

Public Document Pack

TENDRING DISTRICT COUNCIL

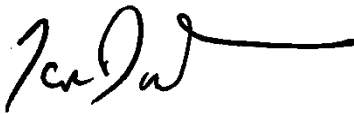
Committee Services
Room 29
Town Hall
Station Road
Clacton-on-Sea
Essex
CO15 1SE

11 March 2024

Dear Councillor

I HEREBY SUMMON YOU to attend the meeting of the Tendring District Council to be held at 7.30 p.m. on Tuesday 19 March 2024 when the business specified in the accompanying Agenda is proposed to be transacted. The meeting will be held in the Princes Theatre, Town Hall, Station Road, Clacton-on-Sea, CO15 1SE.

Yours faithfully

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

Ian Davidson
Chief Executive

To: All members of the
Tendring District Council

TENDRING DISTRICT COUNCIL

AGENDA

For the ordinary meeting to be held on Tuesday, 19 March 2024

Prayers

1 Apologies for Absence

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

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

The Council is asked to approve, as a correct record, the minutes of the Budget and Council Tax setting meeting of the Council held on 13 February 2024.

3 Declarations of Interest

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

4 Announcements by the Chairman of the Council

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

5 Announcements by the Chief Executive

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

6 Statements by the Leader of the Council

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

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

7 Statements by Members of the Cabinet

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

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

8 Annual State of the Tendring District Statement by the Leader of the Council

The Council will receive the annual State of the Tendring District Statement from the Leader of the Council.

9 Petitions to Council

The Council will consider any petition(s) received in accordance with the Scheme approved by the Council.

10 Questions Pursuant to Council Procedure Rule 10.1

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

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

11 Report of the Leader of the Council - Urgent Cabinet or Portfolio Holder Decisions

The Council will receive a report on any Cabinet or Portfolio Holder Decisions taken as a matter of urgency in accordance with Access to Information Procedure Rule 16.2, Budget and Policy Framework Procedure Rule 6(b) and/or Overview and Scrutiny Procedure Rule 18(i).

12 Minutes of Committees (Pages 15 - 32)

Council will receive the minutes of the following Committees:

- (a) Human Resources & Council Tax of Monday 26 February 2024; and
- (b) Planning Policy & Local Plan of Tuesday 27 February 2024.

NOTES:

- (1) The above minutes are presented to Council **for information only**. Members can ask questions on their contents to the relevant Chairman but questions as to the accuracy of the minutes **must** be asked at the meeting of the Committee when the relevant minutes are approved as a correct record; and
- (2) If any recommendations to Council have been made by those Committees, these are included within separate reports for Council to decide upon (i.e. by noting the minutes those recommendations are not approved at this stage of the proceedings).

13 Motions to Council

Council will consider any motions on notice that have been submitted in accordance with the provisions of Council Procedure Rule 12.

14 Reference from the Cabinet - A.1 - Annual Capital and Treasury Strategy for 2024/25 (including Prudential and Treasury Indicators)

To enable the Council to consider the recommendation of the Cabinet in relation to the adoption of the Annual Capital and Treasury Strategy for 2024/25.

(THIS REPORT IS "TO FOLLOW")

15 Reference from the Cabinet - A.2 - Request to change the commencement time of Meetings of the Planning Committee (Pages 33 - 36)

To enable full Council to decide whether to permanently change the commencement time of meetings of the Planning Committee from 6.00 p.m. to 5.00 p.m.

16 Joint Report of the Monitoring Officer and the Cabinet - A.3 - Annual Review of the Council's Constitution (Pages 37 - 86)

In accordance with the provisions of Article 15.02 (a) and (c) of the Council's Constitution, to approve the recommended changes to the Constitution put forward by the Monitoring Officer and the Cabinet following a review undertaken by the Corporate Finance and Governance Portfolio Holder through a Working Party constituted for this purpose.

17 Reports Submitted to the Council by an Overview and Scrutiny Committee

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

18 Report of the Chief Executive - A.4 - Membership of Committees (Pages 87 - 88)

To inform Council of changes in the membership of Committees that have occurred since the last Ordinary Meeting of the Council on 30 January 2024.

19 Report of the Chief Executive - A.5 - Change in Membership of Political Groups (Pages 89 - 90)

To inform Council of changes in the membership of political groups on the Council that have occurred since the last Ordinary Meeting of the Council on 30 January 2024.

20 Report of the Chief Executive - A.6 - Review of the Allocation of Seats to Political Groups on the Council (Pages 91 - 100)

To inform Council of the outcome of a review of the allocation of seats to political groups carried out in accordance with Section 15(1) (e) of the Local Government and Housing Act 1989 and Regulation 17(b) and (d) of the Local Government (Committees and Political Groups) Regulations 1990.

21 Report of the Assistant Director (Partnerships) - A.7 - Pay Policy Statement 2024/25 (Pages 101 - 122)

To present the Council's draft Pay Policy Statement for 2024/25 for approval and adoption.

22 Report of the Monitoring Officer - A.8 - Local Government and Social Care Ombudsman Finding (Pages 123 - 124)

To report the finding by the Local Government and Social Care Ombudsman on a complaint determined by them in respect of a non-executive matter.

23 Questions Pursuant to Council Procedure Rule 11.2

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

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

24 Seating Plan for meetings of the Full Council in the 2023/2024 Municipal Year (Pages 125 - 126)

To enable Full Council to approve the seating plan for its meetings to be held during the remainder of the 2023/2024 Municipal Year. The seating plan has been amended to reflect the formation of the Tendring Residents' Alliance political group and the result of the Bluehouse Ward by-election in January 2024.

25 Urgent Matters for Debate

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

Date of the Next Scheduled Meeting of the Council

Annual Meeting - Tuesday, 30 April 2024 at 7.30 pm - Princes Theatre - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

INFORMATION FOR VISITORS

PRINCES THEATRE FIRE EVACUATION PROCEDURE

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

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

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

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

PUBLIC ATTENDANCE AT TENDRING DISTRICT COUNCIL MEETINGS

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

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

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

Rights of members of the public to film and record meetings

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

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

The Council will provide reasonable facilities to facilitate reporting.

Public Behaviour

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

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

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

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

Filming by the Council

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.

**MINUTES OF THE MEETING OF THE COUNCIL,
HELD ON TUESDAY, 13TH FEBRUARY, 2024 AT 7.30 PM
HELD 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 (except item 121), Calver, Chapman BEM, A Cossens, M Cossens, Davidson, Doyle, Everett, Fairley, Ferguson, Goldman, Griffiths, Guglielmi, Harris, I Henderson, J Henderson, P Honeywood, S Honeywood, Kotz, Land, McWilliams, Morrison, Newton, Platt, Skeels, Smith, Steady, G Stephenson, M Stephenson, Sudra, Talbot, Turner, White and Wiggins
In Attendance:	Ian Davidson (Chief Executive), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer), Keith Simmons (Head of Democratic Services and Elections & Deputy Monitoring Officer), Ian Ford (Committee Services Manager), William Lodge (Communications Manager), Madeline Adger (Leadership Support Manager), Bethany Jones (Committee Services Officer), Kai Aberdeen (Theatre General Manager (Technical)) and Simon Kedge (Casual Technician (Princes Theatre))

113. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Bush, Codling, Fowler, Oxley, Placey and Thompson.

114. MINUTES OF THE LAST MEETING OF THE COUNCIL

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

RESOLVED that the minutes of the ordinary meeting of the Council held on 30 January 2024 be approved as a correct record and be signed by the Chairman.

115. DECLARATIONS OF INTEREST

The Monitoring Officer reminded Members that she and the Section 151 Officer had circulated, by email on 9 February 2024, their annual joint guidance and advice on a number of matters relating to interests and voting on the annual budget and setting of Council Tax and, especially, the requirements of section 106 of the Local Government Finance Act 1992. The Monitoring Officer read out the contents of that email as follows:-

“Tendring District Council has adopted the LGA Model Members’ Code of Conduct which does not include the provisions confirming Members do not have a declarable interest which relates to the function of setting the Council Tax under the Local Government Act 1992. Therefore, to enable you to debate and vote on the budget item to set the Council Tax, this email provides all District Councillors with a dispensation under Section 33(2)(a) to (e) of the Localism Act 2011. Consequently, you will not be required to declare an interest based on the fact you live in the District and therefore have to pay Council Tax.”

However, Members are importantly reminded of section 106 of the Local Government Finance Act 1992, which provides that any Member, who is in arrears by at least 2 months with their Council Tax payments cannot vote on matters concerning either the level of or administration of Council Tax. It is important to note that this also covers Council Tax liabilities outside of the district and property which may not be your main residence. If present at the meeting, a Member to whom this provision applies must disclose the fact and may speak on the item, but cannot vote. Non-compliance with this section is a criminal offence. Therefore, should this provision apply to any Member, this should be declared at the Declarations of Interest agenda item.

In 2014, the Government passed The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 making it mandatory for councils to amend their Standing Orders so as to include provisions requiring recorded votes at budget meetings. I can confirm that the Constitution reflects this requirement and the Council's Procedure Rules state at 19.5:

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

For other types of Interests, which need to be considered, Disclosable Pecuniary Interests (DPIs), Other Registerable Interests (ORIs) or Non-Registerable Interests are defined in the Code of Conduct and for DPIs & ORIs, these have been (or should have been) registered in advance, and with the exception of the Council Tax exemption for residing in the District, you should still consider if any other interests do apply. A blanket exemption/dispensation has not been applied for all."

Councillor Bray declared a Personal Interest in relation to Agenda Item 9 (Report of the Cabinet – A.2 – Executive's Proposals: Housing Revenue Account Budget 2024/2025) insofar as he was a housing tenant of Tendring District Council. He informed Council that he would not take part in the Council's consideration of this item nor the voting thereon.

116. ANNOUNCEMENTS BY THE CHAIRMAN OF THE COUNCIL

The Chairman of the Council (Councillor Scott) reminded Members that the Pride of Tendring Awards were this Friday (16 February 2024). He looked forward to seeing Members there along with their 'winners'.

Councillor Harris respectfully asked the Chairman, in the light of the sad diagnosis of cancer for His Majesty The King, if he would write, on behalf of the Council, to wish him well and a speedy recovery. In addition, Councillor Harris asked the Chairman if he could reassure Members that the official portrait of His Majesty The King had been ordered and that it would be installed shortly.

In reply, Councillor Scott stated that he would gladly send such a letter. He also informed Council that the Portrait had been ordered but had not yet been delivered. He further informed Members that he and the Vice-Chairman were in discussions with Officers about relocating the portrait of Her Late Majesty Queen Elizabeth II from the Town Hall Foyer to the Chairman's Parlour.

117. ANNOUNCEMENTS BY THE CHIEF EXECUTIVE

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

118. STATEMENTS BY THE LEADER OF THE COUNCIL

The Leader of the Council (Councillor M E Stephenson) informed Members that he had had the privilege of attending the recent Tendring Stars Awards which recognised and acknowledged the excellent work of the Council's staff. He stated that it had been humbling to hear about their experiences including under the new category of 'Saving Lives'. Councillor Stephenson also acknowledged the significant number of staff receiving long service awards for 30+ years with the Council.

119. STATEMENTS BY MEMBERS OF THE CABINET

There were no statements made by the members of the Cabinet on this occasion.

120. REPORT OF THE CABINET - A.1 - EXECUTIVE'S PROPOSALS - GENERAL FUND BUDGET AND COUNCIL TAX 2024/2025

Further to Minute 78 of the meeting of the Cabinet held on 26 January 2024, the Council considered the Executive's General Fund budget and Council Tax proposals for 2024/25.

Members were made aware that, as highlighted in the budget report to Cabinet on 26 January 2024, the following adjustments had been outstanding at that time, which had now been reviewed / finalised for inclusion within the final budget proposals:

1. The final employee cost estimates for the year
2. Recharges between the GF and HRA
3. Income from Business Rates
4. Any changes emerging from the Final Local Government Finance Settlement and / or other grants / funding
5. Any impact from proposed fees and charges

Council was informed that the updated forecast for 2024/25, including the changes above, was set out in Appendix A to the report of the Cabinet (A.1). The forecast deficit for 2024/25 had reduced from the £1.715m, reported to Cabinet on 26 January, to £0.449m. That reduction had been largely due to the final figures associated with income from business rates. This had reduced the use of the Forecast Risk Fund by a corresponding amount.

Members were advised that it was important however to highlight that in taking a cautionary approach, the above favourable outcome relating to business rates should be treated on a one-off basis given the uncertainty around that complex area of the budget in future years.

It was reported that Appendices B and C to report A.1 set out the Net Savings and Cost Pressures respectively. Those had remained unchanged from the same appendices considered by Cabinet on 26 January 2024.

As recommended by Cabinet on 26 January 2024, the Executive's budget proposals set out a Band D Council Tax of £193.73 in 2024/25, which was an increase of 2.99% (£5.62), with a Council Tax requirement of £10.048m. Therefore, taking into account the

changes to the budget required since Cabinet had met on 26 January 2024, the total net General Fund revenue budget for 2024/25 was £15.123m, along with a General Fund capital programme totalling £0.827m.

Council was made aware that the original savings targets of £1.000m and £1.500m in 2025/26 and 2026/27 respectively remained the same at this time. Even after including the above savings targets, a structural annual deficit of over £2.000m was still expected to remain at the end of 2026/27.

Members were informed that the forecast would remain 'live' and be responsive to changing circumstances and it would be revised on an on-going basis. Council was told that it was essential that the Council continued to work towards delivering in-year balanced budgets as soon as possible over the forecast period rather than continued to rely on reserves, which was not sustainable in the longer term.

However, the reduced call on the forecast risk fund in 2024/25 as highlighted above did provide some additional flexibility and within this context it was acknowledged that the Council needed to maximise the time that the Forecast Risk Fund allowed, in order to secure the necessary savings as soon as possible.

