MPs demanding extra funding for Councils. Hopefully, together we can extract some additional cash out of the Government, but I somehow doubt we will get any more than they have already announced.”*

The Chief Executive also updated the Cabinet in that it now appeared that the Government would potentially require some of the additional funding to be performance related. Therefore, Tendring District Council would have to make a judgement as to whether the income from the additional funding outweighed the cost of administration et cetera. He also confirmed that both of the District’s MPs had been briefed on the Council’s budget position and on the finance submission to the Government by the District Councils’ Network.

In order to allow the Cabinet’s General Fund budget and Council Tax proposals for 2024/25 to be submitted to the budget and council tax setting meeting of the Full Council on 13 February 2024:-

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

**RESOLVED** that Cabinet –

- (a) approves the updated financial forecast, as set out in Appendix A to item A.4 of the report of the Corporate Finance & Governance Portfolio Holder, along with the savings and cost pressures set out in Appendices B and C respectively that form the firm proposals for the 2024/25 budget and recommends to Full Council a Band D Council Tax for district services of £193.73 for 2024/25 (a £2.99% increase), along with the associated council tax requirement of £10.048m.
- (b) authorises the Portfolio Holder for Corporate Finance and Governance, to agree the ‘technical’ appendices and resolutions for the budget proposals for recommending to Full Council on 13 February 2024;
- (c) authorises the Chief Executive, in consultation with the Corporate Finance & Governance Portfolio Holder, to report directly to Council in respect of the formal resolutions necessary to implement the Executive’s budget proposals including any further amendments emerging from additional information becoming available and/or notifications received from the Government; and
- (d) authorises the Portfolio Holder for Corporate Finance and Governance, to agree / adopt a Retail, Hospitality and Leisure mandatory business rate relief scheme for 2024/25.

**79. CABINET MEMBERS' ITEMS - REPORT OF THE HOUSING & PLANNING PORTFOLIO HOLDER - A.5 - CONSIDERATION AND ADOPTION OF HOUSING POLICES ON TEMPORARY ACCOMMODATION, DEPOSIT GUARANTEE AND HOMELESSNESS PREVENTION**

---

Cabinet considered a report of the Housing & Planning Portfolio Holder (A.5), which sought its approval and adoption of three new/revised housing policies.

It was reported that the policies formalised some of the extensive work that was already undertaken by the Housing Solutions service in assisting those who were homeless or threatened with homelessness. The adoption of those policies would ensure that the Council had a clear framework in place in respect of activities associated with the prevention and relief of homelessness. The Council, along with other local housing authorities had experienced a year on year increase in homelessness presentations for several years. The current cost of living crisis meant that trend was unlikely to be reversed in the immediate future. The increase in homelessness presentations placed increasing pressure on the Housing Solutions Team as they sought to provide support to residents at what was likely to be one of the most difficult periods in their life. Sourcing further, suitable temporary accommodation for those that needed it was becoming more challenging, especially as the Council aimed not to place individuals outside of the District unless there were no other options.

Members were informed that the Temporary Accommodation Policy set out how temporary accommodation would be offered, the terms under which it was offered and the nature of the accommodation that would be made available. This policy was especially relevant as the Council drew closer to bringing Spendells House, Walton back into use as a dedicated temporary accommodation scheme.

Cabinet was made aware that the Deposit Guarantee Policy ensured that the Council had control over the provision of rent deposits for those persons who it assisted into privately rented accommodation. Spending on rent deposits had grown significantly over recent years and a focus on offering a deposit guarantee did not incur the same level of expenditure and would contribute to the operation of a more efficient homelessness service, making better use of the Homelessness Prevention Grant.

Cabinet was advised that Homelessness Prevention was the approach that should become the Council's priority and that this dedicated policy set out the options available and how the Council would use them to the best effect to support residents of the District when they were threatened with homelessness.

In order to ensure that the policies were appropriately adopted, in accordance with the Council's Constitution:-

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

**RESOLVED** that Cabinet –

(a) formally adopts the following policies:

- (i) Temporary Accommodation Policy;
- (ii) Deposit Guarantee Policy; and
- (iii) Homelessness Prevention Policy.

(b) authorises their direct implementation; and

- (c) authorises the Corporate Director (Operations and Delivery) to make future updates or amendments to each policy in consultation with the Portfolio Holder with responsibility for Housing.

**80. CABINET MEMBERS' ITEMS - JOINT REPORT OF THE PORTFOLIO HOLDERS FOR LEISURE & PUBLIC REALM; ASSETS; ECONOMIC GROWTH, REGENERATION & TOURISM; AND PARTNERSHIPS - A.6 - ADOPTION OF POLICY FOR EVENTS ON COUNCIL LAND**

Cabinet considered a joint report of the Portfolio Holders for Leisure & Public Realm; Assets; Economic Growth, Regeneration & Tourism; and Partnerships (A.6), which sought its adoption of a policy in respect of applications for events to be held on Tendring District Council owned land.

It was felt that the policy, if adopted, would provide effective regulation and enforcement for events that would improve services to the community, promoting businesses and tourism. The policy provided guidance to support the Council to manage the difficult balance needed to maximise event benefits whilst minimising the challenges faced in holding them. Effective planning and management of events using an agreed policy framework would:-

- maximise safety for those working and attending events;
- ensure the promotion of the Licensing Objectives;
- ensure that events protect and enhance the environment, meet community needs and promote economic growth;
- provide a framework for the application process to seek approval for outdoor events;
- ensure that pre-event consultation takes place;
- maximise the opportunity for increased spending that would make a positive contribution to the local economy;
- minimises any negative impact of events to the residents and businesses of the District;
- set out a scale of charges for events; and
- support the existing and future events programme(s) with events throughout the year to maximise the positive impact of events to Tendring's economy.

Fully recognising that the adoption of a policy for events on council land would improve administration and efficiency associated with applications for events, provide a basis for setting fees and charges, reduce complaints concerning inconsistency of decisions made and increase clarity around the roles and responsibilities of both applicant and administrator:-

It was moved by Councillor Barry, seconded by Councillor Kotz and:-

**RESOLVED** that Cabinet –

- (a) notes the contents of the joint report;
- (b) formally adopts the Tendring District Council Open Space Event Policy for Council owned land, as set out in the Appendix to the joint report, and authorises it to take immediate effect (subject to the call-in process); and

- (c) authorises the Assistant Director (Building and Public Realm) to update the policy with any future legislative or best practice changes, in consultation with the relevant Portfolio Holders.

81. **CABINET MEMBERS' ITEMS - JOINT REPORT OF THE HOUSING AND PLANNING PORTFOLIO HOLDER AND THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER - A.7 - UPDATED HOUSING REVENUE ACCOUNT BUSINESS PLAN AND BUDGET PROPOSALS 2024/25**

Cabinet considered a joint report of the Housing & Planning Portfolio Holder and the Corporate Finance & Governance Portfolio Holder (A.7), which sought its approval of an updated Housing Revenue Account (HRA) Business Plan for 2023/24 and 2024/25, along with final HRA budget proposals for 2024/25 (including fees and charges, capital programme and movement in HRA balances) for recommending to the Full Council meeting on 13 February 2024.

It was reported that, since the Cabinet's last meeting on 15 December 2023, only two amendments to the proposed budget for 2024/25 had been required with 2023/24 remaining unchanged. The changes required in 2024/25 had resulted in the overall surplus increasing to £0.300m a change of £0.120m compared to the position reported to Cabinet in December 2023. Appendix A to the joint report set out the updated Business Plan, in terms of 2023/24 and 2024/25, with Appendix B thereto setting out the proposed detailed budgets that reflected that latest position.

Cabinet was informed that it was proposed to fund the estimated deficit for 2023/24 by calling money from HRA balances as an alternative to reducing expenditure, which was partly offset by the proposal to transfer the estimated surplus in 2024/25 to the same reserve. This position remained subject to further adjustments that were likely to be required as part of finalising the budget for presenting to Council on 13 February 2024, with a delegation included in the Portfolio Holders' recommendations to respond to that possibility.

Members were advised that Appendix C set out the proposed fees and charges for 2024/25, which broadly reflected inflationary uplifts of 7.7% where relevant or other inflationary changes to better reflect the cost of providing the associated service. The proposed HRA Capital Programme for 2024/25 was set out in Appendix D, which reflected the Council's commitment to maintain the necessary investment in the existing homes of tenants.

Cabinet was made aware that the average weekly rent remained unchanged to the figure reported in December at £100.89, an increase of 7.7% over the comparable figure of £93.68 for 2023/24. The HRA general balance was forecast to total £3.651m at the end of 2024/25, which retained a strong financial position against which the associated HRA 30 year Business Plan could continue to be delivered / developed. The HRA balances, together with the proposed rent increase for 2024/25 were important elements of delivering a sustainable HRA in the longer term.

It was also reported that HRA debt continued to reduce year on year as principal was repaid with a total debt position at the end of 2024/25 forecast to be £32.535m (A reduction of £1.414m compared with the figure at the end of 2023/24).

Cabinet was reminded that the Tenant's Panel played an important role in developing the HRA Business Plan and budget proposals and that it was proposed to consult with them shortly, with any comments planned to be reported to Members either ahead of, or directly at, the Full Council meeting on 13 February 2024.

The Leader of the Council (Councillor M E Stephenson) read out the following statement:-

*"Only a couple of changes have been made to the budget since our meeting in December, which are set out in the report. The proposed rent increase remains the same at 7.7%, which helps us balance cost increases etc. within the HRA. Similarly to the General Fund position, there are a few budget adjustments that remain outstanding that will be finalised in readiness for reporting to Full Council on 13 February. Along with updated Business Plan figures, the report also sets out the detailed budget, capital programme and reserves. Based on the latest position, it is proposed to contribute £300k to HRA balances which offsets the planned use of the same reserve in 2023/24.*

*I understand that the Tenants' Panel is meeting in early February and I look forward to their comments which we will make available to Members ahead of the Full council meeting on 13 February."*

Having duly considered the most up to date HRA Business Plan which set out a revised position for 2023/24 along with the proposed HRA budget for 2024/25, and in order to enable the associated recommendations to be presented to Full Council on 13 February 2024:-

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

**RESOLVED** that Cabinet -

- (a) approves the updated HRA Business Plan, which includes the proposed position for 2023/24 and 2024/25, as set out in Appendix A to the joint report;
- (b) authorises the Assistant Director (Finance & IT) to adjust the forecast / budget, including the use of reserves, in consultation with the Portfolio for Housing and Planning and the Portfolio Holder for Corporate Finance and Governance if the financial position changes prior to Council considering the HRA budget on 13 February 2024; and
- (c) recommends to Full Council a 7.7% increase in dwelling rents in 2024/25, along with the detailed HRA Budget proposals for 2024/25, as set out in Appendices B to E to the joint Portfolio Holder report (A.7).

**82. MANAGEMENT TEAM ITEMS**

There were no items submitted by the Council's Management Team on this occasion.

The Meeting was declared closed at 11.08 am

**Chairman**

This page is intentionally left blank

## CABINET

16 FEBRUARY 2024

### REPORT OF THE CORPORATE FINANCE & GOVERNANCE PORTFOLIO HOLDER

#### A.1 ANNUAL REVIEW OF THE COUNCIL'S CONSTITUTION

##### PART 1 – KEY INFORMATION

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

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

The main proposals cover a number of miscellaneous amendments to the Articles of the Constitution, Access to Information Procedure Rules, Overview and Scrutiny Procedure Rules, the Financial Procedure Rules, the Webcasting Protocol, the Members' Referral Scheme for Planning Applications (Planning Code & Protocol), the Members' Allowances Scheme, the Functions and Delegated Powers of Portfolio Holders, Committees and Proper Officers and Officer Employment Procedure Rules, in order to ensure the Council's Constitution remains effective, efficient and consistent at an operational level. The key changes to each of these documents are highlighted within the body of this Report.

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

The Review of the Constitution Portfolio Holder Working Party (CRWP)'s membership included the Portfolio Holder (Councillor M E Stephenson) as well as Councillors Guglielmi, I J Henderson, P B Honeywood, Talbot and Wiggins. The CRWP met on 13 December 2023 and on 15 & 18 January 2024.

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

###### **RECOMMENDATION**

**1. That Cabinet RECOMMENDS TO COUNCIL that:**

- (a) the Council's Constitution be amended to reflect the proposed changes as set out in Appendices A to K and M attached hereto this report;**
- (b) Council notes and endorses that a comprehensive review of the Constitution will be undertaken and that it is likely to take place in 2025-2026;**
- (c) in accordance with the outcome of consultation with Members, the commencement time of meetings of the Planning Committee should be amended to 5.00 p.m. and that if a Ward Member / referrer for a planning application so requests, the Officers, in consultation with the Chairman of the Committee, should make every effort to list that particular planning application later on in the Planning Committee's agenda; and**

- (d) Council notes, welcomes and endorses that the Monitoring Officer, in consultation with the Corporate Finance & Governance Portfolio Holder, intends to exercise her delegated powers and make amendments to the following part of the Council's Constitution:-**

**Article 10 (Community Consultation and Participation) - Table 2 will be updated.**

**2. That Cabinet -**

- (a) notes that the Leader of the Council will exercise his delegated power (as set out in Schedule 3 (Responsibility for Executive Functions) of Part 3 of the Council's Constitution and specifically principle 1(ii) of Section 3 (General Principles regarding Decision Making by the Cabinet – Part 3.27) to approve the proposed change to the delegated powers of the Corporate Finance & Governance Portfolio Holder, as set out in Appendix L attached hereto this report;**
- (b) endorses that a comprehensive review of the Constitution, including its formatting etc. will be undertaken and that it is likely to take place in 2025-2026;**
- (c) notes that the Leader of the Council will further investigate whether to recommend, in due course, that the public speaking scheme for the Planning Committee should be amended to include provision for the relevant County Division Member to speak on planning applications before that Committee;**
- (d) notes that the Leader of the Council has undertaken to consult the Assistant Director (Partnerships) and the Head of People on the matters raised by the Working Party in relation to the composition of the Human Resources Sub-Committee Panel, which is the body that forms part of the recruitment process for the appointment of Senior Officers (as defined in Paragraph 3 of Part 11 of Schedule 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended)) before deciding whether he wishes to make any recommendations to Cabinet on this matter;**
- (e) notes, welcomes and endorses that the Monitoring Officer intends to review the terms of reference and delegated powers of the Human Resources and Council Tax Committee and its sub-committee which would look, in particular, at the relevant Human Resources policies and the model procedures for an Appeals Committee for the dismissal of the statutory and chief officers;**
- (f) notes, welcomes and endorses that the Monitoring Officer, in consultation with the Corporate Finance & Governance Portfolio Holder, intends to exercise her delegated powers and make amendments to the following part of the Council's Constitution:-**

**Article 10 (Community Consultation and Participation) - Table 2 will be updated**

- (g) notes, welcomes and endorses that the Monitoring Officer intends to exercise her delegated powers and make amendments to the following parts of the Council's Constitution:-**

**Article 12 (Officers) – Section 12.01 (b) – Functions and Areas of Responsibility will be updated;**

**Leisure & Public Realm Portfolio Holder responsibilities - correction of wrong**



**Assistant Director in relation to beaches/beach huts;**

**Procurement Procedure Rule 1.1 - change reference to “PING” to read “Council’s Intranet”; and**

**Link to Terms of Reference of Committees etc. to be included on the relevant page on TDC website.**

### **REASON(S) FOR THE RECOMMENDATION(S)**

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

### **ALTERNATIVE OPTIONS CONSIDERED**

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

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

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

### **OUTCOME OF CONSULTATION AND ENGAGEMENT**

The outcome of the annual review of the Constitution by the Review of the Constitution Portfolio Holder Working Party is reported elsewhere in this report. During the review members of the working Party consulted, as appropriate, the members of their respective political groups. All Members were consulted as to whether to change the commencement time of meetings of the Planning Committee. In addition, the members of the planning Committee were consulted as to the proposed changes to the Planning Committee’s scheme of delegation and also the proposed changes to the Members’ Referral Scheme for Planning Applications.

