

**MINUTES OF THE MEETING OF THE COUNCIL,
HELD ON TUESDAY, 26TH SEPTEMBER, 2023 AT 7.30 PM
IN THE PRINCES THEATRE AT THE TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors Scott (Chairman), Casey (Vice-Chairman), Alexander, Amos, Baker, Barrett, Barry, Bensilum, Bray, Bush, Calver, Chapman BEM, A Cossens, M Cossens, Davidson, Doyle, Everett, Fairley, Ferguson, Fowler, Griffiths, Guglielmi, I Henderson, J Henderson, P Honeywood, S Honeywood, Kotz, Land, McWilliams, Morrison, Newton, Oxley, Placey, Skeels, Smith, Steady, G Stephenson, M Stephenson, Sudra, Talbot, Thompson, Turner, White and Wiggins
In Attendance:	Ian Davidson (Chief Executive), Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Anastasia Simpson (Assistant Director (Partnerships)), Ian Ford (Committee Services Manager), William Lodge (Communications Manager), Madeline Adger (Leadership Support Manager), Keith Durran (Committee Services Officer) and Bethany Jones (Committee Services Officer)

42. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Codling, Harris, Lennard and Platt.

43. MINUTES OF THE LAST MEETING OF THE COUNCIL

It was moved by Councillor M E Stephenson, seconded by Councillor I J Henderson and:-

RESOLVED that the minutes of the ordinary meeting of the Council held on 11 July 2023 be approved as a correct record and be signed by the Chairman.

44. DECLARATIONS OF INTEREST

There were no declarations of interest made by Members on this occasion.

45. ANNOUNCEMENTS BY THE CHAIRMAN OF THE COUNCIL

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

Chairman's Charities

One of the Chairman's Charities for this year had now changed to be the Alresford Primary School Swimming Pool fund.

Pride of Tendring Awards 2024

Nominations were now open for the Pride of Tendring Awards taking place on Friday 16th February 2024. A link and further details had been emailed to Members to enable them to submit their nominations by close of play on Monday 30th October 2023.

He urged all Members to submit a nomination to enable the efforts of the residents of Tendring to be recognised.

Members were requested to contact the Leadership Support Team for assistance in submitting their nomination or if they had any questions.

Remembrance Sunday

The Council was working to organise the Remembrance Sunday service taking place on Sunday 12th November 2023. The Parade would begin outside of the Town Hall at 10.30am and proceed to the Clacton War Memorial on Marine Parade West.

Clacton Air Show

Clacton Airshow had been an excellent event. He extended many thanks to the Officers who had helped to put this annual event on especially as it had been the 30th Anniversary.

The Chairman had chatted with many visitors along the promenade and had sold programmes for an hour or so. All-in-all it had been a great occasion.

Macmillan Coffee Morning

The Chairman announced that the annual MacMillan Coffee morning would take place on Friday 29th September from 10am until 1pm and it would be held in the Committee Room in the Town Hall.

Civic Events

The Chairman had been to a number of events across the District including:-

- (i) celebrating 25 years of the Spirals shop in Brightlingsea;
- (ii) attending memorial services for the armed forces and raising flags at the Town Hall and at the services at the War Memorial;
- (iii) attending Clacton Pride, fetes and community gardens, Clacton Carnival, Clacton Orchestra Gala Concert;
- (iv) attending and speaking at the CVST AGM and the Colchester Foodbank AGM;
- (v) attending the Veterans Tea Dance;
- (vi) attending the Colchester City Council Mayor's Civic Service held in West Mersea;
- (vii) attending the Hindu Festival; and
- (viii) attending the Community Day held at the Sunspot in Jaywick Sands.

46. ANNOUNCEMENTS BY THE CHIEF EXECUTIVE

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

Councillor Guglielmi informed Members that, on 12 September 2023, the Chief Executive's first granddaughter had been born. He extended his congratulations to both the Chief Executive and his daughter.

Members' gave a round of applause to mark this happy event.

The Chief Executive then suitably responded.

47. STATEMENTS BY THE LEADER OF THE COUNCIL

There were no statements made by the Leader of the Council on this occasion.

48. STATEMENTS BY MEMBERS OF THE CABINET

30th Clacton Air Show

The Portfolio Holder for Economic Growth, Regeneration and Tourism (Councillor I J Henderson) informed Council that an estimated 250,000 visitors had attended the 30th Clacton Air Show. There had been a total 16 flights on the programme, believed to be the largest flying programme of any Air Show in the UK.