Council was reminded that the budget recommended by Cabinet for approval by Council included only the District and Parish elements of the Council Tax rather than those from the major precepting authorities. The formal approval of the 'full' Council Tax levy for the year, including the precepts from Essex County Council, Essex Police and Essex Fire & Rescue Services, was delegated to the Human Resources and Council Tax Committee which was due to meet on 26 February 2024.

The Leader of the Council (Councillor M E Stephenson) made the following budget statement:-

"This marks my inaugural budget statement as Leader, and before delving into the specifics of the 2024/25 budget, I believe it's crucial to start by providing a comprehensive assessment of our current standing and the trajectory that has led us to this point in time.

Tonight, I aim to offer an unvarnished examination of our circumstances, encompassing both our achievements and our challenges. It's imperative that we collectively grasp the realities we face before outlining our fiscal plans for the forthcoming year.

Before I start, I think it only proper to commend the exceptional efforts of our financial officers who have skillfully navigated us through the challenges posed by the Government's prolonged financial squeeze on councils. Despite the significant strain, TDC's financial standing, while weakened, is not as dire as that of many other local authorities. I do not laud this over others but want us all to recognise how much worse it could be.

In various parts of the country, including some closer to home in Essex, Chief Finance Officers have resorted to issuing Section 114 notices, prompting staff to consider voluntary redundancies, and councils to seek permission from the government to enable them to borrow money to bridge the gap in funding required for essential services. The media has often labelled Section 114 notices as bankruptcy, and, although not entirely

accurate in the context of councils, it does encapsulate the dire financial predicament they find themselves in – i.e. unable to meet their financial obligations.

Upon reflection, it's evident that we have a culture here at Tendring District Council, which undoubtedly contributes to our success. This culture was highlighted in a recent discussion I had with Cabinet members from other Borough, City and District councils, where many were surprised to learn about the regular interaction between our Officers and Members. I believe that such collaborative relationships are vital for effective governance, financial resilience and achieving our priorities set out in our Corporate Plan.

It is through this joint working that we have been able to identify, and confront, significant challenges, and it is also important to clarify that many of these issues aren't of this Council's making or even those of past and current administrations. Over the past six years, the Government has slashed the Revenue Support Grant (RSG) by 80%, resulting in a staggering £10+ million reduction from our intended budget. Now, with only £15 million at our disposal, we are tasked with managing a budget shortfall inherited from the previous administration, amounting to approximately £1.3 million, and we're expected to find an additional £3 million in savings over the next three years with all the low hanging fruit having been picked. We must recognise the necessity of making tough decisions in the face of these challenges, albeit with gratitude for the Forecast Risk Fund, which provides some breathing space for thoughtful decision-making.

Moreover, the Government's tendency to exert control over local government further complicates matters. From convoluted formulas for rates and RSG to yearly funding agreements that leave uncertainty looming over initiatives like the New Homes Bonus and National Rateable Review, it is no wonder that councils nationally struggle to plan effectively. Additionally, new obligations surrounding the Regulator for Social Housing, OFLOG, and recently announced performance reviews, place significant strain on our resources and capacity at a time when we are already stretched thin.

Internally, we are grappling with inflation, escalating energy costs, and increasing staff salaries, all of which impact our budgets. Furthermore, our ongoing efforts to address coastal protection issues demand attention, as we endeavour to understand the true costs associated with safeguarding both property and our coastline in the years ahead.

It is disappointing that our previous Auditors have yet to finish the 2020/21 accounts or even start on those from 2021/22 and 2022/23. It is crucial to have an independent assessment of our Council's finances, especially given the challenges the public sector is facing, with some councils facing severe financial difficulties.

Having said all that, I hope this statement provides some reassurance about our current and future financial position, supported by our Section 151 Officer's statement in the report.

Interestingly, our new Auditors, KPMG, are likely to give their assessment before our previous Auditors do. We expect to receive their initial feedback early in 2024/25.

The significant array of challenges we face highlights the critical importance of getting the budget right. Failing to do so will impose a substantial burden on our residents and businesses, impacting them for years to come. While our tenure as Members may be brief, the repercussions for our District will extend far into the future. It is essential to

emphasise that this is the reality confronting residents, confronting Essex, particularly those in areas like Thurrock.

Now that I have outlined the financial situation, it is important to note that there are still opportunities amid these challenges. We have several ongoing projects that are well-funded through external sources, but even they may require extra resources for successful delivery. Our aim is to strike a balance between pursuing ambitious endeavours and ensuring financial viability and sustainability.

When writing this speech I looked to our Corporate Plan, agreed upon by this Council, and to one of the priorities that talked about financial sustainability and openness. The words we set out under this heading put a good marker down about how we intend to continue to meet these challenges and are therefore worth repeating as follows:

'To continue to deliver effective services and get things done we must look after the public purse; that means carefully planning what we do, managing capacity, and prioritising what we focus our time, money and assets on. Tough decisions will not be shied away from, but will be taken transparently, be well-informed, and based upon engagement with our residents. We will give clarity on where the Council spends the money it is provided with.'

I think the above captures our intentions clearly and reflects this Council's continued commitment to strong financial stewardship. It is worth acknowledging the reference to capacity, as while we will continue to be ambitious, the scale and speed that we can deliver the things we want to do will always need to be balanced against our available resources, which includes our amazing Officers as well as money.

I can report that we have already taken action to meet this commitment, as we have been committed to this approach from day one and I would like to share several examples:

- Maintaining a focus on the delivery of existing key projects, for example, Spendells House in Walton and the Honeycroft Scheme in Lawford, which will both have a favourable impact on the Council's finances.*
- Continuing to be a lead voice in responding to the financial challenges posed by our membership of the North Essex Parking Partnership*
- Maximising external funding opportunities such as those associated with the Government's Levelling Up agenda. This not only includes specific capital projects in Clacton and Dovercourt but also involves exploring further key improvements across the district via the wider Levelling Up Partnership and the High Streets Accelerator scheme. We expect to be granted over £60m in the coming years specifically earmarked for regenerating Clacton and Dovercourt town centres.*
- Extending the period that council tax premiums on empty properties become payable along with looking to introduce premiums on second homes from April 2025.*
- Recognising the reputational and economic importance of the Clacton Airshow, with a commitment to continue the show for at least the next four years, which is reflected in the budget for 2024/25.*

-
- *Commencing a wider review of external funding the Council provides to other local organisations. This latter point is being helpfully supported by the Community Leadership Overview and Scrutiny Committee.*
 - *Commencing a review of the Council's Careline Service, with the outcome due to be presented to Cabinet later this year.*
 - *Engaging EELGA to support the Council through the processes associated with the upcoming tender of the Waste and Street Cleansing Contract.*
 - *Completing and opening the new car park and flexible space in Dovercourt known as Orwell Place.*
 - *Completing and opening the new flexible workspaces in Jaywick known as The Sunspot.*
 - *Instigating a peer review of our housing provision and identifying additional capacity to support the work associated with the new era of Social Regulation.*
 - *Introducing three new Housing Policies which will improve the services we provide while undoubtedly helping to reduce the ongoing financial impact on the Council in terms of homelessness.*

I am sure there are other examples I have missed, but I hope that the above reflects our approach, a flavour of our ambitions over the next three years and how we want to continue to be a 'can do' Council. As we have discussed before, having a reputation for getting things done will continue to stand us in good stead when potential funding partners look to us in the future.

In turning to the budget proposals for 2024/25 it is worth reflecting on some further points made last year which helps set the context of the forecast and budget setting process this year. Last year highlighted several major global, national and local issues, which included:

- *Russia's continuing conflict with Ukraine*
- *Supply chain disruption*
- *Commodity market volatility*
- *Weak GDP growth across the world*
- *Workforce shortages*
- *An environment of high Interest rates*
- *The highest UK inflation for a generation*

It is fair to say that these have not gone away, with their impact still being felt in 2024/25 and probably beyond in areas such as:

- *Increases in the cost of delivering projects.*
- *Increased contracts / goods and services*
- *Higher staff costs*
- *Increases in the cost of homelessness.*
- *Energy prices*

In terms of the increased costs above, some of these costs are effectively being met from the Forecast Risk Fund until such time as corresponding ongoing savings are identified. This further emphasises my earlier point about budgets being funded but not balanced.

In terms of securing the savings we need, as was discussed at the recent Resources and Services Overview Scrutiny Committee, this work is on-going in consultation with Portfolio Holders and will continue over the coming months, with updates provided via separate reports or alternatively within the regular financial performance reports presented to Members during the year.

With this foundation laid, we can now proceed to analyse the specifics of the 2024/25 budget. As discussed in the report, the cost pressures currently included in the budget for 2024/25 broadly reflect unavoidable items. However, there is a significant level of additional items that remain subject to ongoing review. These items will therefore be considered outside of the budget setting process and prioritised accordingly. Any decisions required will be set out in future reports, which will also set out the use of any one-off funding that is required to support them.

In terms of further transparency, it is also proposed to ensure that the list of further potential cost pressures that will be maintained on a 'live' basis, will be made available to Members accordingly.

To demonstrate the need for a 'live' budget the Government provided Councils with more money via the Final Local Government Financial Settlement announced last week. Although the total amount of £600 million sounded a lot, we will be receiving just an extra £187k in funding compared to the figures currently included in the report.

This does however reduce the deficit from the £449k set out in the report to £262k. This has the knock on impact of reducing the necessary call on the Forecast Risk Fund by the same amount.

In earlier versions of the forecast, we aimed to avoid being overly optimistic about the money expected from the Government. However, recognising the ongoing challenges faced by Councils, the Government has decided to maintain increased funding for the 2024/25 period. With this increased funding, the total expected from the Government in 2024/25 is just over £2.2 million.

The level of council tax remains a key part of the funding jigsaw puzzle for Councils. It is with reluctance, but with this in mind, that the council tax will be increased by 2.99% compared to last year. This brings the total annual amount payable for Tendring Council Services to £193.73 in 2024/25 which is an increase of £5.62, based on a Band D property. Similarly to last year, this is a below inflation increase, which itself creates underlying pressure elsewhere in the budget.

It is always worth highlighting that when we come together in February each year to agree on the level of council tax, this remains a relatively small amount compared with the overall bill that people receive through their letterboxes which includes amounts for ECC, Police and Fire. The £193.73 that would be receivable by the Council has to support a range of services and works out to be £3.73 per week.

Another significant change in the latest forecast, outlined in the report, is regarding income from business rates. As we've discussed previously, forecasting in this area is complex and challenging, especially early in the budgeting cycle. While we will explore adjustments to the forecasting process, the additional income projected for 2024/25 is now estimated to be just over £1 million.

The report also highlights this Council's inclusion, for the first time, of income from the New Homes Bonus and membership of the Essex Business Rates Pool in its base budget. Previously, such income was not included due to the risk of it not being available year on year. This shift reflects our aim to strike a balance between optimism and pessimism, understanding that the truth often lies somewhere in between.

However, it is important to note that the all these factors contributing to the more favourable position in 2024/25 are not necessarily expected to be repeated in 2025/26 and beyond. While this cautious approach is prudent for now, ongoing efforts will refine the forecast in the coming months to better grasp any associated risks, allowing for necessary revisions if needed.

Although this does not alleviate the need to find ongoing savings, what it does do is provide additional time and flexibility to help us make well informed decisions instead of short-term knee-jerk ones. I am sure we have all heard reports about other Councils embarking on the very unhelpful 'salami slicing' approach when preparing their budgets, including a call for voluntary redundancies. I can say now we will be not doing this, as I cannot see it benefiting anyone, not least our residents.

As set out in Appendix A of the report, the Forecast Risk Fund is estimated to remain in surplus over the remaining life of the forecast period. The importance of the Forecast Risk Fund is not lost on me and so, as part of my work in 2024/25, I will be looking to increase the number of years it spans.

I am also never convinced that Government truly understands the financial challenges faced by Councils up and down the country, especially when you hear things from the Secretary of State saying that Councils are 'overstating their woes' and 'crying wolf'. I can tell you, that the financial wolf is at the gates, and it will only be the prudent steps taken by this Administration that will keep him at bay.

Chairman, in summary and in light of the statement I have given tonight alongside the report we have in front of us, it is my hope that we all can agree on this budget. What we must do for the sake of our residents, businesses and visitors is not to shy away from the challenges at hand, but deliver on a packed and ambitious agenda spread over the next four years. It is essential we continue this Council's sound approach to financial management and planning, whilst balancing the delivery of priorities alongside sound stewardship and ambition. I now commend the recommendations to this Council and ask Members for their support."

It was moved by Councillor M E Stephenson that the recommendations, as set out on pages 8 and 9 of the Council Book, be approved.

In addition to Councillor Stephenson, Councillors Bray, Guglielmi, Harris, P B Honeywood, Steady, Calver and Platt addressed the Council on the subject matter of Councillor Stephenson's motion.

In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, as reflected within Council Procedure Rule 19.5 of the Council's Constitution, a named vote on Councillor Stephenson's motion was taken.

That vote resulted as follows:

<u>Councillors For</u>	<u>Councillors Against</u>	<u>Councillors Abstaining</u>	<u>Councillors Not Present</u>
Alexander Amos Baker Barrett Barry Bensilum Bray Calver Casey Chapman BEM A I Cossens M A Cossens Davidson Doyle Everett Fairley Ferguson Goldman Griffiths Guglielmi Harris I J Henderson J Henderson P B Honeywood Kotz Land McWilliams Morrison Newton Platt Scott Skeels Smith Steady G L Stephenson M E Stephenson Sudra Talbot Turner White Wiggins	None	S A Honeywood	Bush Codling Fowler Oxley Placey Thompson

Councillor Stephenson's motion was declared **CARRIED** and it was therefore:-

RESOLVED that, having had regard to the Chief Finance Officer's (Section 151 Officer) report on the Robustness of Estimates and Adequacy of Reserves in accordance with the requirements under Section 25 of the Local Government Act 2003, and having taken account of any responses to the budget consultation process the Council approves the 2024/25 budget proposals (based on a 2.99% (£5.62) Band D council tax increase for district services) and agrees that:-

- i) the total General Fund net revenue budget for 2024/25 be set at £15.123m (a council tax requirement of £10.048m excluding parish precepts);
- ii) the General Fund capital programme be approved totalling £0.827m in 2024/25;
- iii) the detailed General Fund budget for 2024/25, be as set out in Appendix D to item A.1 of the Report of the Cabinet;
- iv) the calculation of the Council's Council Tax requirement, Special Expenses and Parish/Town Council precepts, be as set out at Appendix F to item A.1 of the Report of the Cabinet;
- v) the Council Tax for District and Parish/Town Councils' services, be as set out at Appendix I to the aforesaid item A.1 and that these are the amounts to be taken into account for the year in respect of the categories of dwellings listed in different valuation bands; and
- vi) if budget adjustments are required such as those necessary to reflect the late notification of external / grant funding then, in consultation with the Corporate Finance and Governance Portfolio Holder, the Council's Section 151 Officer be authorised to adjust the budgets accordingly with no net impact on the overall budget or capital programme as set out above.