### **LEGAL REQUIREMENTS (including legislation & constitutional powers)**

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

<b>X</b>	<b>The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:</b>
<p>In accordance with Section 37 of the Local Government Act 2000, as amended, a local authority operating executive arrangements must prepare and keep up to date a document which contains a copy of the authority's standing orders for the time being and such other information as the authority considers appropriate.</p> <p>Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, sets out functions which must not be the responsibility of the Executive and therefore rests with Council or its committees. The power to make amendments to the standing orders and the Constitution rests with full Council.</p> <p>Article 15 of the Council's Constitution provides that changes to the Constitution are approved by Full Council after receiving a recommendation from Cabinet following consideration of a proposal from the Monitoring Officer and a recommendation via the Portfolio Holder with responsibility for corporate governance. Article 15 also provides authority to the Monitoring Officer to make minor changes to the Constitution arising from changes to the organisational structure of the Council.</p> <p>Article 12 of the Constitution provides that the Council's Monitoring Officer will ensure the Constitution is up to date. This function takes into account legislative requirements and best practice.</p> <p>The Local Authorities (Standing Orders) (England) Regulations 2001/3384 require the District Council which is operating executive arrangements to have standing orders relating to its staff which include the provisions set out in Schedule 1 and must have standing orders for regulating its proceedings and business which include the provisions set out in Schedule 2 (or provisions to the like effect). The standing orders must be the appropriate ones for the particular form that the executive takes (as set out in different Parts of Schedules 1 and 2). The Human Resources Sub-Committee Terms of Reference have previously been updated to reflect those roles covered by the Regulations however, the Officer Employment Procedure Rules (within Part 5) require amendment. These changes have been made and shown in <b>RED</b> within <b>Appendix M</b>.</p> <p>The Section 151 and Monitoring Officers have discussed and agreed that any delegation in respect of carry forwards, referred to in <b>Appendix L</b>, should be exercised in accordance with principles established by Cabinet in the budget annual out-turn report.</p>	
<b>FINANCE AND OTHER RESOURCE IMPLICATIONS</b>	
<p><b>Risk</b></p> <p>Providing clarity through clearer and consistent procedure rules contained within the Constitution prevents confusion and different interpretation and enhances the Council's overall governance arrangements.</p>	
<b>X</b>	<b>The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:</b>
<p>The Section 151 Officer provided feedback on some of the proposed amendments through the review.</p>	
<b>USE OF RESOURCES AND VALUE FOR MONEY</b>	
<p>The following are submitted in respect of the indicated use of resources and value for money</p>	

indicators:	
A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	N/A
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	N/A
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	N/A
<b>MILESTONES AND DELIVERY</b>	
Annual review of the Constitution carried out by the Review of the Constitution Portfolio Holder Working Party – December 2023 and January 2024.	
Submission of Corporate Finance & Governance Portfolio Holder’s recommendations to formal Cabinet meeting – 16 February 2024.	
Submission of Cabinet’s recommendations to Full Council for approval and adoption – 19 March 2024.	
Implementation of approved changes to the Constitution (where they do not have an immediate effect) – from commencement of the 2024/2025 Municipal Year.	
<b>ASSOCIATED RISKS AND MITIGATION</b>	
Not implementing the amendments to the Constitution will negatively impact the Council’s governance arrangements.	
<b>EQUALITY IMPLICATIONS</b>	
The purpose of the Constitution is to:	
<ol style="list-style-type: none"> <li>1 Provide key elements of the Council’s overall governance arrangements;</li> <li>2 Enable decisions to be taken efficiently and effectively;</li> <li>3 Create an effective means of holding decision-makers to public account;</li> <li>4 Enable the Council to provide clear leadership to the community, working in partnership with the local community, businesses and other organisations for the long term well-being of the District;</li> <li>5 Support the involvement of the local community in the process of local authority decision making;</li> <li>6 Ensure that no one will review, or scrutinise, a decision in which they were directly involved;</li> <li>7 Help Councillors represent their residents more effectively;</li> <li>8 Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for their decisions; and</li> <li>9 Provide the framework and structure in which cost effective quality services to the community are delivered.</li> </ol>	
<b>SOCIAL VALUE CONSIDERATIONS</b>	
None	
<b>IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2030</b>	
There are no direct implications.	
<b>OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS</b>	

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

Crime and Disorder	None
Health Inequalities	None
Area or Ward affected	None directly.

### PART 3 – SUPPORTING INFORMATION

#### BACKGROUND

The CRWP reviewed various areas of the Constitution and the following changes are recommended (please note that any references to Part numbers relate to the Constitution prior to any amendments now submitted):

#### 1. **Article 6 – Overview and Scrutiny Function (Part 2): (Part 2.13 to 2.14)**

Article 6.02 (Community Leadership Overview & Scrutiny Committee & Resources and Services Overview & Scrutiny Committee: Terms of Reference)

In order to clarify that each Overview and Scrutiny Committee will scrutinize/review the parts of the Council's Budget that are relevant to that Committee's terms of reference.

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

#### 2. **Licensing and Registration Committee: Terms of Reference and Delegated Powers**

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

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

#### 3. **Planning Committee: Terms of Reference and Delegated Powers**

The Working Party considered and endorsed the proposed amendments to the terms of reference and delegated powers of the Planning Committee following a review by the Head of Planning & Building Control and put forward additional changes in relation to, inter alia,:-

- (i) a delegated authority for the Director (Planning), in consultation with the Chairman of the Planning Committee, to extend the time for the completion of a Section 106 Agreement for two further periods of six months at which point it would need to return to the Planning Committee for a decision as to whether to further extend the time or instead to now refuse planning permission on the grounds that the Section 106 Agreement had not been completed; and
- (ii) allowing a degree of flexibility around the 35 day cut-off date to permit a late call-in if a Ward Member suddenly becomes aware of an issue relating to that planning application.

*The proposed changes to the terms of reference and delegated powers of the Planning*

Committee are shown in **RED** in **Appendix C**.

#### **4. Standards Committee: Terms of Reference and Delegated Powers**

The Working Party considered and endorsed the proposed amendment to delegation number 3 under Proceedings (Part 3.25) in order to make it clear that this was in accordance with the Hearings Procedure.

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

#### **5. Proper Officer Delegated Powers**

The Working Party considered and endorsed the proposed amendments to Part 3, Schedule 4 – Proper Officers (Part 3.48 & 3.49) in order to take account of the appointment of a Deputy Electoral Registration Officer for the purposes of reviews and Voter ID Certificates et cetera.

*The proposed changes to the delegated powers of Proper Officers are shown in **RED** in **Appendix E**.*

#### **6. Access to Information Procedure Rules (Part 5)**

The Working Party considered and endorsed the proposed amendments to Access to Information Procedure Rules 10, 11, 14 and 15. The proposed changes relate to:-

- (i) Rule 10 (Exclusion of Access by the Public to Meetings) = new Rule 10.5 to include Hearings Regulations under the Licensing Act 2003 and the Gambling Act 2005 – presumption hearings will be in public unless deemed in the public interest;
- (ii) Rule 11 (Exclusion of Access by the Public to Reports) = Include reference to a Review Date being needed within the Report at which point the need for the report to be Part B will be re-examined;
- (iii) Rule 14 (General Exception) = include text that GE decisions are still subject to call-in unless exemption granted / exception applies under O&SPR18; and
- (iv) Rule 15 (Special Urgency) = include text that Special Urgency decisions are automatically exempt from call-in.

*The proposed changes to the Access to Information Procedure Rules are shown in **RED** in **Appendix F**.*

#### **7. Overview and Scrutiny Procedure Rules (Part 5)**

The Working Party considered and endorsed the proposed amendments to Overview & Scrutiny Procedure Rules 7, 17 and 18. The proposed changes relate to:-

- (i) Rule 7 (Work Programme) = include within the bullet points that the (draft) work programme will include provision for budget scrutiny and scrutiny of the Treasury Management Strategy;
- (ii) Rule 17 (Call-In) = Rule 17(o) (Withdrawal of a Call-In) to be amended to clarify that if a Member withdraws their call-in after the expiry of the call-in period then the call-in

automatically falls and the Decision can be implemented in accordance with its original timetable; and

- (iii) Rule 18 (Exceptions to Call-In) = to be amended to reflect substance of the proposed changes to Access to Information Procedure Rules 14 and 15.

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

#### **8. Financial Procedure Rules (Part 5)**

The Working Party considered and endorsed the proposed amendment to Financial Procedure Rule 6 (Changes to Budgets after approval by Council); specifically by amending Rule 6.1.5 (b): increase Single Item level to £1million and Aggregate level to £1.5million.

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

#### **9. Members' Referral Scheme for Planning Applications (Part 6): (Part 6.59 to 6.61)**

The Working Party considered and endorsed the proposed clarification on Part 6.59 that Planning Committee Members do not need to provide a material planning consideration (in order to avoid pre-determination) for a referral but do need to provide reasons why it could be considered of significant importance to the wider District or planning policy. In addition, the Working Party endorsed that Members are REQUIRED to use the standard letter for their referral requests and not (as presently stated) Requested.

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

#### **10. Members' Allowances Scheme (Part 7): (Part 7.4 and 7.8)**

The Working Party considered and endorsed the proposed amendments to Part 7.4, Section 3.2 (Documenting Entitlement to Allowances) in order to change the emphasis to reflect current operational practice. In addition, the Working Party endorsed the deletion of Appendix 1 which is now superfluous to requirements.

*The proposed changes to the Members' Allowances Scheme are shown in **RED** in **Appendix J**.*

#### **11. Corporate Finance & Governance Portfolio Holder Delegated Powers**

The Working Party considered and endorsed the proposed amendment to the Corporate Finance & Governance Portfolio Holder's delegations to include a reference to "carry forwards" in number 3 of the additional specific delegations in Part 3 – Schedule 3 – Section 4.3 - Additional Specific Delegations to Individual Portfolio Holders.

*The proposed change to the delegated powers of the Corporate Finance & Governance Portfolio Holder is shown in **RED** in **Appendix L**.*

The Section 151 and Monitoring Officers have subsequently discussed and agreed that any delegation in respect of carry forwards, should be exercised in accordance with principles established by Cabinet in the budget annual out-turn report.

**12. Protocol for Web-casting of Formal Council Meetings and for Public Filming and Recording of Meetings**

At its meeting held on 15 January 2024 (Note 18 refers) and at the request of the Head of Democratic Services & Elections, the Working Party discussed how long the Council should retain recordings of webcasts of meetings of the Council, Cabinet and Committees et cetera. Following that discussion it was:-

**AGREED** that the Working Party requests the Corporate Finance & Governance Portfolio Holder to recommend to Full Council (via the Cabinet) that:-

- (1) the Protocol for webcasting of formal Council meetings and for public filming and reporting of meetings be amended as follows –
  - (a) that the time limit for the retention of webcasts be extended to four years (from the current two years); and
  - (b) that the appropriate committees and sub-committees be included within the section headed “Which meetings are webcast” in the Protocol.
- (2) a further review of the Protocol be carried out in approximately two years’ time when matters such as the archiving of webcasts will be looked at.

*The proposed changes to the Protocol for webcasting of formal Council meetings and for public filming and reporting of meetings are shown in **RED** in **Appendix K**.*

**OTHER MATTERS CONSIDERED:**

**1. Planning Committee: Pooling of Substitute Members**

At its meeting held on 13 December 2023 (Note 4 refers), the Working Party considered, for the third time of asking, a Member’s request that a member of the Planning Committee should be enabled to appoint their substitute from a different political group to their own.

Following the discussion of that further request the Working Party had, once more, decided not to recommend the use of ‘pooled substitutes’ for the Planning Committee as it was felt that it would interfere with the rules of political proportionality and the prerogatives of Group Leaders.

**2. Planning Committee: Public Speaking Scheme**

Further to Note 16 (15.1.24), the Working Party discussed, at length, whether to recommend that the public speaking scheme for the Planning Committee should be amended to include provision for the relevant County Division Member to speak on planning applications before that Committee.

Following that discussion, the Leader of the Council undertook to talk to County Councillors representing the District, members of the Planning Committee and to look at what other local authorities in Essex did before deciding what recommendations, if any, to put before the Cabinet.

**3. Planning Committee: Proposed Change of Start Time of its Meetings**

Following the decision of Full Council (28.11.23 – Minute 79 refers) that the proposal from the Planning Committee for its scheduled meetings to commence at 5.00 p.m., rather than 6.00 p.m., be referred to the Review of the Constitution Portfolio Holder Working Party for its consideration, and recommendation thereon to Cabinet, and thence back to Council for its final determination, the Working Party considered at its meeting held on 13 December 2023 (Note 2 refers) how it would obtain the views of Members and other interested parties, on this matter.

The Working Party had agreed *that* –

1. *all Members of the Council be surveyed as to which of the following options for the start time of Planning Committee meetings they support:-*
  - (1) *afternoon, following the Committee's site visits;*
  - (2) *5.00 p.m.;*
  - (3) *6.00 p.m.*
2. *Members be requested to give their reasons as to why they have supported that option;*
3. *the deadline for submissions be set at Friday 5<sup>th</sup> January 2024 in order to allow Officers to collate the results of the survey in readiness for the next meeting of the Working Party in January 2024; and*
4. *a reminder about the survey and its deadline be sent to Members on Tuesday 2<sup>nd</sup> January 2024.*

At its meeting held on 18 January 2024 (Note 26 refers) the Working Party considered the views of Members on this matter and decided to recommend to Cabinet (via the Portfolio Holder) that the proposal from the Planning Committee for its scheduled meetings to commence at 5.00 p.m., rather than 6.00 p.m., should be approved and that if a Ward Member / referrer for a planning application so requests, the Officers, in consultation with the Chairman of the Committee, should make every effort to list that particular planning application later on in the Planning Committee's agenda.

## **5. Recent CfGS Publications**

At its meeting held on 13 December 2023 (Note 5 refers) the Working Party considered whether any changes to the Constitution were required arising from the recent CfGS publications on:-

Call-In;

Delegations; and

Council Constitutions.