Councillor Henderson reminded Members that a 2022 study had estimated that the Air Show brought £12million into the local economy. He also stated that it should be recognised what an enormous undertaking it had been for this Council to have sustained such an event for 30 years when many others around the country had been cancelled.

The Portfolio Holder reported that, for the first time, the Council had highlighted a Town Centre Trail to support local businesses and to encourage more people to use the local shops when visiting the area. The Council would look to expand on, and improve the Trail in future years.

Though this had been a multi-agency event run over two days, Councillor Henderson was pleased to say that it had run smoothly which testified to the hard work and planning involved. He thanked everyone from both the Council and its partners for their dedicated efforts in planning and staging this event, which was no mean feat. A small Council team organised the Air Show, and he made special mention of the Tourism Events Team, Sarah Daniells and Jo Needham. The Portfolio Holder also thanked staff from other Council departments who had volunteered to steward the event over two days (and one evening).

Councillor Henderson recorded his thanks to the Council's partners and emergency services for their immense support in planning and running the event. He made a special mention to Essex Police for their professional input into the organisation of the event and in ensuring the safety of all of the visitors at the Air Show.

In response to a question asked by Councillor Calver, the Portfolio Holder informed Council that, after 11 years, Mike Carran, the Council's Lead Officer for the Air Show would be handing over the reins and taking a step back though he would still be available to give support to the event going forward. Councillor Henderson placed on record his appreciation for all of the hard work that Mike Carran had undertaken in making the Clacton Air Show one of the premier air shows in the country.

Tendring4Growth Events

The Portfolio Holder for Economic Growth, Regeneration and Tourism (Councillor I J Henderson) informed Council that the previous day had seen the launch of the Tendring4Growth Business fortnight at the Sunspot in Jaywick Sands. He stated that the Sunspot was a fantastic new facility for providing accommodation for local businesses. Councillor Henderson was pleased to announce that 19 of the 24 units available had already been taken up and formed a mix of manufacturing, retail and business finance. He stated that COLBEA remained available to give these local businesses advice and support. The Portfolio Holder was hopeful that soon all 24 units would be filled.

Councillor Henderson informed Members that today he had attended the second Tendring4Growth event on Coastal Tourism at The Waterfront in Harwich. Forthcoming Tendring4Growth events would be:-

Digital & Independent Retailers – Wednesday 27 September at The Kingscliff Hotel, Holland-on-Sea from 10.00 a.m. to 12.30 p.m.

Women in Business Networking – Monday 2 October at Clacton Leisure Centre from 10.00 a.m. to 12.30 p.m.

Creative & Cultural – Tuesday 3 October at the Arts Centre, Harwich from 10.00 a.m. to 12.30 p.m.

Inclusive Employment (including military Employers' Recognition Scheme) followed by Disability Confident – Tuesday 3 October at The Kingscliff Hotel, Holland-on-Sea from 10.00 a.m. to Noon and Noon to 4.00 p.m. respectively.

Freeport East Industry & Innovative UK Edge Perspective – Wednesday 4 October at the Village Hall, Wix from 10.00 a.m. to 12.30 p.m.

Tendring4Growth Business Awards – Thursday 5 October.

49. PETITIONS TO COUNCIL: REPORT OF THE CHIEF EXECUTIVE - A.1 - E-PETITION TO COUNCIL: WASTE MANAGEMENT

In accordance with the Council's approved scheme for dealing with petitions, the Chief Executive formally reported the receipt of an e-petition submitted by Sharon Tyler, as lead petitioner on 18 August 2023. The e-petition had been validly signed by 33 persons and stated:-

"We the undersigned petition the Council to seek alternative solutions to waste collection in the district, specifically, that the issuing of lilac coloured rubbish bags to volunteer litter picking groups is changed so that these sacks do not go to landfill, wheelie bins are issued for household recycling doorstep collection and that more public bins are installed in Towns and along the Seafronts."