121. REPORT OF THE CABINET - A.2 - EXECUTIVE'S PROPOSALS - HOUSING REVENUE ACCOUNT BUDGET 2024/2025

Earlier on in the meeting, as detailed under Minute 115 above, Councillor Bray had declared a Personal Interest in relation to this item insofar as he was a housing tenant of Tendring District Council. He thereupon withdrew from the meeting whilst Council considered this item and reached its decision thereon.

Further to Minute 81 of the meeting of the Cabinet held on 26 January 2024, the Council considered the Executive's Housing Revenue Account (HRA) budget proposals for 2024/25.

Council was made aware that there had been only a very limited number of changes made since Cabinet had met on 26 January 2024, which had been reflected in Appendices A to E as necessary. The outcome of the changes required had been an increased estimated surplus of £0.493m in 2024/25 compared with the figure of £0.300m reported to Cabinet in January. It was proposed to contribute that net surplus to general balances, which would partly offset the proposed use of the same reserve in 2023/24.

It was reported that for 2024/25, the Executive's budget proposals set out an increase in dwelling rents of 7.7% along with a total HRA expenditure budget of £16.227m (net of

indirect income / expenditure) and a capital programme totalling £3.928m. That 7.7% increase in dwelling rents would result in an average weekly rent of £100.89 in 2024/25. (£93.68 in 2023/24).

Council was advised that the proposed budget reflected the continued repayment of debt, with the total level of existing debt falling from £33.949m to £32.535m at the end of 2024/25. The HRA general balance was forecast to total £3.843m 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 financially sustainable HRA in the longer term.

Members were reminded that the HRA Business Plan and proposed budget would play a significant role in the delivery of affordable and decent housing in the District and the Council's responsibilities as a landlord had direct implications for the Council's ability to deliver on its objectives and wider priorities. This recognised the socio-demographics of the area and the increased focus on housing standards by the Government.

The Leader of the Council (Councillor M E Stephenson) made the following budget statement:-

"It probably goes without saying but my Administration has also inherited a financially robust Housing Revenue Account.

Historically we have made sure that as much of the rents we collect from our tenants is invested into maintaining their homes and this remains our focus going forward. This is the fundamental premise of what a good social landlord should do, regardless of any social housing regulations that might require it.

We have looked to capture this hugely important issue in our vision and corporate priorities that we agreed on 28 November 2023. We are committed to providing decent housing that everyone deserves and I am sure we all recognise that good quality housing is at the heart of the quality of life of our residents. These two key issues will be a major consideration as we further develop our highlight priorities and significant objectives over the coming months.

However it is important to highlight the point I made earlier when introducing the General Fund Budget, life is always a series of trade-offs and we therefore have to strike the right balance between our aspirations, affordability and financial sustainability. This does not always mean walking away from something we want to do, but it might mean changing the scale and speed at which we do it.

Hopefully most people understand this balancing act as we all apply it to our own personal finances, in one way or another.

A good example of this was when the aspiration of building and acquiring more homes for local people was discussed at the Resources and Services Overview and Scrutiny Committee back in January. This aspiration has not necessarily been diluted, but we have to balance it with looking after the homes of our existing tenants and perhaps explore ways of achieving those aspirations differently. That is why we will be reviewing the existing Housing Strategy, this year, not necessarily to take us down a different path, but to reflect on where we are financially now and in the future.

I understand the meeting with our Tenant's Panel went well last week, where a number of issues were discussed including the proposed rent increase of 7.7% that we are considering tonight.

They understood the points I have just made about the trade-offs we have to make and although no one is necessarily going to be happy to see their rent increase, I think there is a general acceptance that it is an important part of the financial puzzle we have to wrestle with to ensure the HRA has a long and financially stable future.

While I didn't make this point when I was discussing council tax earlier in the meeting, I wanted to note that we should be aware of the significant 'telescopic' impacts on both council tax and housing rents if we took alternative short term decisions as they do not help in the longer term.

Government has always interfered in housing matters. We will never forget the 1% reduction in rents over a previous four year period that was imposed by the Government. This took millions and millions of pounds out of the business plan that we can never get back. Thankfully the position has been managed well by this Council and along with the repayment of loans that we took on back in 2012 to effectively buy our own housing stock back, annual surpluses are estimated to be available in later years of the forecast.

Tendring District Council is a good landlord and I hope tenants see their future as having their homes owned and managed by us rather than the alternative that we have seen elsewhere in the country where Councils have sold off their entire housing stock.

In repeating a point I made earlier tonight, this Council did not rest on its laurels and it instigated its own peer review of our housing provision along with identifying additional capacity to support the work associated with this and the new era of Social Regulation.

Work also remains in progress on the comprehensive stock condition survey that will also help us plan for the future and better understand our stock of over 3,000 properties. This will also help inform our decisions around whether to retain some of our stock. If, for example, it is challenging to repair and maintain.

We have to remain alert to such cost pressures and liabilities and we will not shy away from selling properties if necessary, rather than them potentially continuing to be a financial burden on the HRA business plan. We will however always look to replace any properties that we sell where we can.

The Portfolio Holder for Housing and Planning and I have also put lot of energy into working with officers to deliver projects started by the previous Administration. This includes Spendells House in Walton and the Honeycoft Scheme in Lawford. These schemes will see a positive impact on our overall financial position as well as our reputation.

In terms of reserves, the estimated annual surplus in 2024/25 is £493k. This partly offsets the additional money that is planned to be drawn out of reserves in 2023/24. Whatever way you want to look at it, this money will go back into investing in the homes of our tenants as the extra money we are spending in 2023/24 relates to capital expenditure such as the replacement of boilers and heating systems with the most up to date equipment.

In repeating an earlier point, a good landlord makes sure that as much money as possible gets invested in the homes of its tenants which goes hand in hand with providing a decent management and responsive repairs service.

In bringing this statement to an end, the corporate priority we have agreed in terms of financial sustainability and openness again captures perfectly our intentions behind the financial management that goes into looking after our tenants' homes.

The budget we are considering tonight therefore continues to provide a sound footing to help us steer our way through the challenging years ahead and to keep on delivering for our tenants who expect nothing less than a well-managed and financially sustainable Housing Revenue Account that underpins the future of their homes.

The proposed budget therefore puts us in a good position to confidently face the future, which includes entering the new era of Social Housing Regulation.”

In addition to Councillor Stephenson, Councillors Harris, P B Honeywood, Guglielmi and Platt addressed the Council on the subject matter of Councillor Stephenson's motion.

It was moved by Councillor M E Stephenson and:-

RESOLVED that Council approves:-

- (a) a 7.7% increase in dwelling rents in 2024/25; and
- (b) the Housing Revenue Account Budget for 2024/25, as set out in Appendix B to item A.2 of the Report of the Cabinet, along with the Scale of Charges, HRA Capital Programme and the movement in HRA Balances / Reserves, as set out in Appendices C, D and E respectively, to the aforementioned report.

122. URGENT MATTERS FOR DEBATE

No urgent matters had been submitted in accordance with Council Procedure Rule 2(viii) for this meeting.

The Meeting was declared closed at 8.34 pm

Chairman

Public Document Pack Agenda Item 12

Human Resources and Council Tax
Committee

26 February 2024

**MINUTES OF THE MEETING OF THE HUMAN RESOURCES AND COUNCIL TAX
COMMITTEE,
HELD ON MONDAY, 26TH FEBRUARY, 2024 AT 7.30 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Chapman BEM (Chairman), Calver (Vice-Chairman), Amos, Guglielmi, Morrison, Skeels Jnr. and G Stephenson
In Attendance:	Anastasia Simpson (Assistant Director (Partnerships)), Katie Wilkins (Head of People), Carol Magnus (Organisational Development Manager), Richard Bull (Casual Corporate Finance Manager)(except items 29 - 34), Madeline Adger (Leadership Support Manager), Lewis Vella (Finance Officer)(except items 29 - 34), Bethany Jones (Committee Services Officer) and Hattie Dawson-Dragisic (Performance and Business Support Officer)
Also in Attendance:	Tommy Draper (Digital Communications Officer / UNISON Local Chairman)

24. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence on this occasion.

25. MINUTES OF THE LAST MEETING

It was moved by Councillor Amos, seconded by Councillor G Stephenson and:-

RESOLVED that the minutes of the last meeting of the Committee, held on Thursday, 12 October 2023, be approved as a correct record and be signed by the Chairman.

26. DECLARATIONS OF INTEREST

Councillor G Stephenson stated for the public record that she was a member of the Communications Workers Union (CWU) but that she had no involvement with Tendring District Council in that capacity.

Councillor Morrison stated for the public record that she was a member of Unite but that she had no involvement with Tendring District Council in that capacity.

27. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

28. REPORT OF THE ASSISTANT DIRECTOR (FINANCE & IT) - A.1 - FORMAL CONFIRMATION OF COUNCIL TAX AMOUNTS FOR 2024/25 FOLLOWING THE NOTIFICATION OF THE PRECEPTS FROM THE MAJOR PRECEPTING AUTHORITIES

The Committee heard that, at the meeting held on 13 February 2024, Council had considered the Executive's Budget and Council Tax proposals for 2024/25 and as part of that process the Council Tax for the District and Parish/Town Council Services had been approved.

Members were told that, once the precepts had been received from the major precepting authorities, the Human Resources and Council Tax Committee had the delegated responsibility to agree the total Council Tax for 2024/25. The total Council Tax for the year was made up of the District and Parish/Town Council amounts approved by Council on 13 February 2024 and the corresponding amounts agreed by the major precepting authorities. Legislation required that formal confirmation even though the process was dictated by legislative formulae and there was no actual judgement or choice to be made.

It was moved by Councillor Guglielmi, seconded by Councillor Amos and unanimously:-

RESOLVED that:

- (a) the precepts issued by Essex County Council, Essex Fire and Essex Police, as set out in Appendix A attached to the Officer report, be noted; and
- (b) the amounts of Council Tax for 2024/25, as shown in Appendix C to the Officer report, for each of the categories of dwellings be confirmed.

29. CAREER TRACK - UPDATE

The Committee received a verbal update on the work of the Council's Career Track service which included:-

- Good rating from Ofsted.
- 33 apprentices with 4 to start which will make the total 37 apprentices at TDC. 7 apprentices are on Level 2 Customer Service whereas the remaining apprentices are on Level 3.

30. REPORT OF THE ASSISTANT DIRECTOR (PARTNERSHIPS) - A.2 - PAY POLICY STATEMENT 2024/25

The Committee heard that The Localism Act 2011, Chapter 8 (*Pay Accountability*) Section 38 (1), required the Council to prepare a Pay Policy Statement each year. The Pay Policy Statement articulated the Council's approach to a range of issues relating to the pay of its workforce.

Members were told that the Human Resources & Council Tax Committee had historically overseen the preparation of a draft Pay Policy Statement for recommendation onto Full Council for approval and adoption for the subsequent financial year to ensure that remuneration was set within the wider pay context, and gave due consideration to the relationship between the highest and lowest paid in the organisation.

Officers informed the Committee that further matters that must be included in the statutory Pay Policy Statement were as follows:-

- A local authority's policy on the level and elements of remuneration for each Chief Officer.
- A local authority's policy on the remuneration of its lowest-paid employees (*together with its definition of "lowest-paid employees" and its reasons for adopting that definition*).
- A local authority's policy on the relationship between the remuneration of its Chief Officers and other Officers.
- A local authority's policy on other aspects of Chief Officers' remuneration: remuneration on recruitment increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.

The Committee was reassured that the draft Pay Policy Statement for 2024/25 had been designed to give an overview of the Council's framework regarding pay and rewards for staff within the Council. That framework was based on the principle of fairness and that rewards should be proportional to the weight of each role and each individual's performance. The framework also aimed to ensure the ability of the Council to recruit talented individuals whilst ensuring value for money for the residents of Tendring.

Members noted that the Conditions of Employment with Tendring District Council, including pay, in the main, conformed to those established for local government generally by the National Joint Committee (NJC). Agreements reached by the NJC were 'collective agreements'.

The Committee was also told that there was limited change reported in the 2024/25 Statement with the exception of the application of the 2023/24 pay award (*following agreement between National Employers and National Unions*), whereby there were further significant changes at the lower and mid-end of the pay spine, as follows:-

- With effect from 1 April 2023, an increase of £1,925 (*pro rata for part-time employees*) to be paid as a consolidated, permanent addition on all NJC pay points SCP 2 to 43 inclusive.
- With effect from 1 April 2023, an increase of 3.88 per cent on all pay points above the maximum of the pay spine (SCP 43) but graded below deputy chief officer (*in accordance with Green Book Part 2 Para 5.42*).
- With effect from 1 April 2023, an increase of 3.88 per cent on all allowances.

Officers also informed Members that the latest pay award meant an employee on the bottom pay point in April 2021 (earning £18,333) would have received an increase in their pay of £4,033 (22.0 percent) over the two years to April 2023.

The Committee was made aware that for an employee at the mid-point of the pay spine (pay point 22), their pay would have increased over the same period by £3,850 (13.99 percent).