To aid it in its discussions the Working Party had before it a briefing note prepared by the Head of Democratic Services & Elections. It was agreed *that* –

- (a) *the contents of the briefing note be noted; and*
- (b) *the matters raised in the CfGS publications be borne in mind for the future comprehensive review of the Constitution likely to take place in 2024-2025.*

## **6. Cabinet / Scrutiny Protocol: Review of its Implementation and Effectiveness**

At its meeting held on 13 December 2023 (Note 6 refers), members of the Working Party



gave feedback on the operation so far of the Cabinet/Scrutiny Protocol. The Working Party also considered whether any amendments to the Protocol needed to be put forward. In addition, the Working Party discussed Portfolio Holder Working Parties and how closely their composition needed to reflect the overall political proportionality on the Council.

Officers undertook to reflect on the wording of any future invitations to Group Leaders to nominate Members to serve on a Portfolio Holder Working Party in order to emphasise that the Working Party's composition should 'broadly' reflect rather than 'strictly' the overall political makeup of the Council. Following a discussion of the Protocol it was agreed *"that the operation of the Cabinet/Scrutiny Protocol is working well and that therefore the Working Party does not need to recommend any changes to the Protocol at this time."*

## **7. Overview and Scrutiny Committees**

At its meeting held on 13 December 2023 (Note 9 refers) the Working Party reviewed, inter alia, whether there should continue to be two Overview & Scrutiny Committees (OSCs) or whether TDC should revert to having one OSC.

On Friday 8th December 2023 a meeting under the auspices of the Cabinet / Overview & Scrutiny Protocol had been held involving the Leader of the Council, the Deputy Leader of the Council, the Chairman of the Resources and Services Overview & Scrutiny Committee and the Chairman of the Community Leadership Overview & Scrutiny Committee, at which meeting that matter had been discussed.

Following a discussion it was agreed, inter alia, *"that the matter of whether there should continue to be two Overview & Scrutiny Committees (OSCs) or whether TDC should revert to having one OSC should be considered as part of any future comprehensive review of the Council's Constitution"*.

## **8. Council Procedure Rules**

At its meeting held on 13 December 2023 (Note 10 refers) the Working Party considered whether to endorse the proposed amendments to the Council Procedure Rules 11 and 16. The proposed changes related to:-

- (a) Rule 11.1 – amendment to limit Leader/Portfolio Holder Statements to Council to 3 minutes duration; and
- (b) Rule 16.3 – new provision that the Leader (or their nominated representative) of a political group that is not represented on the Cabinet can speak, in response, for up to an equal amount of time as the Leader of the Council did on their presentation of the Budget to Full Council.

Members' feedback was also requested on the recently introduced practice of not including the preamble of questions under Rule 11.2 within the published Council Agenda.

Following a discussion of the above matters it was agreed that -

- (1) the Working Party will not request the Corporate Finance & Governance Portfolio Holder to recommend to Full Council (via the Cabinet) that Council Procedure Rules 11 and 16 be amended to incorporate the proposed changes; and

(2) the practice of not including the preamble of questions under Rule 11.2 within the Council Agenda should be discussed further at a future meeting of the Working Party.

In accordance with resolution (2) above, the Working Party at its meeting held on 15 January 2024 (Note 19 refers) further considered the recently introduced practice of not including the preamble of questions under Rule 11.2 within the Council Agenda. The Working Party also considered whether any amendments to the Procedure Rule needed to be put forward. The Working Party decided that it did not need to recommend any changes to Council Procedure Rules 11.2 or 11.7 at this time but that these Procedure Rules be reviewed again in approximately two years' time.

In addition, at that meeting held on 15 January 2024 (Note 20 refers), and further to resolution (b) of Minute 106 of the meeting of the Full Council held on 2 March 2023, the Working Party reviewed the implementation of the new Council Procedure Rule 12 following its first half year of operation (i.e. since the commencement of the 2023/2024 Municipal Year). The Working Party decided that it did not need to recommend any changes to Council Procedure Rule 12 at this time but that this Procedure Rule be reviewed again in approximately two years' time.

#### **9. Monitoring Officer's Amendments under Delegated Powers**

At its meeting held on 18 January 2024 (Note 24 refers) the Working Party noted that the Monitoring Officer intended to exercise her delegated powers and make amendments to the following parts of the Council's Constitution:-

Article 10 (Community Consultation and Participation) - Table 2 will be updated, in consultation with the Corporate Finance & Governance Portfolio Holder;

Article 12 (Officers) – Section 12.01 (b) – Functions and Areas of Responsibility will be updated;

Leisure & Public Realm Portfolio Holder responsibilities - correction of wrong Assistant Director in relation to beaches/beach huts;

Procurement Procedure Rule 1.1 - change reference to "PING" to read "Council's Intranet"; and

Link to Terms of Reference of Committees etc. to be included on the relevant page on TDC website.

#### **10. Formatting of the Constitution: Proposed Review**

At its meeting held on 18 January 2024 (Note 30 refers) the Working Party endorsed that, as part of the next future fundamental review of the Constitution, a review of its "formatting" et cetera be carried out in order to make it more "digitalisation friendly" and that, at the same time, the opportunity be taken to produce a new "user friendly" version from scratch removing such impediments as the awkward headers and footers and unnecessary repetitions etc.

#### **11. Officer Employment Procedure Rules and the Terms of Reference & Delegated Powers of the Human Resources and Council Tax Committee and its Sub-Committee**

At its meeting held on 18 January 2024 (Note 29 refers) and further to the decision taken by Full Council at its meeting held on 29 March 2022 which followed the receipt previously of a letter from The Joint Negotiating Committee for Chief Executives of local authorities the Monitoring Officer explained to the Working Party the purpose of a review of the terms of reference and delegated powers of the Human Resources and Council Tax Committee and its sub-committee which would look in particular at the relevant Human Resources policies and the model procedures for an Appeals Committee for the dismissal of the statutory officers. In addition, a ‘knock on’ review of the Officer Employment Procedure Rules would need to take place.

Following a suggestion made by the Chief Executive the Working Party revisited the composition of the Human Resources Sub-Committee Panel, which was the body that formed part of the recruitment process for the appointment of Senior Officers (as defined in Paragraph 3 of Part 11 of Schedule 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended)).

The Leader of the Council undertook to consult the Assistant Director (Partnerships) and the Head of People on the matters raised by the Working Party before deciding whether he wished to make any recommendations to Cabinet on this matter.

The Officer Employment Procedure Rules have been reviewed by the Monitoring Officer in light of the requirements of the Local Authorities (Standing Orders)(England) Regulations 2001 and the proposed changes to the Rules are set out and shown in **RED** in **Appendix M**. The review regarding appeals still needs to be undertaken.

**PREVIOUS RELEVANT DECISIONS**

Full Council, at its meeting held on 24 January 2023 (Minute 75 refers), decided, inter alia, that:

- (a) Council additionally notes that:-
  - (i) the Centre for Governance and Scrutiny, Lawyers in Local Government and the Association of Democratic Services Officers are proposing to issue guidance in the area of “call-ins” of Executive decisions and so it is likely that this Council will need to look further at this in 2023 (and particularly its implications for Overview and Scrutiny Procedure Rules 17 and 18) once that guidance is issued;

Full Council, at its meeting held on 2 March 2023 (Minute 106 refers), decided, inter alia, that:

- (b) the implementation of the new Council Procedure Rule 12 be reviewed after six months’ operation;

**BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

Notes of the meetings of the Review of the Constitution Portfolio Holder Working Party held on 13 December 2023, 15 January and 18 January 2024.

**APPENDICES**

<b>A.1</b>		
<b>APPENDIX A</b>	<b>Part 2</b>	<b>Articles of the Constitution – Article 6 (Overview &amp; Scrutiny Function)</b>
<b>APPENDIX B</b>	<b>Part 3</b>	<b>Delegated Powers &amp; Terms of Reference (Licensing and Registration Committee)</b>

APPENDIX C	Part 3	Delegated Powers & Terms of Reference (Planning Committee)
APPENDIX D	Part 3	Delegated Powers & Terms of Reference (Standards Committee)
APPENDIX E	Part 3	Proper Officers – Delegated Powers
APPENDIX F	Part 5	Access to Information Procedure Rules - Amendments
APPENDIX G	Part 5	Overview and Scrutiny Procedure Rules - Amendments
APPENDIX H	Part 5	Financial Procedure Rules - Amendment
APPENDIX I	Part 6	Members' Referral Scheme for Planning Applications
APPENDIX J	Part 7	Members' Allowances Scheme - Amendments
APPENDIX K	Part 6	Protocol for Web-casting of Formal Council Meetings and for Public Filming and Recording of Meetings
APPENDIX L	Part 3	Corporate Finance & Governance Portfolio Holder – Delegated Powers
APPENDIX M	Part 5	Officer Employment Procedure Rules
<b>REPORT CONTACT OFFICER(S)</b>		
<b>Names</b>	(1) Ian Ford (2) Keith Simmons	
<b>Job Titles</b>	(1) Committee Services Manager (2) Head of Democratic Services & Elections	
<b>Email/Telephone</b>	<a href="mailto:iford@tendringdc.gov.uk">iford@tendringdc.gov.uk</a> (01255) 686 584  <a href="mailto:ksimmons@tendringdc.gov.uk">ksimmons@tendringdc.gov.uk</a> (01255) 685 580	

## A.1 APPENDIX A

### Article 6 – Overview and Scrutiny Committees (changes shown in red text)

#### 6.02 Terms of Reference:

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

##### (i) **Community Leadership Overview and Scrutiny Committee**

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

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

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

- **To scrutinize/review the outcomes and implications for the Council of its financial support to community organisations and also from its receipt and use of funds received from local partner organisations**

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

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

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

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

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

## **(ii) Resources and Services Overview and Scrutiny Committee**

- The Chairman and the Vice-Chairman of the Committee will normally be Members of a political group that is not represented on the Cabinet. Meetings of the Committee will be held in accordance with the programme of meetings approved at the Annual Meeting of the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chairman of the Committee, or by the Head of Democratic Services & Elections, if considered necessary or appropriate. Meetings of Task and Finish

Groups can be called as required, following the terms of reference being agreed by the Committee.

- To perform the role of Overview and Scrutiny and its functions in relation to the effective use of the Council's resources including approval of discrete researched and evidenced reviews on the effectiveness of:

Financial Forecast Budget setting and monitoring (including General Fund & Housing Revenue Account **but excluding those budgetary matters delegated to the Community Leadership Overview and Scrutiny Committee**)

**Colchester/Tendring Borders Garden Community  
Housing Strategy and Homeless Service**

Service Delivery and Performance (where not delegated to the Community Leadership Overview and Scrutiny Committee)

Procurement and Contract Management

Transformation and Digital Strategies

Customer Service and Standards

## A.1 APPENDIX B

### Part 3 – Schedule 2 – Licensing & Registration Committee Functions and Terms of Reference

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



	<p><i>and as detailed in Appendix 1 to Part 3 of the Constitution:</i></p> <ul style="list-style-type: none"> <li>• Power to make closing order with respect to take away food shops; and</li> <li>• <del>Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.</del></li> </ul> <p>In addition the following powers and duties:</p> <ul style="list-style-type: none"> <li>• The setting of any fees and/or charges payable to the Council for the issue of any licences where the Council has discretion over such fees and/or charges) or otherwise in relation to any of the functions falling within the remit of the Licensing and Registration Committee and its Sub-Committees.</li> <li>• <b>The consultation on draft policies relating to matters within the remit of this Committee and the development of proposals to be submitted for determination of Cabinet and/or Council.</b></li> </ul>	<p>of the Council's intention to amend the Fare Scale is delegated to the Assistant Director (Governance) in consultation with the Chairman of the Committee.</p> <p><b>4. While not limiting the delegation in 1. above, the Assistant Director (Governance) shall be authorised to:-</b></p> <p><b>(a) make minor changes to relevant policies arising from legislation, changes to the organisational structure of the Council, or decisions of the Council;</b></p> <p><b>(b) make such arrangements in respect of the exercise by the Licensing Authority of licensing and registration functions in its role as a Responsible Authority; and</b></p> <p><b>(c) suspend a licence for the non-payment of fees or issuing of a Closure Order for a premises under Section 19 of the Criminal Justice and Police Act 2001 (sale of alcohol otherwise than in accordance with an authorisation)</b></p>
--	--	---

## A.1 APPENDIX C

### Part 3 – Schedule 2 – Planning Committee Functions and Terms of Reference

Committee	Functions and Terms of Reference	Delegated Functions
<p><b>Planning Committee</b></p>	<p><i>The discharge of the Town and Country Planning and Conservation functions as specific in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p>Additional roles and functions of the Committee are as set out below:</p> <p>1. Any formal comment or view on applications or proposals to be determined by Essex County Council, any Statutory Body and government departments relating to matters within the remit of the Committee.</p>	<p><b>1.</b> All planning <b>(including all prior approval applications), enforcement, building control</b> and conservation matters delegated to the <b>Assistant Director (Planning) except</b> in relation to the determination of certain planning applications as detailed below for determination by the Committee:</p> <p>(i) Officer recommendations for approval materially contrary to <b>adopted national and/or adopted local policy, with the exception of where the initial departure within two years has already been agreed by reason of a previous grant of planning permission or prior approval (extant and not extant) and the application represents a subsequent application for either the same, similar or alternative development on the same red line site which would not be considered by the Director (Planning) to alter the previous material planning considerations.</b></p> <p>(ii) Officer recommendation of approval <b>is</b> contrary to a previous refusal by the Planning Committee <b>in the last two years, where the policies, site and proposed development</b> remain substantially unchanged.</p> <p>(iii) Officer recommendation of approval and the application should be referred to the Secretary of State under a Direction(s) or “call in”.</p> <p>(iv) The applicant is the Council or someone acting as applicant on the Council’s behalf or in respect of Council owned land <b>unless the application is recommended for refusal.</b></p>

		<p>(v) The applicant is a Member of the Council, <del>Planning Officer or a Senior Officer, member of permanent staff employed by TDC</del> and there is an Officer recommendation for approval.</p> <p>(vi) Within 35 days of the commencement of formal consultation, a written request is received from a Tendring District Councillor, <b>who is not a serving member of the Planning Committee (unless the member of the Planning Committee is making that request solely in their capacity as a Ward Member for the application in question)</b>, in accordance with the Member Referral Scheme(*), requesting that the <b>planning</b> application should be brought before the Planning Committee for determination <b>and</b> giving material planning reasons for that request. <b>Call in arrangements do not apply to householder applications and any application type that would result in deemed approval if not determined in time, including prior approval applications.</b></p> <p><b>(vii) Within 35 days of the commencement of formal consultation, a written request is received from a serving member of the Planning Committee, in accordance with the Member Referral Scheme(*), requesting that the planning application should be brought before the Planning Committee for determination and providing compelling reasons why it could be considered of significant importance to the wider District or planning policy. Call in arrangements do not apply to householder applications and any application type that would result in deemed approval if not</b></p>
--	--	--