The petitioners' justification for this e-petition was that:-

"Wheelie bins for recycling rather than boxes would be more effective and make the collection process more efficient. Currently Veolia empty the boxes into a wheelie bin before emptying contents into the lorry. This is inefficient. The boxes and lids often get

damaged and blown away or stolen meaning the Council must have a constant supply of new ones. Wheelie bins would be more efficient because the contents are kept safely inside until emptied and they are more robust. We also need more bins in the town and on the seafront that are separated by litter type to reduce what goes to landfill. There would be an initial cost for household recycling wheelie bins but this would be offset in cost savings made in dealing with litter more effectively. The lilac sacks from litter picking need to be changed so this litter doesn't go directly to landfill."

The Chief executive further reported that, in accordance with the Council's approved scheme for dealing with petitions, this matter would now be investigated and a report would be prepared and presented to the Cabinet on the basis that it contained between 30 and 500 signatures and related to a matter that was an Executive function under the law.

Members were aware that the next practicable ordinary meeting of the Cabinet would be on 6 October 2023.

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

As the sole purpose of this report under the Petitions Scheme was to inform Council of the receipt of Ms Tyler's petition, it was therefore moved by Councillor M E Stephenson, seconded by Councillor Bush and:-

RESOLVED that the contents of this report be received and noted.

50. PETITIONS TO COUNCIL: REPORT OF THE CHIEF EXECUTIVE - A.2 - E-PETITION TO COUNCIL: 'BRIGHTLINGSEA STENCH'

In accordance with the Council's approved scheme for dealing with petitions, the Chief Executive formally reported the receipt of an e-petition submitted by Matthew Court, as lead petitioner on 31 August 2023. The e-petition had been validly signed by 110 persons and stated:-

"We the undersigned petition the Council to:-

- Immediately reopen the investigation into the persistent stench issue in Brightlingsea.*
- Engage external environmental experts, if necessary, to support and expedite the investigation into the source and nature of the problem.*
- Provide regular, transparent updates to the public on the progress of the investigation, findings, proposed solutions, and expected timelines.*
- Actively coordinate with the Environment Agency and any other relevant authorities to advocate for the needs of Brightlingsea residents and seek their intervention if required.*
- Implement temporary measures to mitigate the impact of the stench on the residents of Brightlingsea while a long-term solution is being found.*

- *Form a community task force, including residents, council members, and experts, to ensure direct community participation in the ongoing efforts to resolve this issue.*
- *Carry out a comprehensive assessment to understand the potential health impacts of the stench on Brightlingsea's residents."*

The petitioners' justification for this e-petition was that:-

"The persistent stench that has plagued the residents of Brightlingsea for over a year is more than just a nuisance; it's a matter of public health, well-being, and the quality of life for every person living and working in the affected area, including the school which has its main playing field nearby. It has turned what should be a pleasant environment into a place where people cannot even open their windows or spend time outside without discomfort.

The initial investigation by Tendring District Council was a step in the right direction, but the premature closure of the investigation without finding a source or solution is deeply disappointing and frankly, unacceptable. This decision gives the impression of a council that is either unable or unwilling to fully address the problem, which is a disservice to the people it is supposed to represent and protect.

This e-Petition is not just about the stench; it's about the role of Tendring District Council and councillors as our elected representatives. It's about how we, as a community, expect our concerns to be addressed, our voices to be heard, and our wellbeing to be prioritised. The actions listed in this petition reflect those expectations.

We understand that finding a solution may not be easy or immediate, but we insist that the council take these necessary steps, engage with the necessary bodies, utilise all available resources, and provide the leadership and representation that Brightlingsea needs and deserves. We look forward to seeing a renewed effort from the Council in tackling this ongoing issue and restoring the quality of life in this part of our beloved town."

The Chief Executive further reported that, in accordance with the Council's approved scheme for dealing with petitions, this matter would now be investigated and a report would be prepared and presented to the Cabinet on the basis that it contained between 30 and 500 signatures and related to a matter that was an Executive function under the law.

Members were aware that the next practicable ordinary meeting of the Cabinet would be on 6 October 2023.

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

As the sole purpose of this report under the Petitions Scheme was to inform Council of the receipt of Mr. Court's petition, it was therefore moved by Councillor M E Stephenson, seconded by Councillor Bush and:-

RESOLVED that the receipt of the Petition and the contents of the report be noted.

51. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.1

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

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

52. REPORT OF THE LEADER OF THE COUNCIL - A.3 - URGENT CABINET OR PORTFOLIO HOLDER DECISIONS

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

(1) Clacton Civic Quarter Levelling Up Fund (LUF) Bid, Dovercourt Town Centre Improvement Corridor Capital Regeneration Project (CRP) Bid

It was reported that, on 23 June 2023, Officers acting on behalf of the Cabinet, in view of the urgency of the issue concerned, and in accordance with Rule 18(i) of the Overview & Scrutiny Procedure Rules, had sought and subsequently obtained the Chairman of the Resources and Services Overview and Scrutiny Committee's consent, that the Cabinet's decision taken at its meeting held on 23 June 2023 relating to the Clacton Civic Quarter Levelling Up Fund (LUF) Bid, Dovercourt Town Centre Improvement Corridor Capital Regeneration Project (CRP) Bid, would be exempted from the call-in procedure.

The Cabinet's decision had been as follows:-

"That Cabinet –

- a) notes the five projects for delivery across the Clacton Civic Quarter and Dovercourt Town Centre bids, as set out in the submissions to Government and confirms its endorsement to both schemes progressing within the context as set out;*
- b) accepts the £6,652,251 awarded to the Council for delivery of the Dovercourt Town Centre Improvement Corridor, following a successful Capital Regeneration Project award from Government, and authorises the Section 151 Officer to sign the associated Memorandum of Understanding with the Department for Levelling Up Housing and Communities (DHLUC);*
- c) agrees the draw-down of £250,000 from the Council's Levelling Up Fund Budget of £2.291m to support the early preparation phases for development of the scheme for Dovercourt;*
- d) authorises the Corporate Director (Place & Economy), in consultation with the Portfolio Holder for Economic Growth, Regeneration and Tourism, to agree any associated expenditure for both Dovercourt and Clacton schemes, within the context of this report; e) agrees to the proposed approach for delivering the projects, as set out in this report, working in close partnership with Essex County*

- Council, as an integral partner, noting subject to further business case approvals by Essex County Council;*
- f) authorises the Portfolio Holder for Economic Growth, Regeneration and Tourism, in consultation with the Corporate Director (Place and Economy) and the Section 151 and Monitoring Officers, to approve the Heads of Terms for the various agreements;*
 - g) authorises the Corporate Director (Place and Economy) to approve the final terms and conditions of the agreements in consultation with the Section 151 and Monitoring Officers; and*
 - h) endorses the Portfolio Holder for Economic Growth, Regeneration and Tourism in forming a cross party 'Levelling Up' Working Party to receive project management updates at least four times a year on progress with the schemes, with particular attention to risk management for each individual project, budget and costings and delivery progress."*

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

"The Government had notified TDC Officers and gave a deadline of Friday 23 June 2023 to sign and return a Memorandum of Understanding and associated documents to the Department for Levelling Up, Housing and Communities in relation to the Dovercourt Town Centre Improvement Corridor Capital Regeneration Project funding award. Therefore, to miss that deadline would have placed the award of £6,652,251 in serious jeopardy."

(2) Extension of the Existing Public Spaces Protection Order (PSPO) in Clacton Town Centre

It was reported that, on 16 August 2023, the Head of Democratic Services & Elections acting on behalf of the Partnerships Portfolio Holder (Councillor Placey) and the Assistant Director (Partnerships), in view of the urgency of the issue concerned, and in accordance with Rule 18(i) of the Overview & Scrutiny Procedure Rules, had sought and subsequently obtained the Chairman of the Community Leadership Overview and Scrutiny Committee's consent, that the Portfolio Holder's decision relating to the consultation process to extend the Public Spaces Protection Order in Clacton Town Centre, would be exempted from the call-in procedure.

The Portfolio Holder's decision had been as follows:-

"To start the consultation process to extend the Public Space Protection Order in Clacton Town Centre. Consultation will take place over 14 days."

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

"The aim is to improve areas in Tendring that have been subjected to Anti-Social behaviour where street drinkers and youths congregate and where criminal activity takes place. Essex Police rely on the PSPO to respond to Anti-Social Behaviour in the Town Centre."

To not support this work would be out of line with the Council's and Community Safety Partnership's current priorities. Essex Police have confirmed that they use the PSPO on a daily basis in Clacton town centre. It ensures enforcement activities can take place,

alongside crime prevention. The PSPO provides a tool to ensure the swift resolution of Anti Social Behaviour.”