Further, the draft Pay Policy Statement 2024/25 included reference to a number of updates to the Council's Allowances Policy, namely the extension of Emergency Planning payments, which now extended beyond First Call Officers to all staff supporting the Authority's response in those circumstances and the allowance paid to those Officers who attended Committee meetings, including the parameters in which payments were applied.

Officers reminded the Committee that the draft Pay Policy Statement 2024/25 included reference to updated statutory guidance with regard to Special Severance Payments.

The Human Resources and Council Tax Committee had previously requested that Senior HR Officers engaged the services of the East of England Local Government Association (EELGA) to expand on the earlier Pay Review undertaken to carry out a comprehensive, service wide review of TDC's pay structure as follows:-

- Across the whole staffing establishment (*including Chief Officers*), in the context of neighbouring (District) authorities and regionally.
- In the context of professional and technical areas – this would be an extension of the work already undertaken by EELGA and would also consider those areas in which Market Forces Supplements were currently applied.

The Committee was notified that the work was underway, and once concluded, the findings and the associated recommendations for action (*if applicable*) would be presented to a future meeting of the Human Resources and Council Tax Committee.

Members also noted that work was underway to update the Council's Career Grade Scheme and Acting Up Policy in line with the Assistant Director (Partnerships) delegations, '*to make minor amendments to Human Resources Policies and Procedures necessary as a result of legislation, national guidance or best practice*'. Those policies supplemented the draft Pay Policy Statement; however, they were not the subject of this Officer report.

Finally, as soon as was reasonably practicable after the Pay Policy Statement was approved by Council, this Authority must publish the Statement in such manner as it thought fit (*which must include publication on the authority's website*). Therefore, the Statement would be published on the Council's website following approval by Full Council in March 2024.

It was moved by Councillor Guglielmi, seconded by Councillor G Stephenson and unanimously:-

RESOLVED that the draft Pay Policy Statement 2024/25, as set out in Appendix A of the Officer report, be endorsed and be recommended onto Full Council for its approval and adoption.

31. REPORT OF THE ASSISTANT DIRECTOR (PARTNERSHIPS) - A.3 - PROPOSED CHANGES TO HOW THE COUNCIL USES THE NATIONAL JOB EVALUATION SCHEME (LOCALISED ARRANGEMENTS)

The Committee heard that the conditions of employment with Tendring District Council (TDC), including pay, in the main conformed to those established for Local Government generally by the National Joint Committee (NJC).

Members noted that the National Job Evaluation and Grading Scheme was used to determine job grades and pay levels for both new and existing posts and was recognised by all parties as the only mechanism within the Council for determining the pay of all posts below the Deputy Chief and Chief Officer level.

The Committee was told that the Council had adopted the National Job Evaluation Scheme more than a decade ago; at that time, the Council had applied a number of Local Conventions – *local interpretations of the wording of a job evaluation scheme, which were usually written down so that they could be applied consistently across all evaluations* – which had been negotiated and agreed upon with local union officials. Those did not add value to the evaluation score, but the intention was to provide clarity for those undertaking evaluation and moderation.

The Committee was reassured that, as part of the initial Pay Review research undertaken by East of England Local Government Association (EELGA), the Authority's use of the National Job Evaluation Scheme and its Localised Conventions had been reviewed to determine suitability in terms of the National Scheme and TDC's employment offer and wider job market.

Officers informed the Committee that EELGA had advised that, due to several updates to the National Scheme, the majority of TDC's Localised Conventions might no longer be relevant, or were now captured in the wording of the National Scheme, and therefore, those should be removed for clarity and to avoid risk of contradiction.

Members also heard that on that basis, the Authority was proposing to remove the reference to Localised Conventions, as detailed in the '*National Job Evaluation Scheme & Guidance with TDC Local Conventions*' document and to replace them with the use of the National Joint Council Factor Plan and Factor Guidance 2020 (*the latest NJC scheme*).

EELGA had further recommended that the Council adopted the use of the '*Assessment Tool for Responsibility Factors*' (*Advisory, Policy and Equivalent – 'hands off' Responsibilities*), which had been introduced as part of the updated National Scheme. That was not a separate factor or a change to the NJC Job Evaluation Scheme but, sought to act as an aid to ensuring that advisory, policy and similar responsibilities were correctly assessed and allocated to the appropriate responsibility factor.

Officers made Members aware that several key Officers, including HR Officers, Managers and Union Officials had undertaken training by EELGA that focused on the updates to the National Scheme, including the responsibility factors, so the transition to the updated scheme could be achieved successfully. Furthermore, regular 'refresher' training would continue to be delivered to those Officers undertaking evaluations on behalf of the Authority to ensure they remained compliant with scheme requirements.

The Council would continue to undertake a comprehensive local moderation process as part of its job evaluation arrangements to ensure consistency, fairness and transparency. In addition, the Authority would continue with its established 'best practice' approach of ensuring 20% of its evaluations were refreshed annually.

Members were also made aware that the proposal did not impact the existing job evaluation outcomes or grades of posts, and that the approach, once adopted, would be used to assist with future job evaluations to ensure that TDC's application of the National Job Evaluation Scheme continued to be robust.

Finally, Members heard that it should be noted that the Authority would consider revisiting the need for alternative Localised Conventions, should that be recommended as one of the outcomes of the comprehensive EELGA Pay Review.

It was moved by Councillor Skeels Jnr, seconded by Councillor Morrison and unanimously:-

RESOLVED that the Human Resources and Council Tax Committee approves the:

- a) proposed removal of the Localised Conventions, as outlined in the National Job Evaluation Scheme and Guidance with TDC Local Conventions document, in line with the recommendations made by EELGA;
- b) use of the updated National Job Evaluation Scheme, including the Assessment Tool for Responsibility Factors, for future evaluations; and
- c) need to revisit amended Localised Conventions, if recommended by EELGA, upon conclusion of the comprehensive review of the Authority's pay line.

32. REPORT OF THE ASSISTANT DIRECTOR (PARTNERSHIPS) - A.4 - EMPLOYMENT LEGISLATION UPDATE

The Committee was told that there were several important updates to employment legislation that would take effect in 2024, including: improved rights to flexible working, a new statutory leave entitlement for carers, enhanced rights for workers, and greater employers' obligations to prevent sexual harassment.

- **Holiday pay and working time for Workers (*not employees*) – effective from 1 January 2024:** Holiday pay calculations would be simplified. Employers could now elect to implement a lawful 'rolled-up' holiday pay scheme for leave years commencing on, or after, April 2024, so long as employers used an uplift of 12.07% against a worker's normal rate of pay in the previous pay period in respect of their 5.6 weeks' statutory holiday entitlement rather than calculating and paying holiday for when it was taken.
- **Equality Act 2010 effective from 1 January 2024:** The Equality Act 2010 would be amended to incorporate certain discrimination protections derived from EU law, such as indirect discrimination by association, amended definition of disability, extension to direct discrimination protection, discrimination on the grounds of breast feeding, and equal pay comparator.
- **Paternity leave – effective from 8 March 2024:** Paternity leave would be amended to allow fathers to take the two-weeks leave in two separate blocks, extend the period within which the leave could be taken, and change the notification periods.
- **Flexible working rights – effective from 6 April 2024:** Employees would be able to request flexible working arrangements from day one of their employment. Employers would have to consider requests and provide reasons if they were rejected. Employees would also be able to make two requests per year and employers would have to respond within two months. The measures would be

supported by an updated Acas statutory Code of Practice, which would come into effect in April 2024.

- **Minimum Wage Apprentices – effective from 1 April 2024:** The National Minimum Wage would increase to £6.40 for apprentices aged 19 or over 19 and in the first year of their apprenticeship; that would increase to the National Minimum Wage thereafter.
- **Redundancy protection – effective from 6 April 2024:** Employers would have to offer suitable alternative employment, if available, to employees who were pregnant, had recently suffered a miscarriage, or were on family leave for up to 18 months from the expected week of the child’s birth, the day of the childbirth, or the date of placement. Family leave covered maternity, adoption and shared parental leave.
- **Carers Leave Act – effective from 6 April 2024:** That would introduce a statutory entitlement to one week of flexible unpaid leave per year for employees who were caring for a dependent with a long-term need. Carers Leave would be available to eligible employees from the first day of their employment. Employees would be able to take Carers Leave in either half or whole days, up to a maximum of one week per year, without providing evidence of how the leave was used or who it was used for.
- **Sexual harassment prevention – effective from October 2024:** Employers would have to take reasonable steps to prevent sexual harassment of their employees during their employment. That would include providing regular anti-harassment training, implementing clear policies and procedures, and taking appropriate action against perpetrators. This Authority already took a very strong position in that regard.
- **Workers’ right to request a more predictable contract – effective date September/October 2024:** That change would give workers and agency workers the right to request more predictable terms and conditions of work where there was a lack of predictability to their work pattern and to those on a fixed-term contract of 12 months or less. A minimum service requirement to access the right, expected to be 26 weeks, would be specified in the regulations. Employers must deal with a request in a reasonable manner and notify the worker of their decision within one month. It would be possible to make two applications in a 12-month period, and applications could be rejected on statutory grounds.

Members were reminded that the relevant people policies and procedures would be updated to reflect the above changes, in line with the delegations afforded to the Assistant Director (Partnerships), under Part 3, Schedule 2 of the Council’s Constitution, which authorised that Officer to make “*minor amendments to Human Resources Policies and Procedures necessary as a result of legislation, national guidance or best practice*”.

It was moved by Councillor Guglielmi, seconded by Councillor Skeels Jnr and unanimously:-

RESOLVED that the Human Resources and Council Tax Committee noted the contents of the Officer report, including the anticipated changes that would be made to the Authority's people policies and procedures by the Assistant Director (Partnerships), in consultation with the Chairman of the Committee.

33. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor Guglielmi, seconded by Councillor G Stephenson 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 11 on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 3 and 4 of Part 1 of Schedule 12A, as amended, of the Act.

34. EXEMPT MINUTE OF THE LAST MEETING

It was moved by Councillor Guglielmi, seconded by Councillor Amos and unanimously:-

RESOLVED that the Exempt Minute of the last meeting of the Committee, held on Thursday, 12 October 2023, be approved as a correct record and be signed by the Chairman.

The meeting was declared closed at 8.17 pm

Chairman

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Planning Policy and Local Plan Committee

27 February 2024

**MINUTES OF THE MEETING OF THE PLANNING POLICY AND LOCAL PLAN
COMMITTEE,
HELD ON TUESDAY, 27TH FEBRUARY, 2024 AT 6.00 PM
IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Guglielmi (Chairman), Chapman BEM, M Cossens, Fairley, Newton and Skeels Jnr.
Also Present:	Councillor Baker (Portfolio Holder for Housing & Planning)
In Attendance:	Gary Guiver (Director (Planning)), Ian Ford (Committee Services Manager), Paul Woods (Planning Policy Team Leader), Will Fuller (Senior Planning Policy Officer)(except item 32), Keith Durran (Committee Services Officer) and Eleanor Storey (Planning Policy Officer)

25. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Bush, Fowler and Scott (with no substitutions).

26. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the Minutes of the last meeting of the Committee, held on Wednesday 20 December 2023, be approved as a correct record and be signed by the Chairman.

27. DECLARATIONS OF INTEREST

In relation to agenda item 6 (report A.1 – Neighbourhood Plans Update), Councillor Fairley declared for the public record that she was the Ward Member for Ardleigh.

28. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

No questions on notice pursuant to Council Procedure Rule 38 had been submitted on this occasion.

29. PUBLIC SPEAKING

Pursuant to the provisions of the Council's public speaking scheme for the Planning Policy & Local Plan Committee, no member of the public had registered to ask at this meeting a question or to make a statement regarding the matters contained in the reports of the Director (Planning).

30. REPORT OF THE DIRECTOR (PLANNING) - A.1 - NEIGHBOURHOOD PLANS UPDATE

Earlier on in the meeting, as recorded under Minute 27 above, Councillor Fairley had declared for the public record that she was the Ward Member for Ardleigh.

The Committee considered a report of the Director (Planning) (A.1) which reported the progress of the emerging Neighbourhood Plans.

Members recalled that the Council currently had two Neighbourhood Plans and one Neighbourhood Development Order that were currently the subject of examination by Independent Examiners. Both Neighbourhood Plans and the Neighbourhood Development Order had been considered by the Committee and by the Cabinet and the decision had been made for each to be the subject of a six-week public consultation, which had taken place in May 2023 (for Ardleigh) and September 2023 (for Elmstead). Since that time, Independent Examiners had been appointed for each of the Plans and the Examination of each Plan had been formally opened. The two Plans were at slightly different stages within the examination process that is:-

Ardleigh Neighbourhood Plan was slightly ahead, and a six-week 'focused consultation' was now underway; and

Elmstead's Neighbourhood Plan and Neighbourhood Development Order were progressing through the examination process with a Public Hearing undertaken in early February 2024.

Ardleigh Neighbourhood Plan

Members were reminded that the 'Regulation 16 consultation' for the Ardleigh Neighbourhood Plan had run from 15th May to 26th June 2023.

It was reported that, on the 14th June 2023, Mrs Ann Skippers MRTPI had been appointed as the Examiner for the Ardleigh Neighbourhood Plan. The Examination for the Plan had formally opened on Wednesday 12th July 2023.

On 18th August 2023, the Examiner had sent the Council an 'Interim Note of Findings' which had detailed a number of questions and matters of clarification. On 18th September 2023 the Council, in collaboration with the Parish Council, had submitted its response to the Examiner's Interim Note. The Examiner had then responded to the Councils on 6th November 2023, indicating that the Councils needed to do further work in regard to the Habitats Regulation Assessment. A Habitats Regulation Assessment and Strategic Environmental Assessment) Screening Report had been prepared by Essex County Council Place Services, on behalf of the District Council in support of the Neighbourhood Plan. The three statutory consultation bodies (Natural England, Historic England and the Environment Agency) however had not been formally consulted on the Screening Report and no formal decision by the District Council had been made on the Screening Report.