		<p><b>determined in time, including prior approval applications.</b></p> <p>(*) Scheme to be approved by Full Council</p> <p><b>(viii) The Director (Planning), or other authorised Officer, in consultation with the Chairman of the Planning Committee and the Planning Solicitor, may allow a Member’s referral request that is received after the 35 day cut-off if they are satisfied that the request could not have reasonably been submitted before the deadline and that in all other respects it meets the requirements for a valid referral.</b></p> <p><b>(ix) Any application which the Assistant Director (Planning) in their professional opinion, taking into account the written representations received, plans and policies and other material considerations to be referred to the Planning Committee because it raises more than significant local issues.</b></p> <p><b>2. The Director (Planning), in consultation with the Chairman of the Planning Committee, may extend the time for the completion of a Section 106 Agreement for two further periods of six months at which point it would need to return to the Planning Committee for a decision as to whether to further extend the time or instead to now refuse planning permission on the grounds that the Section 106 Agreement had not been completed.</b></p>
	<p><i>The discharge of the</i> <b>Miscellaneous functions – Part 1 – relating to Public Rights of Way, within the</b></p>	<p>All public rights of way matters delegated to the Corporate Director} (Operations and Delivery)</p>

	<p><b>District Council's responsibility</b> as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</p> <p><i>The discharge of the following</i> <b>Miscellaneous functions – Part II – relating to hedgerows, trees and hedges</b> as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</p>	<p>All hedgerows, trees and hedges matters delegated to the <b>Assistant</b> Director (Planning)</p>
--	---	--

## A.1 APPENDIX D

### Part 3 – Schedule 2 – Standards Committee Functions and Terms of Reference

Committee	Functions and Terms of Reference	Delegated Functions
<b>Standards Committee</b>	<ol style="list-style-type: none"> <li>1. To promote and maintain high standards of conduct by Members and Co-opted Members of the authority;</li> <li>2. To develop a culture of openness, transparency, trust and confidence between Members and in Member and Officer relationships and to embed a culture of strong ethical and corporate governance at all levels of the Council;</li> <li>3. To advise the Council on the adoption or revision of the Members' Code of Conduct;</li> <li>4. To advise, train or arrange training on matters relating to and assisting Members, Co-opted Members and Town and Parish Councillors on observing the Members' Code of Conduct;</li> <li>5. To approve procedures for the conduct of hearings into complaints against Members;</li> </ol>	<p><b>Delegation to Monitoring Officer:</b></p> <ol style="list-style-type: none"> <li>1. Deal with complaints against Members and co-opted Members of the Council and/or any Town or Parish Council in the Tendring District alleging a breach of the Members' Code of Conduct of the Council/Town or Parish Council ("Code") in accordance with the Complaints Procedure.</li> </ol>
	<ol style="list-style-type: none"> <li>6. To advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council;</li> <li>7. To receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members' Code of Conduct and the other elements of the Standards Framework;</li> <li>8. To inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;</li> <li>9. To hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to Section 33 of the Localism Act 2011; and</li> </ol>	<ol style="list-style-type: none"> <li>2. Assess complaints in accordance with the Assessment Criteria and may consult with a duly appointed Independent Person and determine whether the complaint: <ul style="list-style-type: none"> <li>• Merits no further action</li> <li>• Merits early informal conciliation</li> <li>• Merits further investigation</li> <li>• Should due to exceptional circumstances be</li> </ul> </li> </ol>

	<p>10. To maintain oversight of the Council's arrangements for dealing with complaints delegated to Standards Town and Parish Sub-Committee.</p>	<p>referred to the Standards Committee or Sub-Committee for consideration for further investigation.</p> <p>3. Determine the format of the Complaints Form, Decision Notices and Procedure Flowchart and review where necessary.</p>
	<p><b>Proceedings:</b></p> <p>1. To conduct proceedings in accordance with the Complaints Procedure, giving due consideration to the Monitoring Officer's advice and guidance, and following the principles of natural justice and innocent until proven otherwise;</p> <p>2. To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the assessment criteria and Complaints Procedure;</p>	<p>4. Commission external resources to investigate, undertake consultation with an Independent Person and report on any complaints relating to Member conduct.</p> <p>5. Grant dispensations in compliance with Section 33(a) to (e) of the Localism Act 2011.</p>
	<p>3. <b>In accordance with the Hearings Procedure,</b> <del>To</del> hear and determine complaints about Tending District Council Members and Co-opted Members referred to it by the Monitoring Officer; and</p> <p>4. Any determination by the Committee which is contrary to the recommendation of the Monitoring Officer will include detailed reasons. The decision of the Committee will also be reported to the next meeting of full Council.</p>	<p>6. Submit reports to the Standards Committee or Sub-Committee on the actions taken under these delegated powers and to provide advice and support making recommendations to the relevant Committee on any matters relating to the promotion and maintenance of high standards of conduct.</p>

## A.1 APPENDIX E

### Part 3 – Schedule 4 – Proper Officers

STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
<b>Representation of the People Act 1983 cont</b>			
Section 8(2) <b>and Section 52(3)</b>	Appointment of Electoral Registration Officer (automatically acting Returning Officer in Parliamentary elections)	Chief Executive	Head of Democratic Services & Elections
Sections 18B and 31	Designation of Polling Districts and Places (Parliamentary and Local Government Elections)	Chief Executive	Head of Democratic Services & Elections
Section 52 <del>(3)</del> <b>(2)</b>	Deputising for Registration Officer	<del>Deputy Chief Executive</del> <b>Head of Democratic Services &amp; Elections</b>	<del>Head of Democratic Services &amp; Elections</del> <b>Elections Manager</b>
Sections 67 to 70	Appointment etc. of Election Agent	Returning Officer	Returning Officer to appoint Deputies at each election (as required)
Sections 75, 81, 82 & 89	Return of election expenses	Chief Executive	Head of Democratic Services & Elections



Section 128	Publication of election Petition	Chief Executive	Head of Democratic Services & Elections
Section 131	Provision of accommodation for election court	Chief Executive	Head of Democratic Services & Elections

## **A.1 APPENDIX F**

### **Access to Information Procedure Rules**

#### **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

**New Rule 10.5 as follows:-**

##### **10.5 Hearings under Regulations made pursuant to the Licensing Act 2003**

**Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 presumes that hearings shall take place in public. However, the licensing authority may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public. For that purpose, a party and any person assisting or representing a party may be treated as a member of the public.**

#### **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Proper Officer (Monitoring Officer) thinks fit, the Council may exclude access by the public to reports which, in their opinion, relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with category of information likely to be concerned. **The report will also include a Review Date at which time the contents of the report will be re-assessed in order to determine whether the report can now be placed into the public domain.**

#### **14. GENERAL EXCEPTION**

Subject to Rule 15, if publication under Rule 13 above is impracticable, a key decision may only be made:

- (a) where the Proper Officer has informed the Chairman of the relevant Overview and Scrutiny Committee in writing of the matter about which the decision is to be made:
- (b) notice is given and published on the Council's website of the details of the decision to be made and the reasons why it is impracticable to give 28 clear days' notice; and
- (c) at least five clear working days have elapsed between notice being given and the decision being taken.

**Decisions taken under the General Exception procedure are still subject to call-in unless an exemption has been granted or an exceptions applies under the provisions set out in Overview and Scrutiny Procedure Rule 18.**

**15. SPECIAL URGENCY**

If the general exception rule is impracticable, due to the date by which a key decision must be made, the key decision can only be taken if the decision-maker has received the agreement of the Chairman of the relevant overview and scrutiny committee, or if they are unable to act, the Chairman or Vice-Chairman of the Council and has published a notice on the Council's website, stating that the making of the decision is urgent and the reasons why it cannot reasonably be deferred.

**Decisions taken under the Special Urgency procedure are automatically exempted from call-in.**

## **A.1 APPENDIX G**

### **Overview and Scrutiny Procedure Rules**

#### **7. WORK PROGRAMME**

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

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

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

#### **18. EXCEPTIONS TO CALL-IN**

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

- (i) Urgent Decisions

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

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

Decisions taken as a matter of urgency **and exempted from call-in** must be reported by the Leader to the next practicable ordinary meeting of the Council, together with the reasons for urgency.

(ii) Other Exceptions

- (a) "Provisional" or "in principle" decisions where the issue is to be referred to an Overview and Scrutiny Committee for comment.
- (b) **Decisions taken under the "Special Urgency" procedure as provided for in Access to Information Procedure Rule 15.**
- (c) Recommendations from Cabinet to Council.
- (d) Decisions by the Cabinet where the issue has been referred to them by the Council or an Overview and Scrutiny Committee for their view or comment shall not be subject to call-in.
- (e) Unless the decision has taken into account new material considerations arising since the original consultation with the Council or an Overview and Scrutiny Committee a decision by the Cabinet in response to such consultation shall not be subject to call-in.
- (f) Where Full Council has delegated to the Cabinet the ability to approve additional information in respect of the Corporate Plan to ensure that statutory publishing deadlines are met, such decisions shall be

construed as urgent for the purposes of Rule 18(i) above. In such circumstances the Chairman of the relevant Committee, or other Chairman or Vice-Chairman so authorised to act in his absence, will only be required to agree that the proposed decision is reasonable in all the circumstances.

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

## A.1 APPENDIX H

### Part 5 - Financial Procedure Rule 6 (Changes to Budgets after approval by Council – Rule 6.1.5(b))

6.1.5 A supplementary estimate can be approved as follows:

- (a) ~~Finance and Corporate Resources~~ **Corporate Finance and Governance** Portfolio Holder may approve a supplementary estimate of any single item (revenue or capital) up to £50,000 subject to a maximum aggregate value of £150,000 for such single items in any one financial year and providing any single supplementary estimate does not cause the total of supplementary estimates approved by the Corporate Finance & Governance Portfolio Holder and Cabinet to exceed £1,000,000 for General Fund Services (capital or revenue) or £1,000,000 in respect of the Housing Revenue Account (capital or revenue) for the financial year concerned.
- (b) **Cabinet** may approve a supplementary estimate of any single item (revenue or capital) up to ~~£500,000~~ **£1,000,000** subject to that supplementary estimate not causing the total of supplementary estimates approved by the Cabinet and the Corporate Finance & Governance Portfolio Holder to exceed ~~£1,000,000~~ **£1,500,000** for General Fund Services (capital or revenue) or ~~£1,000,000~~ **£1,500,000** in respect of Housing Revenue Account (capital or revenue) for the financial year concerned.
- (c) **Council** may approve a supplementary estimate up to any amount for General Fund or Housing Revenue Account. However Council must be advised if any decision is likely to result in the Council's agreed minimum working balance not being maintained for the current financial year and the length of the Council's approved financial strategy. In the case of the Housing Revenue Account, Council must be advised if any decision is likely to result in the Revenue Account balance being in deficit over the same period.

## A.1 APPENDIX I

### Part 6 – Codes & Protocols - Members' Planning Code & Protocol – Members' Referral Scheme for Planning Applications - Guidance Note

#### Members' Referral Scheme for Planning Applications

##### Guidance Note ~~January 2022~~ **XXX 2024**

The Terms of Reference of the Planning Committee as set out in the Constitution delegates all planning and conservation matters to Officers except in relation to certain planning applications, which are for determination by the Committee. ~~One~~ **Two** of the exceptions listed ~~is~~ **are** where Members request that an application should be referred to the Planning Committee. The wording is as follows:

- (vi) *Within 35 days of the commencement of formal consultation, a written request is received from a Tendring District Councillor, **who is not a serving member of the Planning Committee (#)**, in accordance with the Member Referral Scheme requesting that the application should be brought before the Planning Committee for determination **and** giving material planning reasons for that request.*

**(#) unless the member of the Planning Committee is making that request solely in their capacity as a Ward Member for the application in question.**

- (vii) Within 35 days of the commencement of formal consultation, a written request is received from a serving member of the Planning Committee, in accordance with the Member Referral Scheme, requesting that the application should be brought before the Planning Committee for determination and providing compelling reasons why it could be considered of significant importance to the wider District or planning policy.**

**The following caveat applies:-**

**The Director (Planning), or other authorised Officer, in consultation with the Chairman of the Planning Committee and the Planning Solicitor, may allow a Member's referral request that is received after the 35 day cut-off if they are satisfied that the request could not have reasonably been submitted before the deadline and that in all other respects it meets the requirements for a valid referral.**

**The MEMBER REFERRAL SCHEME is based on the following principles:**

- The Member Referral Scheme is approved by Full Council as part of the Council's Constitution;**
- Elected Members represent their communities and the interests of their ward or of individual residents (in accordance with Article 2 of the Constitution);



- Planning Committee Members are involved in decision-making for the people of the district as a whole (in accordance with Article 2 of the Constitution – 2.03 (a) (v));
- The interests of a ward or individual residents can extend to consideration of planning applications submitted in adjacent wards and those where applications have been made which have a direct impact on other wards;
- A member of the Council's Cabinet may also be permitted to make representations and speak on any application but only if the proposed development has a direct impact on the portfolio for which the Cabinet member is responsible. The Leader of the Council must approve the Cabinet Member making representations to the Planning Committee and requesting the matter to be determined at Committee;
- If an elected Member requests an application to be referred to the Planning Committee for determination, they will be required to personally attend the meeting of the Committee to speak on the item. Planning Services will ensure that the Member is notified when the application is scheduled for determination;
- The Members' Referral Scheme does not apply to a householder application, which is defined as follows:

*“A ‘householder’ application is an application to enlarge, expand, improve or alter an existing dwelling, to put up a boundary wall of fence for an existing dwelling or carry out an operation in the curtilage of an existing dwelling that is ancillary to the dwelling-house”.*

- Members are ~~requested~~ **required** to use the attached letter when referring an application to the Planning Committee to be determined, for ease of reference.

Date: ~~24<sup>th</sup> January 2022~~ **19 March 2024**

Chairman of the Planning Committee

**LETTER TO THE DIRECTOR (PLANNING)**

Date:

Dear Director (Planning),

**MEMBER REFERRAL SCHEME: PLANNING APPLICATION REF: .....**

(\*) I am the Ward Councillor for [insert the Ward] and in representing the community\*/the interests of the ward\* or of individual residents\* request the above-mentioned application is referred to the Planning Committee for determination. The planning application is located within:

(a) the Ward to which I am elected to(\*); or

(b) is adjacent to the Ward to which I am elected to(\*); or

(c) directly impacts the Ward to which I am elected to because (\*)

.....

in respect of (b) and (c), I can confirm that I have notified the relevant Ward Councillor(s) of my intention to refer this application to the Committee for determination.

(\*) I am the Cabinet Member for [insert responsibility] and the proposed development has a direct impact on the portfolio for which I am responsible. The Leader of the Council has approved representations being made to the Planning Committee.

(\*) I am a current serving member of the Planning Committee and the proposed development could be considered of significant importance to the wider district or policy because ..... The Planning Committee Chairman has been consulted and approves this matter being determined by the Planning Committee. By making this request I confirm that I am not predetermined and will approach the decision making with an open mind and therefore have not highlighted any relevant material considerations below.

(#) The referral is because of the following material planning considerations (and for the reasons set out hereunder):-

**In line with/potentially contrary to\* the development plan (Local Plan/LDF) or Government Guidance (please state relevant policies if known)**

**Negative/Positive\* impact on urban design/street scene**

**Highways impact and/or other traffic issues**

**Good/Poor\* layout and/or density issues**

**Flood Risk**

**Positive/Negative\* Impact on neighbours**

**Other material considerations as follows.....**

.....  
.....  
.....  
.....

**(#) Tick as appropriate.**

My reasons for the referral are as follows:-

**(>) The referral is for the following compelling reasons why it could be considered of significant importance to the wider District or planning policy.....**

.....  
.....  
.....  
.....