Subsequently, on 31 August 2023, the Partnerships Portfolio Holder (Councillor Placey), in view of the urgency of the issue concerned, and in accordance with Rule 18(i) of the Overview & Scrutiny Procedure Rules, had sought and subsequently obtained the Chairman of the Community Leadership Overview and Scrutiny Committee’s consent, that her decision relating to the extension of the existing Public Spaces Protection Order in Clacton Town Centre, would be exempted from the call-in procedure.

The Portfolio Holder’s decision had been as follows:-

“To extend the Public Space Protection Order in Clacton Town Centre for a period of three years pursuant to the powers contained in Sections 59 to 65 of the Anti-Social Behaviour, Crime and Policing Act 2014.”

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

“The current Public Spaces Protection Order (PSPO) expires on 31 August 2023 and Essex Police and Tendring District Council would like to minimise the gap between the expiration of the current Public Spaces Protection Order and the new order. Essex Police rely on the PSPO on a daily basis to remove alcohol from street drinkers and resolve incidents of Anti Social Behaviour including street drinking, the dispersal of groups, begging and violence. Essex Police and the Council’s Community Safety Team rely on this order to swiftly resolve situations in the town centre.

Consultation was carried out for 14 days (commenced on 16th August 2023) with local businesses and ward councillors.”

Councillor S A Honeywood asked questions of the Leader of the Council in relation to the extension of the PSPO in Clacton Town Centre to which the Leader replied.

It was moved by Councillor M E Stephenson and:-

RESOLVED that the contents of the report be noted.

53. MINUTES OF COMMITTEES

It was moved by Councillor M E Stephenson and:-

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

- (a) Resources and Services Overview & Scrutiny of Tuesday 27 June 2023;
- (b) Community Leadership Overview & Scrutiny of Monday 3 July 2023;
- (c) Human Resources & Council Tax of Thursday 6 July 2023;
- (d) Audit of Thursday 13 July 2023;
- (e) Standards of Wednesday 19 July 2023; and
- (f) Planning Policy & Local Plan of Thursday 27 July 2023.

Councillor Fairley asked the Chairman of the Audit Committee (Councillor Sudra):-

“Given the national picture for external audit delays plus the increasing levels of bankruptcies and financial instabilities being seen within local authorities even though these meetings are recorded it is my belief that our written minutes should reflect our discussions in a greater level of detail. I have raised this concern. As BDO have continually broken agreed deadlines due to their other workload and workforce issues, would the Chairman of the Audit Committee agree that it is important for all Members and the public to be reassured that the Committee members have been very robust in asking questions to clarify the reasons behind the unresolved issues and to question our external auditor’s performance and that it is important for our residents to know this and be reassured of this Council’s favourable financial position? Would the Chairman of the Committee please give an assurance that this will be discussed and rectified at our next meeting on 5 October?”

Councillor Guglielmi then asked the Chairman of the Audit Committee (Councillor Sudra):-

“As Chairman of the Audit Committee I am sure that she will be aware that two members of the Committee from my Group have raised questions, as we have just heard, with Officers on the contents of the published draft minutes. Their queries relate to the verbal report given by the External Auditor and the reporting within the minutes of the answers given to the questions raised and the need for improvements to the level of detail recorded. These matters will be raised at the next Audit Committee meeting on the 5th of October when these minutes will be on the agenda for approval. However, as these minutes come before us this evening on the Full Council agenda and for the benefit of Members who were not present as well as for the benefit of the public, will she be kind enough to offer a brief overview of the outstanding issues that came forward in BDO’s verbal report and the Committee’s position on those outstanding matters?”

The Chairman of the Audit Committee replied to Councillors Fairley and Guglielmi as follows:-

“Thank you for your question Councillor Guglielmi. There are two main issues outstanding that I am aware of and they relate to the floor area of the Council’s buildings for valuation purposes and the evidence to support the Council’s valuation of coastal defence assets, which are classified as material infrastructure assets. As discussed at the Committee’s meeting in July, Officers have confirmed that they have provided the External Auditor with as much information as possible including the latest valuation information on the floor area of the Council’s buildings. I understand that the Auditor is now considering their response to the floor area issue along with reviewing the evidence the Council has provided to support its valuation of its coastal defence assets, which included a letter from a suitably qualified external expert supporting the assumptions made by Richard Barrett and his Team. The External Auditor mentioned at the July meeting having to review the experience and expertise of the Council’s external expert and they were asked by the Committee what their expectations were in this regard. They were not able to answer this question on the day and, to date, no response has been received. The Committee has therefore asked the External Auditor for a further update on these outstanding matters at its next meeting on 5 October.