A consultation had subsequently been held between 16th November and 18th December 2023 when comments from Natural England and Historic England had been received. The District Council had therefore been able to publish a formal decision, as the Competent Authority, stating that the Screening Report now met the requirements of the Regulations.

Members were informed that the Examiner's significant modifications document and details of the Habitat Regulations Assessment decision were available as background documents.

The Committee was made aware that this decision, as well as the Examiner's proposed significant modifications to the Plan and the implications of the newly published NPPF all had to be the subject of their own public consultation.

A 'Focused Consultation' on those three issues had therefore been undertaken, which would run from 22nd January 2024 until 4th March 2024.

The Committee was advised that, once the current consultation had closed, the Parish Council would have a further two weeks to make comments on any representations received. The Examiner would then submit her final report to the District Council at which point this Council would organise a referendum in the Parish for residents to vote on the Plan.

Elmstead's Neighbourhood Plan and Neighbourhood Development Order

It was reported that Elmstead's Neighbourhood Plan was supported by four key objectives, those were:

- 1. To manage incremental growth of the village through sensitive infill and to protect the surrounding countryside from harmful development.*
- 2. To conserve the special heritage character of the village and its landscape setting*
- 3. To protect and improve the ecological value and connectivity of the green infrastructure assets of the village and wider parish.*
- 4. To sustain community facilities and services that are essential to community life.*

Members were aware that the Elmstead Neighbourhood Plan contained eighteen Planning Policies, those were:

- Policy ELM1: Settlement Development Boundaries
- Policy ELM2: Protecting The Setting Of Elmstead Market
- Policy ELM3: Gaps Between Settlements
- Policy ELM4: The Former Elmstead Community Centre
- Policy ELM5: Affordable Housing
- Policy ELM6: First Homes.
- Policy ELM7: Housing Mix
- Policy ELM8: Zero Carbon Buildings
- Policy ELM9: Design Codes
- Policy ELM10: Important Views
- Policy ELM11: The Village Core
- Policy ELM12: Movement And Connectivity
- Policy ELM13: Managing Traffic
- Policy ELM14: Local Green Spaces
- Policy ELM15: Green Ring
- Policy ELM16: Nature Recovery
- Policy ELM17: Health And Wellbeing Service Provision
- Policy ELM18: Local Community Uses

The Committee was reminded that the Elmstead Neighbourhood Plan and Neighbourhood Development Order (NDO) had also been the subject of a six-week public consultation. This consultation had run from 18th September 2023 to 30th November 2023.

Members were informed that an Independent Examiner: Mr John Slater BA (Hons) DMS MRTPI FRGS had been appointed by Tendring District Council on 22nd September 2023 to examine both the Neighbourhood Plan and NDO. The Independent Examination of the Neighbourhood Plan and NDO had started on 9th November 2023 and the Examiner had visited the Parish on 23rd November 2023. The Examiner had submitted his initial comments on the Neighbourhood Plan and NDO to the District and Parish Councils on 27th November 2023. Those comments had comprised fact finding and procedural matters, and the Councils had been given until 15th December 2023 to respond.

On 2nd January 2024, the Examiner had made the decision that a public hearing was required to address those matters raised by the Parish and District Councils in their response to the Examiner's Initial Comments. A public hearing had therefore been arranged for 10.00am on Thursday 8th February 2024 at The Community Centre, School Road, Elmstead Market.

The hearing had been open to the public to attend, however, the conduct of a Neighbourhood Plan hearing was set out in Schedule 4B to the Town and Country Planning Act 1990 which specified which parties could participate. The legislation specifically provided for oral representations at the hearing to be made by the Qualifying Body, namely Elmstead Parish Council and the Local Planning Authority, Tendring District Council. Further details, including who was invited to attend the hearing, and the draft agenda could be found within the Examiner's 'Notice of Public Hearing' background document. Once the Public Hearing had taken place, it was anticipated that the Examiner would either propose modifications to the Plan and NDO or submit his final report.

The Committee had before it the Planning Officers' Update Sheet, which had been circulated prior to the commencement of the meeting. That Update Sheet stated:-

"A Public Hearing was held on Thursday the 8th February 2024 at the Community Centre in Elmstead Market, to discuss the Elmstead Neighbourhood Plan and Neighbourhood Development Order (NDO). The Examiner invited discussion around a number of specific subject areas.

- As with the Ardleigh Neighbourhood Plan, the Examiner requested that we consult all those who commented on the Plan asking for their views on the implications of the recently updated National Planning Policy Framework. We were also asked to formally ask if the statutory bodies (Natural England, Historic England and the Environment Agency) whether they agree with the findings of the Habitat Regulations Assessment (HRA) and Strategic Environmental Assessment (SEA) Screening Report. TDC will undertake these consultations accordingly.*
- The Parish Council were asked to defend their reasoning as to why two areas of land were not included within the draft Settlement Development Boundary. The landowners, who objected to their land not being included, were also given an opportunity to put their case across. The examiner requested that the Parish Council submit their methodology for defining the Settlement Development Boundary to him.*
- The Parish Council had proposed draft policy wording concerning controlling development in the green space to the west of the village, and all parties were asked to consider this new wording and explain how it might be used in decision-making.*
- The Parish Council were asked to explain the amount of development proposed for the community centre site (the land subject to the NDO). The Examiner had concerns*

that the site was too small to accommodate the proposed building, parking and amenity facilities, and the Parish Council have been asked to reconsider the proposed development (in coordination with TDC) to satisfy these concerns.

- *The Examiner questioned all parties on the choice of planning conditions proposed for the NDO.*

Once the actions requested by the Examiner have been completed and appropriate documentation submitted to him, the Examination of the Neighbourhood Plan and NDO can proceed. The Examiner will determine whether any further modifications to the Plan are necessary (these will be subject to their own consultation, as is the case with Ardleigh), and then whether the Plan and NDO meet the ‘basic conditions’ set out in Town and Country Planning Act, and can proceed to referendum.”

At the invitation of the Chairman, the Housing & Planning Portfolio Holder (Councillor Baker) commented on the contents of the report A.1.

Having duly taken all of the above information into account and having discussed the matter:-

It was moved by Councillor M Cossens, seconded by Councillor Fairley and unanimously:-

RESOLVED that the Planning Policy and Local Plan Committee notes –

- a) the progress of the Ardleigh Neighbourhood Plan; and of
- b) the Elmstead Neighbourhood Plan and Neighbourhood Development Order.

31. REPORT OF THE DIRECTOR (PLANNING) - A.2 - LOCAL DEVELOPMENT SCHEME 2024 - 2027

The Committee considered a report of the Director (Planning) (A.2) which sought its agreement to publish a new ‘Local Development Scheme’ thereby updating the proposed timetable for preparing planning documents, including the Local Plan Review and the Development Plan Document (DPD) for the Tendring Colchester Borders Garden Community (TCBGC).

The Committee was reminded that every Local Planning Authority had to prepare and maintain a Local Development Scheme (LDS) in accordance with section 15 of Planning and Compulsory Purchase Act 2004 (as amended). The LDS was the Council’s rolling project plan (often covering a period of three years) for producing its Local Development Documents and which set out a timetable for their delivery.

Members were made aware that the LDS was designed to set out the process for preparing key planning documents. It included the anticipated timetable of consultation periods, examinations and expected dates of adoption for the Local Plan Review and the TCBGC’s DPD. Publishing the LDS ensured that stakeholders, including members of the public, Town and Parish Councils, landowners and developers, partner organisations and the Planning Inspectorate were kept aware of the timetable the Council was working to and could organise their time and resources accordingly. The LDS was usually updated to cover three-year cycles of Plan preparation.

It was reported that, in his Written Ministerial Statement made on 19th December 2023, the Secretary of State for Levelling Up, Housing and Communities had instructed Local Planning Authorities to make sure they had an up-to-date plan timetable in place within 12 weeks of the publication of the new NPPF, and to provide a copy of same to his department. The timetable referred to was included within the LDS, and it was therefore proposed to submit this document to the Department for Levelling Up, Housing and Communities at the same time as it was published on the Council's website.

Members were advised that following the adoption of Section 1 of the Local Plan in January 2021 and Section 2 in January 2022, the main focus of the LDS was now the mandatory five-year review of the Local Plan as well as the TCBGC's DPD.

It was reported that the review of the Local Plan would follow the same statutory process as the preparation of the Local Plan itself. A provisional timetable which covered the period 2024-2026 was proposed, which would enable the updated Local Plan to be submitted to the Secretary of State by June 2025, and examined by a Planning Inspector and adopted before January 2026.

The Committee was informed that the timetable for the TCBGC's DPD had also been updated, reflecting the stages that had now been completed to date and the revised timescale for the next steps, which included the Examination of the DPD in May 2024. Adoption of the DPD was anticipated in the winter of 2024.

Members noted that the LDS included broad timescales for the following Supplementary Planning Documents, Neighbourhood Plans and other guidance:-

- Hartley Gardens SPD
- Elmstead Neighbourhood Plan and Neighbourhood Development Order
- Ardleigh Neighbourhood Plan
- Brightlingsea Neighbourhood Plan
- Community Infrastructure Levy (CIL) Charging Schedule

In response to questions raised by Members, the Planning Policy Team Leader (Paul Woods) undertook discuss with the Council's Communications Team the suggestion that a press release be issued to the publication of the new LDS. Mr. Woods also undertook to explore whether to include the proposed large scale off-shore wind farm projects as part of the associated risk assessment for the LDS.

Having duly discussed this matter:-

It was moved by Councillor Fairley, seconded by Councillor Chapman BEM and unanimously:-

RESOLVED that the updated Local Development Scheme 2024-2027 (attached as Appendix 1 to item A.2 of the Report of the Director (Planning)) be approved for publication on the Council's website and for submission to the Secretary of State for Levelling Up, Housing and Communities in accordance with his Written Ministerial Statement published on 19th December 2023.

32. **REPORT OF THE DIRECTOR (PLANNING) - A.3 - LOCAL PLAN REVIEW: VISION AND OBJECTIVES REVISITED**

The Committee considered a report of the Director (Planning) (A.3) which sought its comments on, and approval for, an updated version of the Local Plan's overarching Vision and Objectives for the purpose of the Local Plan review and associated public consultation.

Members were reminded that Chapter 2 of the Council's adopted Local Plan (Section 2) set out an overarching vision and associated set of objectives to guide the planning of the District up to 2033. The vision and objectives underpinned many of the policies and proposals in the Local Plan that the Council, working with partners, were seeking to implement over the Plan's time-frame.

Members were advised that, in reviewing the Local Plan and extending its timeframe to 2041, it would be appropriate to revisit the vision and objectives – albeit in line with the overarching principles agreed by the Committee at its last meeting on 20 December 2023 which had included: *"The vision and objectives within Section 2 of the current Local Plan adopted in 2022 will be carried forward, broadly unchanged, into the adopted Local Plan to apply to the extended period to 2041. They will however be amended selectively and as necessary to reflect changes in national policy, updated evidence and the potential opportunities arising from Freeport status, particularly in relation to Harwich, Bathside Bay and the A120 corridor."*

It was felt that because the vision and objectives in the current Local Plan were already designed to cover the period to 2033 (some nine years away from now) and were only adopted by the Council as recently as 2022, it would be reasonable not to expect the update to bring about any fundamental change in the overall approach and direction – assuming that a positive vision for the District in 2033 could sensibly form the basis of a positive vision for the extended period to 2041. However, the Local Plan review naturally provided an opportunity to check that the vision and objectives were accurate and reflected the most up-to-date position – including, as suggested above, the opportunities arising from Freeport East; but also on the priorities in Council's latest Corporate Plan (Our Vision) and progress on the Levelling-Up projects in the District and the Jaywick Sands Place Plan.

It was reported that another overarching principle agreed by the Committee in December 2023 was that: *"The general format, chapter headings and policy subject order in the updated Local Plan will broadly follow that of the current Section 2 Local Plan – accepting that some policies may be added and others deleted, as necessary. This will ensure a sensible level of continuity and understanding and to minimise confusion for residents, Parish and Town Councils and other interested bodies - particularly given how recently the current Local Plan was put in place."* Officers therefore recommended that the way in which the vision and objectives were currently presented in the Local Plan be carried forward, broadly unchanged.

Local Plan Review Process

The Committee was informed that the process for reviewing the Local Plan would follow key stages that involved public consultation – the first of which would be the 'Issues and Options' stage whereby the Council would invite public comments on the broad direction of the Local Plan. Comments received at this Issues and Options stage would then be

taken into account when producing the first detailed draft of the updated Plan. Officers suggested that given the high-level and strategic nature of the Local Plan's overarching vision and objectives, it would be useful to consult the public on an updated version of those at the initial 'Issues and Options' stage – accepting that those might need to be amended further when it came to the later 'Preferred Options' and 'Submission' stages, once the Council had had the opportunity to consider the public's comments, and as the detail of the Local Plan (including the longer-term need and associated strategy for growth) became clearer.