If officers are minded to approve/refuse\* then there is no need for this application to be referred.

Please ensure that I am notified of the date of the committee meeting at which this application will be considered so that I am able to attend and speak on the item.

Yours faithfully,

**Councillor .....**

\* Delete as appropriate.

**A.1 APPENDIX J**

**Part 7 – Members’ Allowances Scheme**

**3.0 CLAIMS AND PAYMENTS**

**3.2 Documenting Entitlement to Allowances**

Following the four yearly local elections and the subsequent Annual Council Meetings at which positions on the Council are filled the annual remuneration entitlement in respect of each Councillor will be calculated and documented. **In between these events the entitlement will be adjusted as necessary based on the prevailing rates of allowances and appointment to roles identified as eligible for an allowance.**

~~Details will be included on a Schedule of Members’ Commitments form (Appendix 1), that will form part of each Member’s Declaration of office and which will provide a public record of an individual’s responsibilities and commitments. These documents will be retained within the Council and will be used to determine the basis of each Councillor’s monthly payment through the Council’s payroll system.~~

~~Any changes to Members’ allowances subsequent to this will be documented separately and individual Schedules of Members’ Commitments will not be updated.~~

**When so requested, Members will inform the Council of the allowances and entitlements for which they wish to claim remuneration. That information will be retained within the Council and will be used to determine the basis of their monthly payment through the Council’s payroll system. Arrangements will be made by Officers to ensure that payments are only made in accordance with this Scheme and an express wish for payment from a Member.**

**Appendix 1 to the Scheme (to be deleted)**

**~~TENDRING DISTRICT COUNCIL~~**

**~~Councillors’ Schedule of Commitment~~**

~~Councillor [Enter Full Name]~~

~~I wish to claim the allowances set out below which I believe is in accordance with my entitlement under the Member’s Allowances Scheme.~~

	<b>Annual Remuneration</b>
<b>BASIC ALLOWANCE</b>	

<b>SPECIAL RESPONSIBILITY ALLOWANCE</b>		
Special Responsibility Allowance is paid to those Councillors who have significant responsibilities:-		
<p>Leader of the Council</p> <p>Other Members of the Cabinet</p> <p>Group Leader(s)</p> <p>Audit Committee Chairman</p> <p>Community Leadership Overview &amp; Scrutiny Committee Chairman</p> <p>Resources and Services Overview &amp; Scrutiny Committee Chairman</p> <p>Human Resources and Council Tax Committee Chairman</p> <p>Licensing and Registration Committee Chairman</p> <p>Licensing and Registration Sub-Committees Chairman</p> <p>Planning Committee Chairman</p> <p>Planning Committee Vice Chairman</p> <p>Planning Committee Members</p> <p>Planning Policy &amp; Local Plan Committee Chairman</p> <p>Standards Committee Chairman</p>		
<b>Total Annual Allowance £</b>		
<b>Childcare Allowance</b>		
I wish to register my eligibility for this allowance and attach an appropriate written declaration to this effect. <del>***please delete as appropriate</del>	<del>YES**</del>	<del>NO**</del>
<b>DEPENDENT CARERS' ALLOWANCE</b>		
I wish to register my eligibility for this allowance and attach an appropriate written declaration to this effect. <del>***please delete as appropriate</del>	<del>YES**</del>	<del>NO**</del>

~~I understand that travel and subsistence and carers' claims need to be submitted by the 2<sup>nd</sup> working day of each month in order to be paid in that month. I undertake to inform the Head of Democratic Services and Elections of any circumstances that will affect my entitlement to any of the above allowances.~~

Signed \_\_\_\_\_ Date \_\_\_\_\_

# A.1 APPENDIX K



## **PROTOCOL FOR WEBCASTING OF FORMAL COUNCIL MEETINGS AND FOR PUBLIC FILMING AND REPORTING OF MEETINGS**

This protocol is provided to assist the conduct of webcasting and other filming/recording of meetings and to ensure compliance with its obligations under the Openness of Local Government Bodies Regulations 2014, Data Protection Act 2018 and the Human Rights Act 1998.

Version	Relevant Date	Comment
Original	29 March 2022	N/A
1 <sup>st</sup> review	19 March 2024	Updated following review – amended retention of videos from up to 2 years to up to 4 years

# A.1 APPENDIX K

## **Webcasting of public council and committee meetings**

### **Introduction**

Tendring District Council is committed to being open and transparent in the way it conducts its business. Most formal meetings of the **Council public** are open to the public to attend and there are schemes covering the submission of petitions and questions to the Council meetings as well as schemes for public speaking at meetings of the Planning Committee. However, some residents may not be able to attend the meetings they are interested in. To ensure that those residents can still engage in the democratic process, the Council films and streams, live, many of its meetings ('webcasting'). These can then be watched online as the meeting happens or up to **24 months four years** after the meeting (**the Council retains three full years of recordings and the relevant proportion of the current Municipal Year**). In addition to the webcasting service provided by the Council, there are additional legal rights for the public to attend all of our formal public meetings and film, photograph, audio record or report from the meeting using social media or any other means (subject to it not being disruptive). These rights are explained below.

### **Which meetings are webcast?**

The Council aims to webcast all its formal meetings to which the public have a right to attend. This includes meetings of its Council, Cabinet, **Audit Committee, Community Leadership Overview & Scrutiny Committee, Human Resources & Planning Committee, Licensing & Registration Committee, Planning Committee, Planning Policy & Local Plan Committee, Resources and Services Overview & Scrutiny Committee, Standards Committee, Tendring / Colchester Borders Garden Community Joint Committee and the Premises/Personal Licences Sub-Committee. Meetings of the Miscellaneous Licensing Sub-Committee are not normally webcast as the substantive items on its agenda are usually considered in private session. and other committees. Meetings of Working Parties and Task and Finish Groups are not webcast.**

### **How do we webcast and how long will the recording be available?**

Cameras will be located in the Council's Committee Room at the Town Hall/Princes Theatre to provide the webcasting facility. The Council may also hold hybrid meetings, where some participants join the meeting remotely through a video link. The webcast of meetings will be available on the Council's website for a period of up to **24 months four years (the Council retains three full years of recordings and the relevant proportion of the current Municipal Year)** and, after that, the recordings will be deleted.

In so far as individuals can be identified visually on a webcast or they can be heard in a recording, Tendring District Council will use that personal information as part of its official authority/public task and in order to promote engagement, service delivery and democratic responsibilities.

When individuals partake in a meeting that is webcast, the Council may share their information with Elected Members, other Tendring District Council Services, other individuals involved in the meeting and the public through its webcast service. We

## A.1 APPENDIX K

may also provide your information to our suppliers to enable us to deliver this service.

Anyone who does not give their consent to be filmed/recorded as part of a meeting to which this protocol applies must specifically request the Council's Monitoring Officer for an exception to be made in advance of the meeting. The Monitoring Officer will take a view on a case-by-case basis on whether there is sufficient justification for making an exemption.

In relation to these matters, the Council will normally not show camera footage of members of the public who address the formal meeting of Council, Cabinet or a Committee when presenting petitions, asking questions or as part of a public speaking scheme of the Council. Audio of their contributions will be webcast and recorded. However, the camera will, during such public involvement in meetings record either a wide angle view of the Councillors attending or of the Chairman of the meeting. A statement to the effect that a member of the public is speaking shall be displayed on the webcast/recording where this is possible by way of explanation of the audio and video element of the webcast/recording at that time.

In addition to the above, the webcast/recording shall normally not show camera footage of the press and public gallery and those there. It cannot be guaranteed that no footage will be webcast or recorded, however, efforts will be made to minimise or avoid entirely that footage.

### **Are there any meetings or parts of meetings which the Council may not webcast?**

Tendring District Council wants to make sure meetings are webcast as far as possible to ensure full engagement with the public. However there are instances where it may not be appropriate to webcast a meeting or parts thereof, for example:

- **When an individual, who is presenting at a public meeting, specifically requests not to appear on the public webcast, and we agree with the request.** We will always seek to accommodate such requests and work with that individual to agree an approach that is satisfactory to all parties. Any such part of a meeting that has not been broadcast will not appear online or be available following the meeting. If you are watching from home you will see a notice appearing on the screen to let viewers know what is happening. If you object to appearing in the webcast, you should make this known in writing prior to the meeting by emailing [democraticservices@tendringdc.gov.uk](mailto:democraticservices@tendringdc.gov.uk) and we will contact you to discuss further.
- **In considering whether or not to record contributions by children at meetings** the Council will, for those aged 16 or over check with the young people themselves that they are content to be filmed and, subject to that, record and broadcast them. For children younger than 16, or those who are otherwise thought vulnerable, we will record only with the consent of the appropriate parent or guardian. If we are in any doubt we will stop the webcast whilst children are speaking. If the children are attending as part of an event involving



## A.1 APPENDIX K

stakeholder(s) (for example, a school or schools), the Council will expect the stakeholder(s) to have procured the necessary parents' consents.

- **When Councillors at a meeting pass a resolution to exclude the press and public because there is likely to be disclosure of exempt or confidential information.** The Council will always try to conduct its business in public, however from time to time the press and public may be excluded from meetings in accordance with the rules set out in legislation and the Council's Constitution. You will be notified if watching from home that the webcasting has ceased for this part of the meeting and why. The Chairman of the meeting will be asked to confirm that webcasting has stopped before starting to discuss exempt or confidential information.

### **Rights of the public to film, record and photograph at any meeting**

In addition to the webcasting of meetings hosted by the Council, by law the public also has a right to (subject to it not being disruptive):

- Film, photograph or audio record a meeting or any part thereof
- Use any other means (e.g. tweeting, blogging etc.) to enable those not present to see or hear proceedings as they happen or later
- Report or provide commentary of the proceedings so that the reporting or commentary is available as the meeting takes place or later

### **Why does the Council allow the public and press to film, record and photograph its meetings?**

In 2014, the Openness of Local Government Regulations came into force. This enabled the public to report from all local authority public meetings, in a bid to increase transparency and openness in local decision making.

The provisions only apply to meetings of the Council held in public. You may not film, record or use social media to report from any of the Council's meetings which are private or not open to the public.

Full details of the right of the public to film, record and use social media to report from a meeting, including the exemptions mentioned above, can be found in the [guide](#) issued to accompany these regulations.

### **Are there any other restrictions if I want to report from a meeting?**

You do not have to ask us permission in advance to film, record, photograph or report from the meeting using social media. However, we do ask that you respect the following when recording and otherwise reporting from a meeting of the Council:

- Please do not film, photograph or report the views of children, young people, vulnerable people and other members of the public who actively object to being filmed or photographed

## A.1 APPENDIX K

- Beware that the common law applies – for example laws on public order offences and defamation
- Please exercise your right to freedom of speech with responsibility – this means respecting the views of others when reporting from a meeting and not disrupting the proceedings
- Please do not edit your filming or recording of the proceedings in a way which may lead to misinterpretation
- Please show respect for those that you are filming or reporting on
- Remember you are only permitted to film, record, photograph or report from the public meeting itself (i.e. from the time it is called to order to the time it concludes). Activity and discussion before or afterwards does not fall within the scope of the regulations
- Filming, recording, photographing or reporting is only permitted of the meeting, not of the public gallery

### **Signage of webcasting and other filming and recording at meetings**

Agendas relating to meetings that may be webcast will include a statement to alert the public to the webcast as well as the rights of the public generally to film, record, photograph and use social media to report from the proceedings, as follows:

#### **WEBCASTING NOTICE**

**This meeting will be filmed by the Council for live and/or subsequent broadcast on the Council’s website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for up to four years (the Council retains three full years of recordings and the relevant proportion of the current Municipal Year). A copy of it will also be retained in accordance with the Council’s data retention policy.**

**The Council will seek to avoid/minimise footage of members of the public in attendance at, or participating in the meeting.**

**In addition, the Council is obliged by law to allow members of the public to take photographs, film, audio-record, and report on the proceedings at public meetings. The Council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.**

**If you have any queries regarding webcasting or the recording of meetings by the public, please contact Democratic Services on [democraticservices@tendringdc.gov.uk](mailto:democraticservices@tendringdc.gov.uk)**

The Chairman of the meeting will also make an announcement at the beginning of the meeting to make sure everyone understands that the meeting will be webcast and that they may also be filmed by others in the Chamber.

### **Social Media comments during webcasting**

## A.1 APPENDIX K

The Council may use generally available platforms to show its webcast footage. When it does so, and if the platform allows for comments to be made by viewers, the Council will provide a message to make it clear that it does not monitor comments and there is no facility to pass those comments on to the attendees of the meeting.

### **Other provisions**

#### **Webcasting**

The Chairman of the meeting has the discretion to request the termination or suspension of the webcast if continuing to webcast would prejudice the proceedings of the meeting.

This would include:

- (i) Public disturbance or other suspension of the meeting;
- (ii) Exclusion of public and press being moved and supported;
- (iii) Any other reason supported by the Council/Committee.

Archived webcasts or parts of webcasts shall only be removed from the Council's website if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is, or is likely to be, in breach of any statutory provision or common law rule, for example Data Protection and/or Human Rights legislation or provisions relating to confidential or exempt information. There may also need to be a temporary removal of webcasts while allegations of breaches are investigated. It is anticipated, however, that meetings will be conducted lawfully and that the need to exercise this power will occur only on an exceptional basis.

Any elected Member who is concerned about any webcast should raise their concerns with the Head of Democratic Services and Elections.

#### **Other filming, recording, photographing or the use of social media for reporting from the meeting**

The Chairman of the meeting has the absolute discretion to terminate or suspend filming, recording and use of social media by members of the public during a meeting if, in their opinion, the activity:

- is disrupting the meeting and impeding good decision making;
- is infringing the rights of any members of the public;
- is in danger of repeating a defamatory statement that has been made.

## **A.1 APPENDIX L**

### **Part 3 – Schedule 3 – Section 4.3 - Additional Specific Delegations to Individual Portfolio Holders**

#### **Corporate Finance and Governance**

1. The monitoring and review of the operation of the Council's Constitution and recommending amendments to the Constitution to the Cabinet/Council.
2. To oversee the preparation and recommendation of financial forecasts and annual detailed budget, including Housing Revenue Account.
3. In consultation with the Chief Financial Officer, to agree the outturn position/report each year **(including carry forwards)** to provide the necessary flexibility to comply with the new statutory timetable for publishing the Council's Statement of Accounts.
4. Overview and presentation of financial monitoring reports to Cabinet.
5. The exercise of functions delegated to the Portfolio Holder by the Financial and Procurement Procedure Rules.
6. The approval of the Council's Council Tax Base and the Government's Annual NNDR Forecast Return.
7. Implementation and Monitoring of the Council's Treasury Management Policy Statement and Treasury Management Practices.
8. The approval of the draft Annual Capital and Treasury Strategy, in advance of it being formally considered by Cabinet, for consultation purposes with the Resources and Services Overview & Scrutiny Committee. In due course, the Cabinet will then recommend the final version of the Strategy to Full Council for formal adoption.