And to answer Councillor Fairley’s question as well, yes, I will consider that request.”

54. MOTIONS TO COUNCIL

No Motions on Notice had been submitted in accordance with Council Procedure Rule 12 for this meeting.

55. RECOMMENDATIONS FROM THE CABINET

No recommendations had been submitted to Council by the Cabinet for Council's consideration on this occasion.

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

No reports had been submitted to Council by an Overview and Scrutiny Committee for Council's consideration on this occasion.

57. REPORT OF THE CHIEF EXECUTIVE - A.4 - MEMBERSHIP OF COMMITTEES

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

Planning Policy & Local Plan Committee

Councillor Guglielmi had been appointed to serve in place of Councillor Turner.

Councillor Newton had been appointed to serve in place of Councillor Thompson.

Resources and Services Overview & Scrutiny Committee

Councillor Doyle had been appointed to serve in place of Councillor Thompson.

Council noted the foregoing.

58. REPORT OF THE DEPUTY CHIEF EXECUTIVE & MONITORING OFFICER - A.5 - EXTERNAL AUDIT DELAYS THAT CAUSED DELAY TO THE PUBLICATION OF CERTIFIED ACCOUNTS FOR 2022/23

Council considered a report of the Monitoring Officer, which informed Members of a breach of a statutory reporting deadline along with the associated circumstances and the actions taken in response.

Council was made aware that this was a report issued under Section 5 of the Local Government and Housing Act 1989 to inform Members that Tendring District Council, for reasons beyond its control, had failed to publish its certified draft accounts for the 2022/23 financial year by the statutory deadline of 1 June 2023. The Council was required by law to consider this report and to decide what action (if any) to take in response.

It was reported that the Chief Executive and the Assistant Director (Finance & IT) & Section 151 Officer had both been consulted on this report, as required by the legislation.

Members were aware that a similar report had been presented to Cabinet at its meeting held on 21 July 2023 (Minute 27 referred). Cabinet had resolved that –

- a) *the Monitoring Officer's report and the response of the Council's Statutory Officers including the Section 151 Officer's aim to publish the 2022/23 Statement of Accounts by the 31 July 2023 and start the period of public inspection as soon as possible thereafter be endorsed;*
- b) *it is noted that this report will be presented to the next meeting of Full Council;*
- c) *the matter set out in this report be included within the Annual Governance Statement 2023, which will reviewed by the Audit Committee as part of their work programme;*
- d) *Officers be requested to provide an update to the next meeting of Cabinet in October 2023;*
- e) *Officers continue to work with partners and all relevant organisations to support a satisfactory resolution to the ongoing External Audit delays;*
- f) *the Chief Executive be requested to write to the Chief Executive of this Council's External Auditor to express Cabinet's regret at the on-going audit delays; and*
- g) *the Council's Finance Team be thanked for working to their continuing high standards, particularly given the current difficult circumstances with audit delays.*

Essentially, the Cabinet had endorsed the Section 151 Officer's intention to publish the certified Statement of Accounts for 2022/23 by the end of July 2023 regardless of whether the External Auditor had completed their work on the 2020/21 and 2021/22 Statement of Accounts. Once published, the public inspection period would then commence which addressed the breach of the Account and Audit Regulations 2015 highlighted above, albeit at a date later than set out within those regulations.

Council was informed that, since Cabinet's meeting on 21 July 2023, a number of actions / events had occurred with a summary as follows:

- *The Council's Statement of Accounts for 2022/23 had been published by 1 August 2023, with the period for public inspection therefore commencing on that date. This had brought to a close the period where the Council remained in breach of the statutory requirement to publish the Accounts by 1 June 2023.*
- *Reference to this issue had been included within the Annual Governance Statement 2023, which formed part of the Statement of Accounts 2022/23.*
- *The Government had now published their intended response to the on-going audit delays with further details set out later on in this report. Essentially, the aim behind the Government's proposed approach was to set statutory 'back stop' deadlines that required External Auditors to conclude their audit work and publish either qualified or unqualified opinions based on the level of work they had completed by those statutory deadlines.*

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

RESOLVED that Full Council –

- (a) notes the contents of the Monitoring Officer's report;
- (b) notes that the 2022/23 Statement of Accounts was published on 1 August 2023 with the period of public inspection starting on that date and that the matters set out in this report were included within the Council's Annual Governance Statement for 2023;
- (c) notes and welcomes the Government's proposed response to the on-going External Audit Delays and that where necessary Officers continue to work with partners and all relevant organisations to support this new approach; and
- (d) formally commends the Council's Finance Team for working to their continuing high standards, particularly given the current difficult circumstances with external audit delays.

59. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 11.2

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

One question on notice had been submitted by Members on this occasion as set out below:-

Question

Councillor Ann Oxley asked Councillor Geeta Sudra, the Chairman of the Audit Committee:-

Preamble:

I have been made aware that there is a significant and worrying position with large audit businesses not completing external audits of Council accounts going back several years. As I understand it only 27% of local government 2020/21 External Audits have been completed.

Question wording:

Can the Chairman of the Audit Committee confirm what the position is for this Council and what is being done to resolve the mess these audit businesses have created?"

The Chairman of the Audit Committee replied as follows:-

"The Monitoring Officer's Section 5 report, that Council has just considered in this agenda set out a number of useful points around the background to the external audit delays and what the Government are proposing to do about it.

The level of frustration at the position Local Authorities have found themselves in due to issues outside of their control cannot be overstated.

In terms of our own position, not only have our External Auditors been unable to sign off the accounts for 2020/21 and 2021/22 yet, we have not received their very important and independent view on the Council's use of resources and how we deliver value for

money. This opinion is more important than ever given the financial environment we are faced with.

Although the Government's response was clearly welcomed, the 'backstop' statutory deadlines that they have proposed do not necessarily incentivise External Auditors to get on with the job in hand and bring a more timely close to the delays we are experiencing. I know some of you have made the Government aware of your own views on this.

Although the intention of avoiding qualified opinions being issued is acknowledged, I feel it would have been better to bring forward the 'backstop' dates, especially as we do not necessarily have the confidence that our current External Auditors will adequately resolve their capacity issues anytime soon. I believe it would have been much more beneficial for our External Auditors to start work on the 2022/23 Accounts sooner rather than later, which I don't think the current 'backstop' dates necessarily incentivise.

We could find ourselves in the situation where our External Auditors undertake work on earlier years but still find themselves having to issue a qualified opinion as they may not have completed enough work by the 'backstop' deadlines to give the necessary assurances. This would be the worst of both worlds, as we would still have to pay them for what would effectively be 'abortive' work that they undertook.

I did hear that someone asked the Government what is special about these new statutory 'backstop' deadlines, given the external auditors were already working to statutory deadlines that they missed – a very good point. I understand that the Financial Reporting Council will be issuing guidance to ensure auditors meet these new statutory deadlines and that they will also explore the use of their enforcement powers.

The Financial Reporting Council will also be using its broader supervisory role to ensure commitment from audit firms to implement the policy measures and the steps that are being taken to meet the timetables for concluding historical audits.

If you have watched the live recording of our Audit Committee meeting in July, then I hope you would agree that our external auditor was robustly challenged by members on the ongoing audit delays.

The Audit Committee will be making further enquiries with our external auditor - we will be asking them to update the Committee in light of the Government's response to the on-going delays, along with their own plans to fully meet these new requirements, which hopefully sees them focus on the 2022/23 Statement of Accounts as soon as possible.

I hope that the commitments made by the Government and the Financial Reporting Council not only help us successfully deal with the current backlog of audits, but also get us back on a more timely reporting cycle in the longer term."

60. URGENT MATTERS FOR DEBATE

No urgent matters had been submitted in accordance with Council Procedure Rules 3(xv), 11.3(b) and/or 13(p) for this meeting.

61. EXCLUSION OF PRESS AND PUBLIC

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

RESOLVED that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 21 on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 3 and 4 of Part 1 of Schedule 12A, as amended, of the Act.

62. EXEMPT MINUTES OF THE MEETING OF THE HUMAN RESOURCES & COUNCIL TAX COMMITTEE HELD ON THURSDAY 6 JULY 2023

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

RESOLVED that the exempt minutes of the meeting of the Human Resources & Council Tax Committee held on Thursday 6 July 2023 be received and noted.

The Meeting was declared closed at 8.11 pm

Chairman