Vision

Members noted that Appendix 1 of the Director (Planning)'s report contained an updated version of the Local Plan's overarching vision presented in the form of 'tracked changes' to highlight, for ease of reference, changes from the current Local Plan – as suggested by Officers. Those suggested changes to the vision notably sought:-

- *To give stronger and clearer commentary around Harwich and the A120 corridor – particularly in terms of economic and housing growth likely to be generated in response to Freeport status and progress of development at Bathside Bay; as well as the Levelling-Up scheme for Dovercourt Town Centre. Implied within this is the likelihood that when it comes to generating options for the long-term housing and employment growth over the extended period to 2041, Officers will be looking closely at land in and around Harwich and the A120 corridor, alongside other reasonable options.*
- *To comment more positively on the potential for economic growth in the Clacton area reflecting the significant private investment in seaside attractions, the Levelling Up schemes for the library and civic area of the town centre and greater reference to the role of the business sector and the modernisation of business premises. The vision for the Clacton area might be the subject of ongoing refinement to reflect work on a long-term strategic plan for the area, as required by government as part of the Levelling-Up Partnership.*
- *To comment specifically on the Sunspot Workspace scheme and Jaywick Sands Place Plan, which have progressed significantly since the Local Plan was adopted in 2022.*
- *To update the section on the Tendring Colchester Borders Garden Community to reflect elements of the vision within Section 1 of the Local Plan which would otherwise be lost once Section 1 and Section 2 are both superseded by a single Local Plan; to emphasise the economic opportunities around the Garden Community; and to reflect the progress on the planning of the Garden Community – particularly the advancement of the Development Plan Document, the link road and rapid transit system and positive collaborative work with partner Councils and the Lead Developer.*
- *To reflect, where necessary, priorities in the Council's new Corporate Plan 2024-2028 (Our Vision) and to give greater reference to health and energy efficiency as themes where the vision statement could better reflect the priority given to these within the Local Plan itself.*

- *To better reflect the new requirements around biodiversity net gain and habitat creation.*
- *To make grammatical and other consequential wording improvements as necessary.*

As it stood, Officers were recommending only subtle amendments to the section of the vision that talked about Tendring's rural heartland in the interest of accuracy – acknowledging that a significant amount of new housing development had taken place, or was still under-construction or had planning permission in and around Manningtree, Lawford and Mistley; and certain rural villages including (but not limited to) Alresford, Elmstead Market, Great Bentley and Thorpe le Soken – with many of those developments having been granted planning permission on appeal and against local residents' wishes. The Council may or may not need to review the wording of this section again following consultation on Issues and Options if, having determined how much new housing was required to meet any residual requirement for long-term growth, there needed to be a particular focus for any further growth, of a strategic nature, in the District's rural areas. This could only be determined once the growth requirements had been clarified and reasonable options had been assessed.

Objectives

It was reported that Appendix 2 to the Director (Planning)'s report contained a related tracked-changes version of the Local Plan's objectives that related to the following topics:

- Objective 1: Housing Delivery;
- Objective 2: Employment/Commercial;
- Objective 3: Retail Development;
- Objective 4: Infrastructure Provision;
- Objective 5: Education and Health;
- Objective 6: Sustainability;
- Objective 7: The Historic Environment;
- Objective 8: Biodiversity;
- Objective 9: Water and Climate Change; and
- Objective 10: Tourism Promotion.

At this point in time, Officers considered that those ten objectives, as currently written in the adopted Local Plan, remained appropriate and could reasonably be carried forward into an updated Local Plan with an extended time-frame to 2041, with only limited necessary changes. An additional objective specifically around Climate Change was also proposed. Through public consultation at the Issues and Options stage and subsequent stages, the Council could invite suggestions for any changes that could be considered as the Plan emerged in more detail; but as it stood, Officers were not suggesting any significant revisions.

At the invitation of the Chairman, the Housing & Planning Portfolio Holder (Councillor Baker) commented on the contents of the report A.3.

Having duly taken all of the above information into account and having discussed the matter:-

It was moved by Councillor Chapman BEM, seconded by Councillor M Cossens and unanimously:-

RESOLVED that the Planning Policy and Local Plan Committee –

- a) notes the content of the Director (Planning)'s report (A.3);
- b) endorses the Local Plan Vision and Objectives and Officers' suggested updates shown, with tracked changes, in Appendices 1 and 2 to report A.3;
- c) authorises the Director (Planning) to circulate to the members of the Committee for their further comments the proposed additions/alterations to the Vision and Objectives;
- d) authorises the Director (Planning), in consultation with the Chairman of the Committee, to approve the proposed additions/alterations to the Vision and Objectives having considered any comments submitted in accordance with resolution c) above;
- e) agrees for the updated Vision and Objectives, including any additional amendments/alterations approved in accordance with resolution d) above, to be included for public consultation in due course as part of the 'Issues and Options' stage of the Local Plan review process; and
- f) invites the Cabinet to comment on and amend, as necessary, the Vision and Objectives as agreed under resolution e) above before they are published as part of the aforementioned Issues and Options consultation in order to ensure and confirm their alignment with the Council's corporate vision.

The meeting was declared closed at 7.34 pm

Chairman

COUNCIL

19 MARCH 2023

REFERENCE FROM THE CABINET

A.2 **REQUEST TO CHANGE THE COMMENCEMENT TIME OF MEETINGS OF THE PLANNING COMMITTEE**

(Report prepared by Ian Ford)

The Planning Committee, at its meeting held on 28 September 2023 (Minute 41 refers) had considered, at the request of its Chairman (Councillor Fowler), whether to amend the start time of future meetings of the Planning Committee. The Planning Committee was made aware that it did not have the delegated power and that only Full Council could amend the permanent start time of a Committee's meetings under the Council's Constitution (Council Procedure Rule 35.1 (Ordinary Meetings of Committees)).

Having discussed the matter, the Planning Committee had resolved, by six votes in favour to one against, that -

(a) *the meetings of the Planning Committee due to be held on Tuesday 24 October 2023 commencing at 6.00 p.m. and on Tuesday 21 November 2023 commencing at 6.00 p.m. be cancelled;*

(b) *the Chairman of the Planning Committee be requested to exercise their delegated power under Council Procedure Rule 35.2 (Special Meetings) and to call special meetings of the Planning Committee to be held on the following dates:-*

Tuesday 24 October 2023 commencing at 5.00 p.m.

Tuesday 21 November 2023 commencing at 5.00 p.m.

(c) *Full Council be requested to change the permanent commencement time of meetings of the Planning Committee from 6.00 p.m. to 5.00 p.m.*

Full Council had duly considered that request at its meeting held on 28 November 2023 (Minute 79 refers). Following debate, Council had resolved 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.

In accordance with that decision of Full Council this matter had been referred to the Review of the Constitution Portfolio Holder Working Party at its meeting held on 13 December 2023. The Working Party had decided at that time that all Members of the Council be surveyed as to which of the following options for the start time of Planning Committee meetings they supported and be requested to give their reasons as to why they have supported that option:-

- (1) afternoon, following the Committee's site visits;
- (2) 5.00 p.m.;
- (3) 6.00 p.m.

The collated results of that survey were reported to the Working Party at their meeting held on 18 January 2024. Having considered and discussed those results the Working Party decided to recommend to the Cabinet, via the Corporate Finance & Governance Portfolio Holder, that it should endorse the Planning Committee's request.

Cabinet duly considered that recommendation at its meeting held on 16 February 2024 (Minute 91 refers) and decided that it would recommend to Full Council:-

"That, 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."

Therefore it is now:-

RECOMMENDED that the permanent commencement time of meetings of the Planning Committee be changed from 6.00 p.m. 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.

COUNCIL

19 MARCH 2024

**BACKGROUND PAPERS LIST FOR
REPORT OF THE CABINET**

**A.2 REQUEST TO CHANGE THE COMMENCEMENT TIME OF MEETINGS OF THE
PLANNING COMMITTEE**

Published minutes of the meeting of the Planning Committee held on 28 September 2023.

Published minutes of the meeting of the Council held on 28 November 2023.

Published minutes of the meeting of the Cabinet held on 16 February 2024.

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COUNCIL

19 MARCH 2024

JOINT REPORT OF THE MONITORING OFFICER AND THE CABINET

A.3 ANNUAL REVIEW OF THE COUNCIL'S CONSTITUTION

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

In accordance with the provisions of Article 15.02 (a) and (c) of the Council's Constitution, to approve the recommended changes to the Constitution put forward by the Monitoring Officer and the Cabinet following a review undertaken by the Corporate Finance and Governance Portfolio Holder through a Working Party constituted for this purpose.

EXECUTIVE SUMMARY

On 16 February 2024 (Minute 91 refers), Cabinet considered a report of the Corporate Finance and Governance Portfolio Holder, which requested it to approve the recommended changes to the Constitution for referral onto Full Council following a review undertaken by the Portfolio Holder 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.

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

That subject to Members' consideration of the recommendations of the Cabinet arising from its meeting on 16 February 2024, Council resolves that:

- (a) the Council's Constitution be amended to reflect the proposed changes as set out in Appendices A to L 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; and**

(c) 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.

REASON(S) FOR THE RECOMMENDATION(S)

Having considered the outcome of the annual review of the Constitution and the Cabinet's recommendations arising therefrom, and in order to enable those recommendations to be approved and adopted.

ALTERNATIVE OPTIONS CONSIDERED

- (1) Not to approve some or all of the Cabinet's recommendations;
- (2) To amend or substitute some or all of the Cabinet'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. The Cabinet's recommendation as to the commencement time of Planning Committee meetings is reported elsewhere on this Council Agenda.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

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

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

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

Officer to make minor changes to the Constitution arising from changes to the organisational structure of the Council.

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

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 **RED** within **Appendix L**.

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

FINANCE AND OTHER RESOURCE IMPLICATIONS

Risk

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

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

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

USE OF RESOURCES AND VALUE FOR MONEY

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

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

MILESTONES AND DELIVERY

Annual review of the Constitution carried out by the Review of the Constitution Portfolio Holder Working Party – 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.

ASSOCIATED RISKS AND MITIGATION

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

EQUALITY IMPLICATIONS

The purpose of the Constitution is to:

- 1 Provide key elements of the Council's overall governance arrangements;
- 2 Enable decisions to be taken efficiently and effectively;
- 3 Create an effective means of holding decision-makers to public account;
- 4 Enable the Council to provide clear leadership to the community, working in partnership with the local community, businesses and other organisations for the long term well-being of the District;
- 5 Support the involvement of the local community in the process of local authority decision making;
- 6 Ensure that no one will review, or scrutinise, a decision in which they were directly involved;
- 7 Help Councillors represent their residents more effectively;
- 8 Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for their decisions; and
- 9 Provide the framework and structure in which cost effective quality services to the community are delivered.

SOCIAL VALUE CONSIDERATIONS

None

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

There are no direct implications.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

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

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

PART 3 – SUPPORTING INFORMATION

BACKGROUND

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 and reviewed various areas of the Constitution and submitted, via the Portfolio Holder for Corporate Finance & Governance, various proposals.

Cabinet, at its meeting held on 16 February 2024 (Minute 91 refers), considered those proposals and following that meeting the following changes are recommended (note that references to Part numbers relate to the Constitution prior to any amendments now submitted):

(a) 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**.*

(b) 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**.*

(c) 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**.*

(d) 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**.*

(e) 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**.*

(f) 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**.*

(g) 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**.*

(h) 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**.*

(i) 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**.*

(j) 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**.*

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 BY THE CRWP AND REPORTED TO CABINET AND NOTED:

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 5th 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 2nd 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.

The Cabinet, at its meeting held on 16 February 2024, endorsed the above recommendation. The matter of the commencement time of Planning Committee meetings is reported elsewhere on this Council 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 L**. The review regarding appeals still needs to be undertaken.

12. 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 was endorsed by Cabinet at its meeting held on 16 February 2024.

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.

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;*

The Cabinet's decision at its meeting held on 16 February 2024 (Minute 91 refers) was as follows:-

"RESOLVED –

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.”

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.

Report of the Corporate Finance and Governance Portfolio Holder which was submitted to the meeting of the Cabinet held on 16 February 2024.

Minutes of the meeting of the Cabinet held on 16 February 2024.

APPENDICES

A.3

APPENDIX A	Part 2	Articles of the Constitution – Article 6 (Overview & Scrutiny Function)
APPENDIX B	Part 3	Delegated Powers & Terms of Reference (Licensing and Registration Committee)
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 5	Officer Employment Procedure Rules

REPORT CONTACT OFFICER(S)	
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A.3 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.3 APPENDIX B

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

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

	<p><i>and as detailed in Appendix 1 to Part 3 of the Constitution:</i></p> <ul style="list-style-type: none"> • Power to make closing order with respect to take away food shops; and • Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption. <p>In addition the following powers and duties:</p> <ul style="list-style-type: none"> • The setting of any fees and/or charges payable to the Council for the issue of any licences 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. • 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. 	<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>4. While not limiting the delegation in 1. above, the Assistant Director (Governance) shall be authorised to:-</p> <p>(a) make minor changes to relevant policies arising from legislation, changes to the organisational structure of the Council, or decisions of the Council;</p> <p>(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</p> <p>(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)</p>
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A.3 APPENDIX C

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

Committee	Functions and Terms of Reference	Delegated Functions
<p>Planning Committee</p>	<p><i>The discharge of the Town and Country Planning and Conservation functions as specific in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p>Additional roles and functions of the Committee are as set out below:</p> <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>1. All planning (including all prior approval applications), enforcement, building control and conservation matters delegated to the Assistant Director (Planning) except in relation to the determination of certain planning applications as detailed below for determination by the Committee:</p> <p>(i) Officer recommendations for approval materially contrary to 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.</p> <p>(ii) Officer recommendation of approval is contrary to a previous refusal by the Planning Committee in the last two years, where the policies, site and proposed development 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 unless the application is recommended for refusal.</p>

		<p>(v) The applicant is a Member of the Council, Planning Officer or a Senior Officer, member of permanent staff employed by TDC 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, 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), in accordance with the Member Referral Scheme(*), requesting that the planning application should be brought before the Planning Committee for determination and giving material planning reasons for that request. 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.</p> <p>(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</p>
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		<p>determined in time, including prior approval applications.</p> <p>(*) Scheme to be approved by Full Council</p> <p>(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.</p> <p>(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.</p> <p>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.</p>
	<p><i>The discharge of the</i> Miscellaneous functions – Part 1 – relating to Public Rights of Way, within the</p>	<p>All public rights of way matters delegated to the Corporate Director} (Operations and Delivery)</p>

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

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

Committee	Functions and Terms of Reference	Delegated Functions
Standards Committee	<ol style="list-style-type: none"> 1. To promote and maintain high standards of conduct by Members and Co-opted Members of the authority; 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; 3. To advise the Council on the adoption or revision of the Members' Code of Conduct; 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; 5. To approve procedures for the conduct of hearings into complaints against Members; 	<p>Delegation to Monitoring Officer:</p> <ol style="list-style-type: none"> 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.
	<ol style="list-style-type: none"> 6. To advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council; 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; 8. To inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints; 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 	<ol style="list-style-type: none"> 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"> • Merits no further action • Merits early informal conciliation • Merits further investigation • Should due to exceptional circumstances be

	<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>Proceedings:</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. In accordance with the Hearings Procedure, To 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.3 APPENDIX E

Part 3 – Schedule 4 – Proper Officers

STATUTORY REFERENCE	FUNCTION	PROPER OFFICER	Officer to act in event of Proper Officer being unable to
Representation of the People Act 1983 cont			
Section 8(2) and Section 52(3)	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 (3) (2)	Deputising for Registration Officer	Deputy Chief Executive Head of Democratic Services & Elections	Head of Democratic Services & Elections Elections Manager
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.3 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.3 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: ~~24th 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.3 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.~~

	Annual Remuneration
BASIC ALLOWANCE	

SPECIAL RESPONSIBILITY ALLOWANCE		
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 & Scrutiny Committee Chairman</p> <p>Resources and Services Overview & 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 & Local Plan Committee Chairman</p> <p>Standards Committee Chairman</p>		
Total Annual Allowance £		
Childcare Allowance		
I wish to register my eligibility for this allowance and attach an appropriate written declaration to this effect. ***please delete as appropriate	YES**	NO**
DEPENDENT CARERS' ALLOWANCE		
I wish to register my eligibility for this allowance and attach an appropriate written declaration to this effect. ***please delete as appropriate	YES**	NO**

~~I understand that travel and subsistence and carers' claims need to be submitted by the 2nd 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.3 APPENDIX K

Tendring
District Council



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 st review	19 March 2024	Updated following review – amended retention of videos from up to 2 years to up to 4 years

A.3 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.3 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 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.3 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.3 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

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.3 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.3 APPENDIX L

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~~ 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

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- (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

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- (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

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- (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

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- (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.