---

## **A.1 APPENDIX M**

### **OFFICER EMPLOYMENT PROCEDURE RULES**

#### **Introduction:**

In accordance with the **Local Authorities (Standing Orders)(England)Regulations 2001 (as amended)** (“the Regulations”) and subject to the Procedure Rules set out below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the officer designated under section 4(1) of the Local Government and Housing 1989 Act (designation and reports of Head of Paid Service) as the Head of Paid Service or by an officer nominated by him. Should any conflict arise between these Officer Employment Procedure Rules and the relevant legislation, the latter will prevail.

Nothing shall prevent a person from serving as a member of a committee or sub-committee established by the Council to consider an appeal by-

- (a) another person against any decision relating to the appointment of that person as a member of staff of the Council, or
- (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against that member of staff.

#### **1. RECRUITMENT AND APPOINTMENT**

- (a) Declarations
  - (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons (or if they are related in any other way to such persons).
  - (ii) No candidate so related to a Councillor or Officer will be appointed without the authority of the Head of Paid Service or an Officer nominated by him.
  - (iii) A candidate who fails to disclose a relationship as set out in (i) above shall be disqualified for the appointment and, if appointed, shall be liable to dismissal without notice.
- (b) Seeking support for appointment
  - (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillors for any appointment with the

---

(Cream)

(May 2022) Part 5.84

---

Council. The content of this paragraph will be included in any recruitment information.

- (ii) Subject to paragraph (iii), no Councillors will seek support for any person for any appointment with the Council.
- (iii) ~~Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.~~

## **2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

Where the Council proposes to appoint a ~~Chief Senior~~ Chief Officer (\* as defined in Paragraph 3 of Part II of Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2011 (as amended) and any assistant to political groups) and it is not proposed that the appointment will be made exclusively from among its existing Officers, the Council will:

1. (a) Draw up a statement specifying:
    - (i) the duties of the Officer concerned
    - (ii) Any qualifications or qualities to be sought in the person to be appointed
  - (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.
  - (c) Make arrangements for a copy of the statement mentioned in (a) above to be sent to the person on request.
2. ~~Where a post has been advertised as provided in 2.1. above, the Council shall –~~
- (a) ~~interview all qualified applicants for the post, or~~
  - (b) ~~select a shortlist of such qualified applicants and interview those included on the shortlist.~~
3. ~~Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with 1. above.~~

## **3. APPOINTMENT OF HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCIAL OFFICER**

- (a) ~~Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment of an officer designated as the head of the authority's paid service, Full Council must approve that appointment before an offer of appointment is made to that person.~~

---

(Cream)

(May 2022) Part 5.84

- 
- (b) Full Council will approve the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer following the recommendation of the Human Resources Sub-Committee of the Council. That Sub-Committee must include at least one member of the Cabinet.
  - (c) Full Council may approve and make the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer only where no valid well-founded objection has been made by any member of the Cabinet.

#### 4. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

- (a) The Human Resources Sub-Committee of the Council will appoint the **Chief Officers (\*)**; ~~(Corporate Directors, Assistant Directors, other such Senior Officers as defined in Paragraph 3 of Part II of Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2011 (as amended) and any assistant to political groups)~~. That Sub-Committee must include at least one member of the Cabinet.
- (b) An offer of appointment to the post of a **Chief Officer (\*)** ~~Corporate Director, or Assistant Director or other such Senior Officer post as defined above~~, shall be made only where no valid well-founded objection from any member of the Cabinet has been received.
- (c) A central record of **Chief Officer** posts covered by Paragraph 3 of Part II of Schedule 2 of the Local Authorities (Standing Orders) Regulations 2001 (as amended) will be produced by the **Head of Paid Service and Monitoring Officer and** held in Human Resources,

#### 5. NOTIFICATION OF APPOINTMENTS

- (a) ~~An offer of appointments can only be made to an individual for by the correct 'appointer', being the Council or a committee, sub-committee or an authorised nominated officer of the Council discharging the function of appointment on behalf of the Council as determined by the Regulations and these Procedure Rules.~~
- (b) No offer of an appointment shall be made to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, ~~Corporate Director, Assistant Director or other such Senior~~ or **Chief Officer post (\*) as defined above** until:
  - (i) The Chairman of the Human Resources Sub-Committee (on behalf of the Sub-Committee) has notified the Assistant Director (Partnerships) of the name of the person to whom the post is to be offered and any other **particulars** ~~matter~~ relevant to the appointment **which the Sub-Committee has notified to the Assistant Director (Partnerships)**.

---

(Cream)

(July 2020) Part 5.85

- 
- (ii) The Assistant Director (Partnerships) has notified every member of the Cabinet of the name and of the person to whom the post is to be offered, ~~and any other matter~~ **particulars** relevant to the appointment **and the period for objection**.
  - (c) The Leader of the Council may object, on behalf of the Cabinet, to the appointment within 3 working days of the issue of the notice in **(ab)** above.
  - (d) An offer of appointment may **then only** be made if:
    - (i) The Leader of the Council has notified the Assistant Director (Partnerships) within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the making of the appointment; **or**
    - (ii) The **Assistant Director (Partnerships)** has notified the Sub-Committee that they have not received any objection **from the Leader** ~~with Assistant Director (Partnerships)~~ in the period specified in **(bc)** above.
    - (iii) The Sub-Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.

## 6. OTHER APPOINTMENTS

The appointment of Officers below the **Deputy Chief Officer** ~~Head of Service~~ is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.

## 7. DISCIPLINARY ACTION IN CONNECTION WITH CHIEF OFFICERS

- (a) The Human Resources Sub-Committee shall deal with disciplinary **action (has the same meaning as defined in the Local Authorities (Standing Orders)(England) Regulations 2001 issues** in connection with the **Council's Chief Officers (\*)** and any assistant to political groups and resolve any action which it considers appropriate.
- (b) With regards to disciplinary issues in connection with the **Council's Authority's** statutory officers the Committee can only resolve action short of dismissal. In instances where its recommendation is to dismiss any **Statutory Officer** it must adhere to the processes set out in these **Procedure Rules** and the full Human Resources and Council Tax Committee together with the Independent Persons must refer its recommendation to Full Council.
- (cb)** The Council's statutory officers are those defined as Head of the **Council's Authority's** Paid Service, Chief Financial Officer and Monitoring Officer.

## 8. DISCIPLINARY ACTION IN CONNECTION WITH ~~OTHER~~ OFFICERS BELOW DEPUTY CHIEF OFFICER

Members will not be involved in the disciplinary action or dismissal against any ~~other~~ officer **below a Deputy Chief Officer**. The Council's disciplinary, capability and related procedures, as

---

(Cream)

(July 2020) Part 5.85



---

adopted from time to time will apply, **and may allow a right of appeal to members in respect of disciplinary action.**

**9. DISCIPLINARY & DISMISSAL CASES INVOLVING THE COUNCIL'S STATUTORY OFFICERS: HEAD OF PAID SERVICE, THE CHIEF FINANCIAL OFFICER AND THE MONITORING OFFICER:**

**9.1** *In the following paragraphs-*

- (a) *"the 2011 Act" means the Localism Act 2011;*
- (b) *"chief finance officer", "disciplinary action", "head of the authority's paid service" and "monitoring officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;*
- (c) *"independent person" means a person appointed under section 28(7) of the 2011 Act;*
- (d) *"local government elector" means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;*
- (e) *"the Panel" means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;*
- (f) *"relevant meeting" means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and*
- (g) *"relevant officer" means the chief finance officer, head of the authority's paid service or monitoring officer, as the case may be.*

**9.2** *A relevant officer may not be dismissed by the authority unless the procedure set out in the following paragraphs is complied with.*

**9.3** *The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.*

**9.4** *In paragraph 2.3 "relevant independent person" means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.*

**9.5** *Subject to paragraph 2.6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 2.3 in accordance with the following priority order-*

---

(Cream)

(January 2016) Part 5.86

- 
- (a) *a relevant independent person who has been appointed by the authority and who is a local government elector;*
  - (b) *any other relevant independent person who has been appointed by the authority;*
  - (c) *a relevant independent person who has been appointed by another authority or authorities.*
- 9.6** *The authority is not required to appoint more than two relevant independent persons in accordance with paragraph 2.5 but may do so.*
- 9.7** *The authority must appoint any Panel at least 20 working days before the relevant meeting.*
- 9.8** *Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular-*
- (a) *any advice, views or recommendations of the Panel;*
  - (b) *the conclusions of any investigation into the proposed dismissal; and*
  - (c) *any representations from the relevant officer.*
- 9.9** *Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as an independent person under the 2011 Act.*

## **10. DISMISSAL**

- (a) **Members will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of dismissals.**
- (b) **Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the Head of Paid Service, Chief Finance Officer, or Monitoring Officer, Full Council must approve that dismissal before notice is given to that person (the statutory procedure set out in 9 above must be followed prior to such dismissal).**
- (c) **Where a committee, sub-committee is discharging, on behalf of the Council, the function of the dismissal of a Chief Officer, at least one member of the executive must be a member of that committee or sub-committee.**

---

(Cream)

(January 2016) Part 5.87

- 
- (d) Notices of dismissal can only be made to an officer by the correct 'dismissor', being the Council or a committee, sub-committee or an authorised nominated officer of the Council discharging the function of dismissal on behalf of the Council as determined by the Regulations and these Procedure Rules.
  - (e) Notice of dismissal must not be given to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, or Chief Officer post (\*) until:
    - (i) The Chairman of the Human Resources Sub-Committee (on behalf of the Sub-Committee) has notified the Assistant Director (Partnerships) of the name of the person the Sub-committee wishes to dismiss and any other particulars relevant to the dismissal which the Sub-Committee has notified to the Assistant Director (Partnerships).
    - (ii) The Assistant Director (Partnerships) has notified every member of the Cabinet of the name of the person who the dismissor wishes to dismiss, any other particulars relevant to the dismissal and the period for objection.
  - (c) The Leader of the Council may object, on behalf of the Cabinet, to the dismissal within 3 working days of the issue of the notice in (b) above.
  - (d) Notice of dismissal may then only be made if:
    - (i) The Leader of the Council has notified the Assistant Director (Partnerships) within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the dismissal; or
    - (ii) The Assistant Director (Partnerships) has notified the Sub-Committee that they have not received any objection from the Leader in the period specified in (c) above.
    - (iii) The Sub-Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.

---

(Cream)

(January 2016) Part 5.87

This page is intentionally left blank

## CABINET

16 FEBRUARY 2024

### REPORT OF THE PORTFOLIO HOLDER FOR PARTNERSHIPS

#### A.2 DETERMINATION OF A NOMINATION TO REGISTER AN ASSET OF COMMUNITY VALUE: THE LION PH, THE STREET, ARDLEIGH, ESSEX, CO7 7LD

#### PART 1 – KEY INFORMATION

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

To determine whether The Lion Public House meets the criteria set out in the Localism Act 2011 (“the Act”) and the Assets of Community Value (England) Regulations 2012 (“the Regulations”) following its nomination as an Asset of Community Value by an unincorporated body made up of at least 21 residents from different households that are eligible to vote in the required area. No other criteria are pertinent.

##### **EXECUTIVE SUMMARY**

A valid nomination to register an asset of community value has been received from an unincorporated body made up of at least 21 residents from different households that are eligible to vote in the required area as shown identified in the plan included within Appendix A.

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011 and The Assets of Community Value Regulations 2012.

The Government’s non statutory guidance defines an asset of community value as: “Building or other land whose main (i.e. “non-ancillary”) use furthers the social wellbeing or social interests of the local community, or has recently done so and is likely to do so in the future”. The Report provides an assessment of the nomination.

Cabinet should consider the content of the nomination against the statutory criteria (and no other factors) and determine whether the asset should be included within the Council’s List of Assets of Community Value.

Taking the evidence provided into account, it is recommended that the building nominated does meet the criteria set out Section 88 of the Localism Act 2011. Accordingly, it is recommended that the criteria are met and that the building should be listed as an Asset of Community Value.

Cabinet adopted the formal procedure for administering Assets of Community Value in January 2015, when the legislation and the supporting procedures were new to local government. The Council has been operating within this procedure for 8 years and it is considered appropriate for a review to be undertaken, taking into account the experiences of past applications, case law around the subject matter, the strict criteria applied in making such determinations, number of successful community bids and reviews requested.

Cabinet Members have previously expressed informal support for officers to be provided with the appropriate delegations to enable applications to be determined quicker within the strict legislative framework. However, the formal procedure will require amendment and due to the time passed since its adoption, a thorough review of operating procedures is suggested, including how reviews would be undertaken if the decisions were delegated to officers.

#### **RECOMMENDATION(S)**

**That Cabinet agrees that The Lion Public House, The Street, Ardleigh, Essex, CO7 7LD meets the definition of an Asset of Community Value, as set out in Section 88 of the Localism Act 2011, and that the asset be added to the Council's list of Assets of Community Value.**

#### **REASON(S) FOR THE RECOMMENDATION(S)**

- **The public house has for many years, up until its closure in March 2020, been used by both the community of Ardleigh and also tourists visiting the area.**
- **Officers consider the building to have been recently used for community purposes. Although a fundraising group may not be off the ground it is reasonable to conclude that they plan to do it or that someone else might buy and run it for some community purpose. Government guidance indicates that authorities should lean towards the potential for some group to acquire properties even if one is not immediately in a position to do so.**

#### **ALTERNATIVE OPTIONS CONSIDERED**

- **Not adding the property to the list of Assets of Community Value – not recommended – the criteria are met.**
- **Adding the property to the list of Assets of Community Value – recommended – the criteria are met.**

## **PART 2 – IMPLICATIONS OF THE DECISION**

#### **DELIVERING PRIORITIES**

Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of Council priorities.

A review of the procedure for administering Assets of Community Value demonstrates effective and positive governance ensuring procedures remain efficient and comply with best practice and guidance.

#### **OUTCOME OF CONSULTATION AND ENGAGEMENT**

The owners of the property have been informed of the application via letter.

No response has been received at the time of writing. Any response received prior to the Cabinet meeting date will be provided for members' consideration. In the application nominators drew attention to the proposed auction sale of the property. Officers found the listing on the auction website of a well-known Auction company, due to take place that week. Officers contacted the

auctioneers to inform them of an application for an Asset of Community Value listing in relation to the property and were informed that the property had been withdrawn from the auction. No reason was given.

The Act and Regulations are intended to increase public engagement.

**LEGAL REQUIREMENTS (including legislation & constitutional powers)**

<b>Is the recommendation a Key Decision (see the criteria stated here)</b>	<b>No</b>	<b>If Yes, indicate which by which criteria it is a Key Decision</b>	<input type="checkbox"/> <b>Significant effect on two or more wards</b> <input type="checkbox"/> <b>Involves £100,000 expenditure/income</b> <input type="checkbox"/> <b>Is otherwise significant for the service budget</b>
		<b>And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)</b>	

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011:

- (1) A building or other land in a local authority’s area is land of community value if in the opinion of the authority —
  - (a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and;
  - (b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

Section 88(2) of the Act extends this definition to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.

Under Schedule 2 of the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, the determination of an appeal against any decision made by or on behalf of the authority can be made by the Executive or another Committee. It is considered that as Cabinet will be the decision maker of the outcome of the nomination, any review received should be considered and referred to the Community Leadership and Partnerships Overview and Scrutiny Committee, which already includes within its terms of reference review of Cabinet decisions.