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(January 2016) Part 5.87

COUNCIL

19 MARCH 2024

REPORT OF CHIEF EXECUTIVE

A.4 **CHANGES IN MEMBERSHIP OF COMMITTEES**

(Report prepared by Ian Ford)

I formally report that, pursuant to the provisions of Section 16(2) of the Local Government and Housing Act 1989 and in accordance with the wishes of the Leader of the Conservative Group and the authority delegated to me, the following change has been duly made since the last ordinary meeting of the Council, namely:-

Councillor Richard Everett has been removed from the membership of the Planning Committee.

That seat remains vacant pending the Council's consideration of matters reported elsewhere on this Council Agenda (see Item 20).

This item is submitted for **INFORMATION ONLY**.

IAN DAVIDSON
CHIEF EXECUTIVE

COUNCIL

19 MARCH 2024

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

A.4 CHANGES IN MEMBERSHIP OF COMMITTEES

Email dated 9 February 2024 received from the Leader of the Conservative Group (Councillor Carlo Guglielmi).

COUNCIL

19 MARCH 2024

REPORT OF CHIEF EXECUTIVE

A.5 **CHANGE IN MEMBERSHIP OF POLITICAL GROUPS**

(Report prepared by Ian Ford)

I formally advise Council that, prior to the commencement of the meeting of the Full Council held on 30 January 2024 and pursuant to Regulation 10(d) of the Local Government (Committees and Political Groups) Regulations 1990, a majority of the members of the Conservative Group served formal notice on the Council that they no longer wished Councillor Richard Everett to be treated as a member of the Conservative political group.

I further inform Members that, following that meeting of the Full Council, Councillor Everett served formal notice on the Council that he wished to be treated as a member of the Tendring Residents' Alliance political group. That notice was duly counter-signed by the Leader of the Tendring Residents' Alliance Group (Councillor Jeff Bray).

Councillors Everett and Bray, via that notice, informed Officers that they wished to exercise their right under Section 15(1)(e) of the Local Government and Housing Act 1989 and Regulation 17(c) of the Local Government (Committees and Political Groups) Regulations 1990 to have a review of the allocation of seats to political groups carried out. The results of that review are reported to Council elsewhere on the Agenda for this meeting.

This item is submitted for **INFORMATION ONLY**.

IAN DAVIDSON
CHIEF EXECUTIVE

COUNCIL

19 MARCH 2024

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

A.5 CHANGE IN MEMBERSHIP OF POLITICAL GROUPS

Notice of a Wish for Councillor Richard Everett to no longer be treated as a member of the Conservative political group signed by a majority of the members of that group and dated 30 January 2024.

Notice of Wish to be treated as a Member of a Political Group (Tendring Residents' Alliance) signed by Councillor Everett and dated 30 January 2024.

COUNCIL

30 JANUARY 2024

REPORT OF CHIEF EXECUTIVE

A.6 ALLOCATION OF SEATS ON COMMITTEES ETC. TO POLITICAL GROUPS FORMED ON TENDRING DISTRICT COUNCIL

Following the formation of the Tendring Residents' Alliance political group (as previously reported to Council at its meeting held on 28 November 2023), the by-election held in the Bluehouse Ward on 11 January 2024 and Councillor Everett's decision to join the Tendring Residents' Alliance political group (following his exclusion from the Conservative political group) a review of the allocation of seats to political groups on relevant Committees and Sub-Committees needs to be carried out in accordance with Section 15(1) (e) of the Local Government and Housing Act 1989 and Regulation 17(b) and (d) of the Local Government (Committees and Political Groups) Regulations 1990.

Council, is invited, with the assistance of this report, to formally conduct the review referred to above.

For the purposes of the review, the representation of the political groups on the Council as a whole is as follows:

Table 1

Political Group	Number of Members on the Council as a whole	Percentage of the total Council Membership
Conservative	15	31.25%
Independents	5	10.42%
Labour	7	14.58%
Liberal Democrats	4	8.33%
Tendring Independents	12	25.00%
Tendring Residents' Alliance	3	6.25%
TOTAL	46	

There are two Members of the Council (Councillors Casey and Turner) who are not members of any political group.

The percentage figures in the third column of the table above have been used for the determination of the allocation of seats on Committees/Sub-Committees, so far as reasonably practicable, must **give effect to the following principles:**

- (a) that not all the seats on the body to which appointments are made are allocated to the same political group;
- (b) that the majority of seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
- (c) subject to (a) and (b), that the **total number of seats on all the ordinary committees of a relevant authority allocated to a particular political group reflects that group's proportion of the membership of the authority;** and
- (d) subject to (a) and (c), that **the number of seats on each body allocated to a**

particular political group reflects that group's proportion of the membership of the authority.

In (c) and (d) of the above principles there is highlighting to emphasise the elements that apply to this Council's circumstances at this point in time.

Taking principle (c) first -

The relevant Committees and Sub-Committees of the Council that the determination of the allocation of seats applies to, taken together, they amount to 70 places.

For the avoidance of doubt the Cabinet, the Premises/Personal Licences Sub-Committee, the Tendring/Colchester Borders Garden Community Joint Committee and the Town & Parish Councils Standards Sub-Committee do not form part of this calculation for the purposes of the review and determination to be undertaken.

Table 2 – sets out the effect of Principle (c) above

Political Group	Percentage of the total Council Membership	Number of places per Political Group to accord with the Percentage shown (from a total of 70 places)	Rounded Number of places per Political Group to accord with the Percentage shown (from a total of 70 places)
Conservative	31.25%	21.87	22
Independents	10.42%	7.29	7
Labour	14.58%	10.21	10
Liberal Democrats	8.33%	5.83	6
Tendring Independents	25.00%	17.50	18
Tendring Residents' Alliance	6.24%	4.37	4

The above rounded position (last column) adds up to 67 places whereas there are 70 places on the relevant Committees/Sub-Committees. As a consequence, there are three unallocated places.

Council is therefore invited, in accordance with principle (c) above, to determine the allocation of seats on the relevant Committees and Sub-Committees in accordance with Table 2 above.

Turning now to principle (d) above, the following allocation would apply:

Table 3

Political Group	Percentage of the total Council Membership	Number of places per Political Group to accord with the Percentage shown (<i>rounded figures shown together with figures to two decimal places for reference</i>)			
		For a 'Committee' with 5 Members	For a 'Committee' with 7 Members	For a 'Committee' with 9 Members	For a 'Committee' with 10 Members
Conservative	31.25%	2 (1.56)	2 (2.19)	3 (2.81)	3 (3.13)
Independents	10.42%	1 (0.52)	1 (0.72)	1 (0.94)	1 (1.04)
Labour	14.58%	1 (0.73)	1 (1.02)	1 (1.31)	1 (1.46)
Liberal Democrats	8.33%	0 (0.42)	1 (0.58)	1 (0.75)	1 (0.83)
Tendring	25.00%	1 (1.25)	2 (1.75)	2 (2.25)	3 (2.50)

Independents					
Tending Residents' Alliance	6.25%	0 (0.31)	0 (0.44)	1 (0.56)	1 (0.63)

Using the above the allocation to 'Committees' is as follows (in Table 4):

Table 4

Political Group	5 Members - Audit Committee and Miscellaneous Licensing Sub-Committee	7 Members – Human Resources & Council Tax and Standards Committees	9 Members – Planning, Planning Policy & Local Plan, Resources and Services O&S and Community Leadership O&S Committees	10 Members – Licensing & Registration Committee	TOTAL across all these 'Committees'
Conservative	2	2	3	3	23
Independents	1	1	1	1	9
Labour	1	1	1	1	9
Liberal Democrats	0	1	1	1	7
Tending Independents	1	2	2	3	17
Tending Residents' Alliance	0	0	1	1	5

As such, the above does not accord with principle (c) as follows:

Table 5

Political Group	From Table 2 – Rounded Number of places per Political Group to accord with the Percentage shown (from a total of 70 places)	From Table 4 - TOTAL across all the relevant 'Committees'	Excess (+)/ Deficit (-) of Places between the allocations on 'Committees' and the political proportion overall
Conservative	22	23	+1
Independents	7	9	+2
Labour	10	9	-1
Liberal Democrats	6	7	+1
Tending Independents	18	17	-1
Tending Residents' Alliance	4	5	+1

The above adjustments in the fourth column of Table 5 would preserve the three 'unallocated' places referred to earlier.

As we are in the midst of the 2023/2024 municipal year Table 6 below sets out the current allocation of committee et cetera seats to political groups (i.e. as decided at the Annual Meeting of the Council in May 2023). The Tendring Residents' Alliance Group currently do not have any seats on committees as that Group was not in being at the time of the Annual Meeting of the Council.

Table 6

Committee /Sub-Committee	Total Seats on Body	Conservative	Independents	Labour	Liberal Democrats	Tendring Independents
Audit Committee	5	2	1	1	0	1
Community Leadership O & S Committee	9	4	1	1	1	2
Human Resources & Council Tax Committee	7	3	1	2	0	1
Licensing & Registration Committee (*)	10	3	0	3	1	2
Miscellaneous Licensing Sub-Committee	5	2	0	2	0	1
Planning Policy & Local Plan Committee	9	4	1	1	1	2
Planning Committee	9	4	1	1	1	2
Resources and Services O & S Committee	9	4	1	0	1	3
Standards Committee	7	2	1	1	1	2
TOTAL SEATS	70	28	7	12	6	16
Current Entitlement (post review)		22	7	10	6	18
Excess (+) or Deficit (-) of Places		+6	0	+2	0	-2

(*) At the Annual Meeting of the Council in May 2023, Councillor Casey was appointed to serve on the Licensing and Registration Committee even though he was/is not a member of any political group.

To remove the excess/deficit position identified in Tables 5 and 6 above, the following alternative allocations to the Committees shown (when compared with that in Table 6) have been proposed by the Leaders of the relevant Political Groups following a meeting of Group Leaders with the Chief Executive and other Officers held on 28 February 2024 (see Table 7).

Table 7

Political Group	Community Leadership O&S Committee	Human Resources Council Tax Committee	Licensing & Registration Committee	Misc. Licensing Sub-Committee	Planning Committee	Planning Policy & Local Plan Committee	Resources and Services O&S Committee	NEW TOTAL across all relevant 'Cttees'
Conservative	3 (-1)	2 (-1)			2 (-2)	3 (-1)	3 (-1)	22
Independents								7
Labour			2 (-1)	1 (-1)				10
Liberal Democrats								6
Tending Independents		2 (+1)			3(+1)			18
Tending Residents' Alliance			1 (+1)		1(+1)	1 (+1)	1 (+1)	4

The effect of the above (i.e. Table 7) would mean one unallocated place would be left on the **Community Leadership Overview & Scrutiny Committee, Licensing and Registration Committee and the Miscellaneous Licensing Sub-Committee**. Full Council will need to appoint to those seats.

Members should be aware that the “trading” set out in Tables 6 & 7 above does not conform with Section 15(5) of the Local Government & Housing Act 1989 [i.e. the aforementioned “Principles”]. However, the Council can, in accordance with the provisions of Section 17(1) of the Local Government & Housing Act 1989, approve such a “trade” as long as no member of the Council votes against it. If this was to occur, i.e. a member of the Council does vote against it, then:-

- (1) the Labour Group would revert to having one seat on the Licensing and Registration Committee (instead of two) and one seat on the Resources and Services Overview & Scrutiny Committee (instead of none); and
- (2) the Tending Independents Group would revert to having three seats on the Licensing & Registration Committee (instead of two) and two seats on the Resources and Services Overview & Scrutiny Committee (instead of three).

The membership of the Committees et cetera now proposed by Group Leaders in the light of the above “trading” is set out at Appendix 1 to this report.