**Wrexham Court Parish Council v Slough Borough Council** on 5 January 2024 (Ref: [2024] UKFTT 33 (GRC)). A claim was lodged by a parish council in Berkshire against a decision by Slough Borough Council not to designate an asset of community value under the Localism Act 2011 (“the Act”).

Section 91 of the Act requires the Council to give statutory notice of inclusion or removal of an asset in its list of Assets of Community Value. The Council’s decision letter, which the parish council sought to appeal referred to the Act and explained that the parish council’s nomination of an asset for inclusion on the list was unsuccessful. Regulation 11 of the Assets of Community Value (England) Regulations 2012 states that a review of the council’s decision could only be requested by the owner of the asset. Judge Alison Mckenna, rejected the parish council’s claim because the General Regulatory Chamber had no jurisdiction to determine the appeal or that a right of appeal existed for a nominator against an unsuccessful nomination. The right of appeal was only available to a relevant owner and in respect of a listing review decision, rather than against an initial decision not to include any property in the list.

However, on this basis, as is the situation for all council decisions, it is still challenged by way of judicial review, as confirmed by the judge in the above case, although this is a separate court procedure, and can only proceed if the court give permission to judicially review a council decision after considering the grounds for doing so and the council’s response. Therefore, the short answer is that a nominator could only challenge the Cabinet’s decision not to include the property on the ACV list through a judicial review process.

The term “in the recent past” has no statutory definition (i.e. not set down in the legislation) and has been left deliberately imprecise. In [Sandhu v South Oxfordshire DC](#) CR/2019/0008 Upper Tribunal Judge O’Connor sitting as a First-Tier Tribunal Judge emphasised that the term “*is a flexible concept and must depend upon all the circumstances of a particular case*” (para. 15). As with earlier appeals the judge highlighted as one material factor the length of time the public house had operated before the closure. In that case it “was for over 100 years in a very small community area”. The White Lion had in fact been run for about eight years as a restaurant until it closed in August 2013. It was listed as an ACV in October 2013 and came off the list in October 2018. The Parish Council nominated it again in May 2019 which is just short of six years since the closure of the business. It was held that the activities prior to that closure were within the recent past. The same judge adopted a similar approach in [Roffe v West Berkshire Council](#) CR/2019/0010. As the closure in that case was only just over two years before nomination it was unsurprising that the activities relied on were held to be within the recent past.

In contrast in [Milton v North Devon DC](#) CR/2020/0001 the White Hart in Bratton Fleming had closed in December 2012, been placed on the ACV list on 19th September 2014 and removed from that list on 19th September 2019. Upon the expiry of the statutory five year period the Parish Council made a fresh nomination which as the public house had never re-opened directly raised the issue as to whether the activities relied on to establish the qualifying use for the satisfaction of the first statutory condition in the recent past with regard to the first nomination could still be relied on for that same purpose in relation to the second nomination. Judge J. Findlay adopted the same approach to the term “in the recent past” as that expressed in the *Roffe* case. The judge stated that



she relied on the ordinary meaning of the word “*recent*” stating that in her “*view the word refers to something that happened not long ago*” (para. 16). Even though the White Hart had been a public house since 1812 the judge did not accept that something that happened nearly eight years ago can be described as recent (para.15).

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

**No additional comments to those set out in the report in relation to the current application. A review of the operating procedures for administering Assets of Community Value should be undertaken using experiences from past applications and case law on the subject matter and should be reflected in any revised procedures.**

**FINANCE AND OTHER RESOURCE IMPLICATIONS**

**There are circumstances where the Council may be required to pay compensation. It is hard to quantify this risk and it is therefore not proposed to make a specific allocation. The Advice Note issued by Department of Communities and Local Government (“DCLG”) states that if compensation exceeds £20,000 in any one financial year support can be requested through their burdens funding scheme. In this case, the current owner has suspended a planned sale of the site and this may give rise to a compensation claim.**

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

**No additional comments**

**USE OF RESOURCES AND VALUE FOR MONEY**

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

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The Council has an adopted Financial Strategy.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks,; and	The Council has an adopted procedure for considering nominations of assets of community value.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The Council has an adopted Financial Strategy.

**MILESTONES AND DELIVERY**

If Cabinet determines to add the property to the list it will be added directly and will remain on the list for five years unless there is an appeal, review or relevant transaction.

The review of the procedures could be brought to Cabinet in March 2024.

**ASSOCIATED RISKS AND MITIGATION**

<p>The Property was due to go to auction, but it was withdrawn from the auction for unspecified reasons.</p> <p>There is always some risk that the decision in relation to the nomination will be controversial whether it is listed or not.</p> <p>The suspension of the planned sale by the current owners and a decision to add the property to the list of assets of community value may give rise to compensation requirements.</p>	
<b>EQUALITY IMPLICATIONS</b>	
<p>The nominating body lists a number of social and community activities that we likely on the whole to be progressive in terms of equality and diversity.</p>	
<b>SOCIAL VALUE CONSIDERATIONS</b>	
<p>Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of implications.</p>	
<b>IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030</b>	
<p>The proposed decision is neutral in relation to the Council's emissions ambitions.</p>	
<b>OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS</b>	
<p><b>Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.</b></p>	
<b>Crime and Disorder</b>	<p>The nominating body lists a number of social and community activities that are likely on the whole to be progressive in terms of crime and disorder</p>
<b>Health Inequalities</b>	<p>The nominating body lists a number of social and community activities that are likely on the whole to be progressive in terms of health equalities.</p>
<b>Area or Ward affected</b>	Ardleigh & Little Bromley
<b>PART 3 – SUPPORTING INFORMATION</b>	
<b>BACKGROUND</b>	
<p>The Act and Regulations, also collectively known and described as Community Right to Bid place a duty on local authorities in England and Wales to maintain a list of land in their areas that is land of community value as nominated by the local community.</p> <p>The local authority must consider only if the nominated asset meets the criteria set out in Section 88 Localism Act 2011 in that it is satisfied:</p> <p>(a) the actual use, not an ancillary one, that furthers social wellbeing or social interest of the local community; and</p>	

- (b) that there can continue to be a non-ancillary use, which will further the social well-being or social interests of the local community.

The Council must maintain:

- A list of assets that are held to be of community value; and
- A list of assets identified in unsuccessful nominations.

If land or buildings are placed on the list of assets of community value:

- They remain on the list for five years;
- They are subject to a local land charge;
- If the owner wishes to sell (some exemptions apply) the asset they must notify the Council;
- The Council must notify the nominator and publicise the potential sale;
- All community groups have a six week window to register their intent to bid for the asset;
- If no registration of intent is received the owner may then sell the asset as they see fit (subject to any normal legal processes);
- If intent is registered community groups are then allowed a further 20 weeks (strictly 6 months from the date of the owner's notice) to raise money, reach agreement or otherwise bid for the asset;
- The owner may sell to a community group at any time but is never obliged to do so;
- If no community bid is made or accepted within the six months the owner may then sell the asset as they see fit;
- No further bid or moratorium can be made for a period of 18 months from the owner's notice; and
- If the owner suffers financial loss as a result of the imposition of either moratorium the Council must compensate the owner.

The provisions of the community right to bid does not:

- Restrict who the owner of a listed asset can sell their property to, nor at what price;
- Confer a right of first refusal to community interest groups,
- Enable a community group to trigger disposal of a site;
- Place any restriction on what an owner can do with their property, once listed, if it remains in their ownership.

Only the owner of the land has the right to seek a review of the decision to include any land on the list in accordance with Section 92 of the Localism Act 2011. This must be done in writing within 8 weeks of the written notice of inclusion of the land in the list.

The table below, based on guidance produced by the Public Law Partnership sets out an overview of what the Act and Regulations intend to constitute as an "Asset of Community Value".

The Act intends to apply to Land and Buildings where:

1. The main use of the land or building **further the social wellbeing or social interests of the local community** at the present time AND it is

realistic to think that this can continue into the near future (even if the type of social use or benefit might change), or;

2. The main use of the land or building **furthered the social wellbeing or social interests of the local community** in the recent past AND it is realistic to think that this could again happen **in the next five years** (even if the type of social use or benefit might change).

The Act does not intend to apply to land where:

1. The main use of the land or **building furthered the social wellbeing or social interest of the local community some years ago** but is not presently in use for a social purpose, or;
2. The land or building has **not recently been, and is not currently, in use for a primarily social purpose**, or;
3. The land or building has been **empty or derelict** for many years and remains so today.

In their Guidance Public Law Partnership provide some helpful interpretation of these terms:

This could apply to a broader set of activities and not just cultural, recreational and sport interests as provided by the Act. Working with local communities it could include: any land or building where the main purpose is for the provision of public services for education, health and wellbeing or community safety e.g. nurseries, schools, children's centres, health centres, surgeries, hospitals, day care centres, and residential care homes. Sport, recreation & culture e.g. parks and open green spaces, sports and leisure centres, libraries, theatres, museums and heritage sites, cinemas, swimming pools. Community services e.g. community centres, youth centres, and public toilets. Any economic use which also provides important local social benefits e.g. village shops, pubs, markets.

For the use which is **currently ongoing**, the working assumption should be that the present use can continue into the future, unless the local authority is able to identify evidence that is unlikely to be the case. In other words where the asset is presently in social use there should be a **presumption of continued viability**, unless clear evidence suggests otherwise. For a **social use which has lapsed** and needs to be re-established the local authority will need to take a view on the realism of re-establishing this. A new approach can help to re-establish services that were previously not viable.

#### Decisions and appeals

If a community organisation nominates land or buildings that meet the definition of an Asset of Community Value, and the nomination process was undertaken correctly (i.e. came from a group entitled to nominate), then the local authority must include the asset on its list.

Assets will remain on the list for at least five years. If the council decides that the nomination does not meet the criteria, then they must write to the group who nominated the asset and provide an explanation. They must also keep a list of unsuccessful nominations for at least five years. Landowners can ask local

authorities to review the inclusion of an asset on the list, and this triggers an appeal to an independent body, called a First Tier Tribunal. See Appendix D

Cabinet adopted the formal procedures for administering Assets of Community Value at its meeting in January 2015, which was based on Cabinet determining all applications, whether the criteria under the Act was met or not. This approach was adopted at the time, because the legislation and its process was new to local government.

#### **CURRENT POSTION**

The Nomination Form has been submitted by unincorporated body made up of at least 21 residents (attached at Appendix A) and contains at B4 and B5 reasons why the nominators consider that the building is of community value and how the land could be acquired and used in the future.

The property is currently closed as a public house but was used before it closed by locals, visitors to the area and the local Crib team for many years.

In accordance with the Regulations the landowner has been notified. The owners of the property have not been in touch with Tendring District Council at the time of writing this report.

At the time of the nomination being received by the Council, the property was due to be auctioned the same week. The property was withdrawn from the auction, without notification of the reason(s). Officers have contacted the auction company but have not received a reply.

It is recommended that the building does meet the criteria set out in Section 88 (2) (a) of the Act:

*there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community*

The Nomination request is being sought with the stated intention of continuing the main use which furthers the social wellbeing or interests of the local community.

Taking the above into account it is recommended that the matter for consideration is whether the building nominated does meet the criteria set out in Section 88 (2) (b) of the Localism Act 2011, specifically:

*it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.*

Nominators view the premises as an asset of community value: *“Prior to its closure the pub received very positive reviews and was considered an important gathering venue for many in the community. Recollections from those in the village note the diversity of those who frequented it, there was a Crib Team (who have subsequently had to relocate to a pub approximately 3 miles away), and being located across the road from St Mary’s Church, the pub held gatherings for families following funerals and other services.*

*The Lion is located in the centre of the village part of the quintessential aspects of a local community with the church, post office and local shop all within short line of sight. It is well supported by transport links with the village's main bus stop opposite and located at the crossroads of the village centre on the road from Manningtree to Colchester and linking Tendring District through to Dedham Vale. Not only is this the only pub within easy, safe pedestrian walking distance for those with limited mobility, but across the road is a free, 24/7 car park for 35 cars. This allows people to get to/from the pub safely when transport systems may be down. It also means that families can access the pub easily.*

*When it was open, the pub enabled local people to enjoy a range of drinks (and food) in a pleasant, convivial atmosphere, which furthered their individual well-being. It also provided a location for local people to meet and socialise in a welcoming environment which, individually, they find rewarding and enjoyable. Such social interaction is also in the interests of the locality as a whole as it encourages community cohesion and a collective sense of well-being."*

#### **BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

Non-statutory advice note for local authorities produced by DCLG Community Right to Bid – October 2012

#### **APPENDICES**

**Appendix A – Nomination Form (Redacted)**  
**Appendix B – Title Plan**  
**Appendix C - Unincorporated Body Nomination Form**  
**Appendix D – Is a building or other land an “asset of community value”**

#### **REPORT CONTACT OFFICER(S)**

<b>Name</b>	<b>Kirstin Foley</b>
<b>Job Title</b>	<b>Economic Growth Officer</b>
<b>Email/Telephone</b>	<b>01255 686149</b> <a href="mailto:kfoley@tendringdc.gov.uk">kfoley@tendringdc.gov.uk</a>



**LOCALISM ACT 2011**

**THE COMMUNITY RIGHT TO BID**

**NOMINATION FORM**

**A: You and your organisation**

Your Name Redacted
Your Organisation (full official name) N/A – Unincorporate body
Your position in the organisation N/A – Unincorporate body
Organisation address (including postcode) Redacted, Station Road, Ardleigh
Daytime telephone no. Redacted
Email address Redacted
How and when can we contact you?*
Preferably by email or phone.

\*other correspondence address or preferred way or time for us to contact you

**Type of organisation**

Description	Put a cross X against all those that apply	Registration number of charity and/or company (if applicable)
Neighbourhood forum		
Parish Council	X	
Charity		

Community interest company		
Unincorporated body	X	
Company limited by guarantee		
Industrial and provident society		

**Unincorporated bodies only:**

21 different households from the village or surround area, members of which are eligible to vote, signed the attached ACV nomination form. Additional details below.

**Local connection**

While the attached form of the signatures outlines 21 separate households, occupants of which are registered to vote within the local authority or that of neighbouring authorities, these were collected within 36 hours and it was clear that this application would have received even wider support from the village had there been time to collect them and submit this application prior to the auction.

Ardleigh Parish Council is also supporting this application and attached with this submission is their letter of support as a Parish Council. They have separately emails TDC with details of their support.

**A6 Distribution of surplus funds (certain types of organisation only)**

N/A – No funds have or will be collected as part of this ACV application.



**A7 More about your organisation**

Members of the local community of Ardleigh came together for the purpose of applying for ACV status for The Lion. The sale of the premises at auction, within the literature of which it speculates a change of use could be possible, raised concern that this potential community asset could be lost.

**A8 Your organisation's rules**

<b>Please send us a copy of the relevant type of document for your organisation, and put a cross in the next column to indicate which one this is</b>	<b>X</b>
Memorandum and Articles of Association (for a company)	N/A
Trust Deed (for a trust)	N/A
Constitution and/or rules (for other organisations)	N/A

**1 Part B: About the land or building(s) you are nominating**

**B1 Description and address**

What it is (eg. pub, local shop) A pub
Name of premises (eg. Royal Oak / Littletown stores) The Lion
Address including postcode (if known) The Street, Ardleigh, Essex, CO7 7LD

**B2 Sketch plan**

Please include (here or on a separate sheet) a sketch plan of the land. This should show:-

- The boundaries of the land that you are nominating
- The approximate size and position of any building(s) on the land.
- Any roads bordering the site.

This application is proposing to cover the pub itself and all property and land within its boundary, including the outside courtyard, external structure and land within the title plan (attached).

Details of the property size, taken from the property listing by the auctioneers are:

Ground Floor

- Main Pub space including Bar & Fireplace- 36'1" x 33'8"
- Gents WC- 10'5" x 5'9"
- Ladies WC- 8'2" x 7'5"
- Rear Store/Kitchen- 18' x 17'7" max
- Cellar- 12'8" x 12'1"

First Floor

- Former Bathroom- 7'7" x 7'3"
- Potential Bedroom/Living- 16' x 9'6"
- Potential Bedroom/Living- 32' x 16'
- Potential Bedroom/Living- 17'7 x 9'5"

Land Registry title number: EX533682

The Title Plan is supplied with this application as an indication of what is proposed to be covered by the ACV application.

**B3 Owners and others with an interest in the building or land**

*You should supply the following information, if possible. If any information is not known to you, please say so.*

	<b>Name(s)</b>	<b>Address(es)</b>
Names of all current occupants of the land	Unknown	<i>Same as B1.</i>
Names and current or last known addresses of all those owning the freehold of the land (ie. owner, head landlord, head lessor)	Unknown	
Names and current or last known addresses of all those having a leasehold interest in the land (ie. tenant, intermediate landlord, intermediate lessor)	Unknown	

**PLEASE NOTE:**

Ownership not known but the auction of the property is being handled by Dedman Gray Auction Ltd.

**B4 Why you think the building or land is of community value**

*Note that the following are not able to be assets of community value:-*

- *A building wholly used as a residence, together with land “connected with” that residence. This means adjoining land in the same ownership. Land is treated as adjoining if it is separated only by a road, railway, river or canal.*
- *A caravan site.*
- *Operational land. This is generally land belonging to the former utilities and other statutory operators.*

Does it currently further the social wellbeing or social interests\* of the local community, or has it done so in the recent past? If so, how?

Both this point and the one below are addressed jointly in the response to the below question.

Could it in future further the social wellbeing or social interests\* of the local community? If so, how? (This could be different from its current or past use.)

The pub has been closed for a number of years due (we believe) to the owners' desire not to no longer run it. It is understandable that the pub would have remained closed due to the challenging market for the hospitality sector during the pandemic and the subsequent inertia for both the seller or potential buyers.

Prior to its closure the pub received very positive reviews and was considered an important gathering venue for many in the community. Recollections from those in the village note the diversity of those who frequented it, there was a Crib Team (who have subsequently had to relocate to a pub approximately 3 miles away), and being located across the road from St Mary's Church, the pub held gatherings for families following funerals and other services.

The Lion is located in the centre of the village and is part of the quintessential aspects of a local community with the church, post office and local shop all within short line of sight. It is well supported by transport links with the village's main bus stop opposite and located at the cross roads of the village centre on the road from Manningtree to Colchester and linking Tendring District through to Dedham Vale. Not only is this the only pub within easy, safe pedestrian walking distance for those with limited mobility, but across the road is a free, 24/7 car park for 35 cars. This allows people to get to/from the pub safely when transport systems may be down. It also means that families can access the pub easily.

When it was open, the pub enabled local people to enjoy a range of drinks (and food) in a pleasant, convivial atmosphere, which furthered their individual well-being. It also provided a location for local people to meet and socialise in a welcoming environment which, individually, they find rewarding and enjoyable. Such social interaction is also in the interests of the locality as a whole as it encourages community cohesion and a collective sense of well-being.

With all these factors in its favour, there is every reason to believe that under appropriate management or as a Community Owned Pub, it would be viable and successful as an important community asset.

The pub has appropriate space to provide hot and cold food, live music and accommodate public meetings or social gatherings for community groups.

The local cribbage team used to play at the pub and now have to drive 3 miles to Dedham to play instead. They have said they would very much like to see the pub open so they could play at The Lion instead and represent the village players at the village pub.

There is the potential for televisions screening sporting events to be enjoyed by patrons. This allows people in the community to come together to enjoy specific sporting events – providing a safe place to enjoy a drink and a specific sporting event for vulnerable members of society.

Free wifi could be made available for customers which allows people to access the internet that otherwise would not be able to. The pub therefore provides a vital facility for people wanting to use the pub for more than just a social event.

Finally, as referenced above, this is the only pub in the village with pedestrian access, public transport links directly opposite and ample free parking across the road.

*\*These could be cultural, recreational and/or sporting interests, so please say which one(s) apply.*

**B5 How could the building or land be acquired and used in future?**

*If it is listed as an asset of community value, community interest groups (not just limited to your organisation) will get the opportunity to bid for it if it comes up for sale. Please set out how you think such a group could fund the purchase of the building or land, and how they could run it for the benefit of the community.*

The land is currently up for auction and at this stage the ACV application is to ensure that those purchasing the property do so in the knowledge that it should be retained as a pub.

There have not yet been advanced discussions about the pub becoming a Community Owned pub, however, members of the community have experience of this and it could be considered an option at a later stage.

## 2 Section C: Submitting this nomination

### C1 What to include

- The rules of your organisation (question A8).
- Your sketch plan (question B2).

### C2 Signature

*By signing your name here (if submitting by post) or typing it (if submitting by email) you are confirming that the contents of this form are correct, to the best of your knowledge.*

Signature

### C3 Where to send this form

You can submit this nomination:-

- **By post to: Kirstin Foley** Tendring District Council, Town Hall, Station Road, Clacton on Sea, Essex, CO15 1SE
- **By email to:** [kfoley@tendringdc.gov.uk](mailto:kfoley@tendringdc.gov.uk)

## **A.2 Appendix B**

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

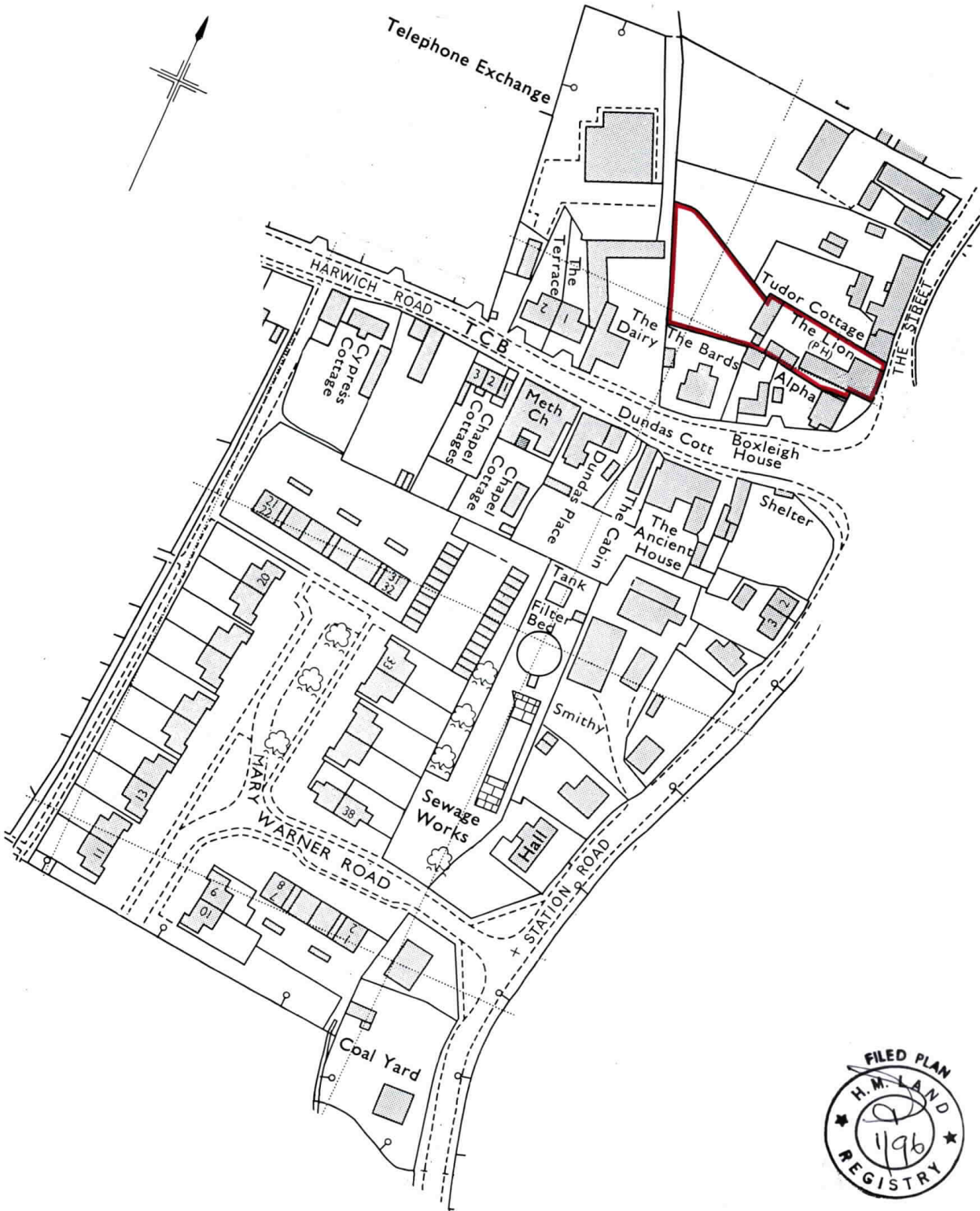
This official copy is issued on 05 December 2023 shows the state of this title plan on 05 December 2023 at 11:41:32. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by the HM Land Registry, Peterborough Office .

© Crown copyright. Produced by HM Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100026316.



H.M. LAND REGISTRY		TITLE NUMBER	
		EX533682	
ORDNANCE SURVEY PLAN REFERENCE	TM 0529	SECTION	Scale 1/1250 Enlarged from 1/2500
		B	
COUNTY ESSEX	DISTRICT TENDRING	© Crown copyright	



## A.2 Appendix C

### Assets of Community Value: Unincorporated Body Nomination Form

Nominations to list pubs as 'Assets of Community Value' can be accepted from any group of at least 21 local people who appear on the electoral roll within the local authority, or a neighbouring local authority. The names must also be from separate households.

By signing this form you are agreeing to sign up and support the principles of the group. At a later date we will also elect a Chair and Secretary to the group, simply to follow the application and . The only principle of this group will be to support the application to list the below pub as an Asset of Community Value. There are no further binding actions on individuals who sign this nomination form.

On behalf of the following members of the local community, please list this pub as an Asset of Community Value:

Name of Pub:     The Lion    

Address of pub:     The St, Ardleigh, Colchester CO7 7LD    

\*Vote = Are you registered to vote within the local authority, or a neighbouring local authority?

No	Name (Please Print Clearly)	Your Full Address (Including Postcode)	*Vote	Signature
1	[REDACTED]	[REDACTED] WHEATLANDS, STATION ROAD ARDLEIGH CO77RS	✓	Signature redacted AW
2	[REDACTED]	[REDACTED] MALTINES FARM LANE ARDLEIGH CO77QA	✓	Signature redacted AW
3	[REDACTED]	[REDACTED] MAZELIA RD CO77RS	✓	[Signature]

No	Name (Please Print Clearly)	Your Full Address (Including Postcode)	*Vote	Signature
4	[REDACTED]	[REDACTED] HAWWICK RD CO77LS	✓	M Tim
5	[REDACTED]	[REDACTED] HAWWICKS CO77LS	✓	S. D. [REDACTED]
6	[REDACTED]	[REDACTED] HAWMEN ROAD CO77LS	✓	[REDACTED]
7	[REDACTED]	[REDACTED] STATION RD CO77RR	✓	[REDACTED]
8	[REDACTED]	[REDACTED] STATION RD CO77RR	✓	S. W. [REDACTED]
9	[REDACTED]	[REDACTED] COLCHESTER ROAD CO77NS	✓	[REDACTED]
10	[REDACTED]	[REDACTED] COLCHESTER ROAD ARDLEIGH CO77WS	✓	[REDACTED]
11	[REDACTED]	[REDACTED] KHAETOOM VILLAS THE STREET CO77L1	✓	[REDACTED]
12	[REDACTED]	[REDACTED] STATION ROAD ARDLEIGH CO77RR	✓	[REDACTED]

\*Vote = Are you registered to vote within the local authority, or a neighbouring local authority?

No	Name (Please Print Clearly)	Your Full Address (Including Postcode)	*Vote	Signature
13	[REDACTED]	[REDACTED] Foxwood Close Lawford Manningtree CO112LU	✓ ✓	P. [REDACTED]
14	[REDACTED]	[REDACTED] BADLISS HALL COTTAGES BADLISS HALL LANG ARDLEIGH CO77LX	✓	[REDACTED]
15	[REDACTED]	[REDACTED]	✓	[REDACTED]
16	[REDACTED]	[REDACTED] Harwich Rd Ardleigh CO77FJ	✓	[REDACTED]
17	[REDACTED]	[REDACTED] [REDACTED] ARDLEIGH CO77SY	✓	[REDACTED]
18	[REDACTED]	[REDACTED] Praking Road Ardleigh CO77SY	✓	[REDACTED]
19	[REDACTED]	[REDACTED], Chapel Lane Colchester CO77BS	✓	[REDACTED]
20	[REDACTED]	[REDACTED] SLOUGH LANG ARDLEIGH CO77LX	✓	[REDACTED]

No	Name (Please Print Clearly)	Your Full Address (Including Postcode)	*Vote	Signature
21		Radial Court, Turbule Road, Colchester, CO4 5EZ	✓	K. Richards
22		Gernon Road, Ardleigh CO7 7NU	✓	R. Smith
23		Kin Road, Ardleigh Colchester CO7 7FE	✓	M. Smith
24		PONDFIELD ROAD COLCHESTER CO4 3EQ	✓	G. B. Stone
25		Ingrams piece Ardleigh CO7 7PZ	✓	A. Smith
26		WHEATLANDS STATION ROAD ARDLEIGH CO7 7ES	✓	[Signature]
27		WHEATLANDS STATION ROAD, ARDLEIGH CO7 7ES	✓	J. M. Ridge
28				

\*Vote = Are you registered to vote within the local authority, or a neighbouring local authority?

## A.2 Appendix D

Nature of Use	Long Past	Recent Past	Present	Future	Covered by the Act
The main use of the land or building furthers the social wellbeing or social interests of the local community at the present time AND it is realistic to think that this can continue into the near future (even if the type of social use of benefit might change)			Yes	Yes	<b>Yes</b>
The main use of the land or building furthered the social wellbeing or social interests of the local community in the recent past AND it is realistic to think that this could happen again in the next five years (even if the type of social use or benefit might change)		Yes		Yes	<b>Yes</b>
The main use of the land or building furthered the social wellbeing or social interests of the local community some years ago but is not presently in use for a social purpose	Yes				<b>No</b>
The land or building has not recently been, and is not currently, in use for a primarily social purpose					<b>No</b>
The land or building has been empty or derelict for many years and remains so today					<b>No</b>

This page is intentionally left blank