In the light of the above information:-

IT IS RECOMMENDED THAT:-

- (a) Council approves the review of the allocation of places on relevant Committees, as set out in Table 2 above, insofar as it represents the application of the “Principles”;

- (b) based on the principles set out in this report, the allocation of places on relevant Committees be as follows in Table 8 (based on Table 4 as amended by Tables 6 & 7 above) on the basis that these apply the principles referred to above;

Table 8

Committee /Sub-Committee	Total Seats on Body	Conservative	Independents	Labour	Liberal Democrats	Tendring Independents	Tendring Residents' Alliance
Audit Committee	5	2	1	1	0	1	0
Community Leadership O & S Committee	9	3	1	1	1	2	0
Human Resources & Council Tax Committee	7	2	1	2	0	2	0
Licensing & Registration Committee	10	3	0	2	1	2	1
Miscellaneous Licensing Sub-Committee	5	2	0	1	0	1	0
Planning Policy & Local Plan Committee	9	3	1	1	1	2	1
Planning Committee	9	2	1	1	1	3	1
Resources and Services O & S Committee	9	3	1	0	1	3	1
Standards Committee	7	2	1	1	1	2	0

- (c) Council endorses and approves the appointment of Members to serve on the relevant Committees et cetera, as set out in Appendix 1 to this report;
- (d) Council decides who should be appointed to the unallocated seats on the Community Leadership Overview & Scrutiny Committee, the Licensing and Registration Committee and the Miscellaneous Licensing Sub-Committee.

IAN DAVIDSON
CHIEF EXECUTIVE

A.6 APPENDIX 1

MEMBERSHIP OF COMMITTEES/SUB-COMMITTEE (MARCH 2024)

Committee		Conservative	Independent	Labour	Liberal Democrats	Tendring Independents	Tendring Residents' Alliance	Unallocated (subject to decision by Full Council)
Audit Committee	5	Fairley Platt	Steady	Morrison		Sudra		
Community Leadership Overview & Scrutiny Committee	9	Ferguson Griffiths McWilliams	Steady	Davidson	Barrett	Doyle Oxley		
Human Resources & Council Tax Committee	7	Amos Guglielmi	Chapman	Calver Morrison		Baker G Stephenson		
Licensing & Registration Committee	10	Codling A Cossens Skeels		Davidson J Henderson	Wiggins	Smith Thompson	Bray	

A.6 APPENDIX 1

Planning Policy & Local Plan Committee	9	M Cossens Fairley Guglielmi	3	Chapman	1	Fowler	1	Scott	1	Bush Newton	2	Bray	1	0
Planning Committee	9	Alexander McWilliams	2	White	1	Fowler	1	Wiggins	1	Goldman Smith Sudra	3	Everett	1	0
Resources and Services Overview & Scrutiny Committee	9	M Cossens P Honeywood S Honeywood	3	Steady	1		0	Bensilum	1	Doyle Newton Smith	3	Harris	1	0
Standards Committee	7	Ferguson Land	2	Talbot	1	J Henderson	1	Wiggins	1	Newton Oxley	2		0	0

A.6 APPENDIX 1

Miscellaneous Licensing Sub-Committee	5	Codling A Cossens	2	0	J Henderson	1	0	Smith	1	0	1
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FOR INFORMATION ONLY – NOT SUBJECT TO ANY DECISION AT THIS FULL COUNCIL MEETING

Town & Parish Councils' Standards Sub-Committee (not subject to the rules of political proportionality)

Councillors Ann Oxley, Michael Talbot and Ann Wiggins

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COUNCIL

19 MARCH 2024

REPORT OF ASSISTANT DIRECTOR (PARTNERSHIPS)

A.7 PAY POLICY STATEMENT 2024/25

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To present the Council's draft Pay Policy Statement for 2024/25 for approval and adoption.

EXECUTIVE SUMMARY

The Localism Act 2011, Chapter 8 (*Pay Accountability*) Section 38 (1), requires the Council to prepare a Pay Policy Statement each year. The Pay Policy Statement must articulate the Council's approach to a range of issues relating to the pay of its workforce.

The Human Resources & Council Tax Committee has historically overseen the preparation of a draft Pay Policy Statement for recommendation onto Full Council for approval and adoption for the subsequent financial year to ensure that remuneration is set within the wider pay context, also giving due consideration to the relationship between the highest and lowest paid in the organisation.

Further matters that must be included in the statutory Pay Policy Statement are as follows: -

- A local authority's policy on the level and elements of remuneration for each Chief Officer.
- A local authority's policy on the remuneration of its lowest-paid employees (*together with its definition of "lowest-paid employees" and its reasons for adopting that definition*).
- A local authority's policy on the relationship between the remuneration of its Chief Officers and other Officers.
- A local authority's policy on other aspects of Chief Officers' remuneration: remuneration on recruitment increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.

The draft Pay Policy Statement 2024/25 has been designed to give an overview of the Council's framework regarding pay and rewards for staff within the Council. This framework is based on the principle of fairness and that rewards should be proportional to the weight of each role and each individual's performance. The framework also aims to ensure the ability of the Council to recruit talented individuals whilst ensuring value for money for the residents of Tendring.

It should be noted that the Conditions of Employment with Tendring District Council, including pay, in the main, conform to those established for local government generally by the National Joint Committee (NJC). Agreements reached by the NJC are 'collective agreements'.

There is limited change reported in the 2024/25 Statement with the exception of the application of the 2023/24 pay award (*following agreement between National Employers and National Unions*), whereby, there are further significant changes at the lower to mid-end of the pay spine, as follows: -

- With effect from 1 April 2023, an increase of £1,925 (*pro rata for part-time employees*) to be paid as a consolidated, permanent addition on all NJC pay points SCP 2 to 43 inclusive.
- With effect from 1 April 2023, an increase of 3.88 per cent on all pay points above the maximum of the pay spine (SCP 43) but graded below deputy chief officer (*in accordance with Green Book Part 2 Para 5.42*).
- With effect from 1 April 2023, an increase of 3.88 per cent on all allowances.

The latest pay award means an employee on the bottom pay point in April 2021 (earning £18,333) will have received an increase in their pay of £4,033 (22.0 percent) over the two years to April 2023.

For an employee at the mid-point of the pay spine (pay point 22), their pay will have increased over the same period by £3,850 (13.99 percent).

Further, the draft Pay Policy Statement 2024/25 includes reference to a number of updates to the Council's Allowances Policy, namely the extension of Emergency Planning payments, which now extend beyond First Call Officers to all staff supporting the authority's response in these circumstances and the allowance paid to those officers who attend Committee meetings, including the parameters in which payments are applied.

Finally, the draft Pay Policy Statement 2024/25 includes reference to updated statutory guidance with regard to Special Severance Payments.

The Human Resources and Council Tax Committee have previously requested that Senior HR Officers engage the services of the East of England Local Government Association (EELGA) to expand on the earlier Pay Review undertaken to carry out a comprehensive, service wide review of TDC's pay structure as follows: -

- Across the whole staffing establishment (*including Chief Officers*), in the context of neighbouring (District) authorities and regionally.
- In the context of professional and technical areas – this will be an extension of the work already undertaken by EELGA and will also consider those areas in which Market Forces Supplements are currently applied.

This work is underway, and once concluded, the findings and the associated recommendations for action (*if applicable*) will be presented to a future meeting of the Human Resources & Council Tax Committee.

Council should also note that work is underway to update the Council's Career Grade Scheme and Acting Up Policy in line with the Assistant Director - Partnerships delegations, '*to make minor amendments to Human Resources Policies and Procedures necessary as a result of legislation, national guidance or best practice*'. These policies supplement the draft Pay Policy Statement; however, they are not the subject of this report.

As soon as is reasonably practicable after approving the Pay Policy Statement, this authority must publish the Statement in such manner as it thinks fit (*which must include publication on the authority's website*). Therefore, this Statement will be published on the Council's website following its approval by Full Council.

The draft Pay Policy Statement was considered by the Human Resources and Council Tax Committee at its meeting held 26 February 2024 and that committee decided to recommend the statement to Full Council for its approval.

RECOMMENDATION(S)

It is recommended that the draft Pay Policy Statement 2024/25, as set out in Appendix A to this report, be approved and adopted.

REASON(S) FOR THE RECOMMENDATION(S)

In order to comply with the requirements of the Localism Act 2011, Sections 38 and 39 the Council must adopt and publish an annual Pay Policy Statement.

ALTERNATIVE OPTIONS CONSIDERED

There is no alternative option to consider, as this is a statutory requirement that the Council must comply with.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Council's annual consideration and formal adoption of a Pay Policy Statement is part of the Council's Policy Framework and provides transparency for the residents of Tendring, therefore, contributing to the Corporate Plan 2024/28 priority of 'Financial Sustainability and Openness'.

The framework identified in the Pay Policy Statement aims to ensure the ability of the Council to recruit talented individuals, thus contributing to the Corporate Plan 2024/28 priority of 'Pride in our area and services to residents'.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Schedule 2 of Part 3 of the Constitution confirms that Full Council is responsible for the preparation and approval of a Pay Policy Statement for the upcoming financial year in accordance with Chapter 8 of the Localism Act 2011.

Sections 38 and 39 of the Localism Act 2011 require: -

- (1) A relevant authority's Pay Policy Statement must be approved by a resolution of the authority before it comes into force.
- (2) Each Statement must be prepared and approved before the end of the 31 March immediately preceding the financial year to which it relates.
- (3) A relevant authority may by resolution amend its Pay Policy Statement (*including after the beginning of the financial year to which it relates*).
- (4) As soon as is reasonably practicable after approving or amending a Pay Policy

Statement, the authority must publish the Statement or the amended Statement in such manner as it thinks fit (*which must include publication on the authority's website*).

MONITORING OFFICER'S COMMENTS:

Statutory Guidance on the making and disclosure of Special Severance Payments by Local Authorities in England was published by the Department for Levelling Up Housing and Communities (DHLUC) in May 2022. The guidance was issued under Section 26 of the Local Government Act 1999 and forms part of the best value regime. The best value duty, as set out in Section 3 of the Local Government Act 1999, provides that "a best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". The best value duty is relevant to local authorities to deliver a balanced budget, provide statutory services and secure value for money in spending decisions. This will include decisions to make Special Severance Payments.

The guidance sets out the government's position on the use of Special Severance Payments made by local authorities. Special Severance Payments are payments made to employees, officeholders, workers, contractors, and others outside of statutory, contractual, or other requirements when leaving employment in public service. Employers may sometimes consider making such a payment in situations where the individual resigns, is dismissed, or agrees a termination of contract. Whether payments are regarded as Special Severance Payments will depend upon the individual particular circumstances, although the guidance does provide some examples for illustrative purposes only.

It is important to recognise that the guidance provides considerations for local authorities on potential Special Severance Payments in exercising its functions in accordance with the Best Value Duty and ensuring its policies are consistent with the Public Sector Equality Duty under the Equality Act 2010.

The guidance expects that any Special Severance Payments should be approved to the following process: -

- Payments of £100,000 and above approved by a vote of full council, as set out in the Localism Act 2011;
- Payments of £20,000 and above, but below £100,000, must be personally signed off by the Head of Paid Service, with a clear record of the Leader's approval and that of any others who have signed off the payment;
- Payments below £20,000 must be approved accordingly to the local authority's scheme of delegation. It is expected that local authorities should publish their policy and process for approving these payments.

As part of their duties, an authority's s.151 Officer and, where appropriate, the Monitoring Officer, should take a close interest in and be able to justify any Special Severance Payments that are made by the authority and in particular payments that are not consistent with the content of the guidance. Therefore, it will be a requirement that any decisions to award Special Severance Payments will be fully recorded and reasoned.

The approval process for any Special Severance Payment is outside of the employment procedures for disciplinary action and dismissal, which are subject to their own legislation and are summarised in the Council's Officer Employment Procedure rules, as set out in Part 5 of

the Council's Constitution.

The draft Pay Policy Statement states the Council has adopted Organisational Change and Redundancy and Flexible Retirement Policies, which contain provisions regarding severance payments. The draft Pay Policy Statement does not confirm whether these policies are consistent with the statutory guidance and Best Value Duty; therefore, it is recommended that these policies are reviewed to ensure compliance with our legal obligations and the government's expectations.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The Conditions of Employment with Tendring District Council in the main conform to those established for local government by the NJC, commonly known as the 'Green Book'. Agreements reached by the NJC are 'collective agreements', and if they are incorporated into employees' contracts of employment, then the changes take effect automatically.

The draft Pay Policy Statement for 2024/25 provides updated information on the Council's pay spine and remuneration arrangements.

USE OF RESOURCES AND VALUE FOR MONEY

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

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

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

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

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Tendring District Council recognises that in the context of managing public resources, remuneration at all levels needs to be of an adequate level in order to secure and retain high quality employees dedicated to the service of the public, whilst ensuring value for money to the public purse. The primary aim of the Pay Policy Statement is to set a framework to attract, retain and motivate staff to ensure the organisation can perform at its best.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Publication of the annual Pay Policy Statement is a statutory requirement for the authority. In line with the Localism Act 2011 Sections 38 & 39, this must be approved by Full Council and published on the Council's website.

	<p>The Council follows the transparency requirements on remuneration as set out in the Local Government Transparency Code 2015.</p> <p>The Council's annual Statement of Accounts is published on the authority's website, this includes a detailed analysis of the pay, benefits and pension entitlements for Chief Officers.</p> <p>Our transparency pages also include a full list of monthly salary information across all pay bands.</p> <p>The Council is a best value authority and must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The Best Value Duty is relevant to local authority duties to deliver a balanced budget, provide statutory services, and secure value for money in spending decisions. The Council must have regard to the statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England (May 2022).</p> <p>Policies referring to Special Severance Payments should be reviewed to ensure consistency with the statutory guidance.</p>
<p>C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.</p>	<p>As a major employer in the district, the Council's ambition is to contribute to building a more prosperous local community by modelling good employment practices, including ensuring fairness in the way that it pays and rewards its existing and future employees.</p>
MILESTONES AND DELIVERY	
<p>(a) Human Resources & Council Tax Committee 26 February 2024 (b) Full Council 19 March 2024 (c) Publication to TDC Website 20 March 2024</p>	
ASSOCIATED RISKS AND MITIGATION	
<p>By not adopting the Council's Pay Policy Statement 2024/25, the Council would be in breach of legislation, thereby risking reputational damage.</p> <p>The Council would also not be able to comply with Section 41 of the Localism Act 2011 (<i>requirement for determinations relating to terms and conditions of Chief Officers to comply with the Pay Policy Statement</i>) in appointing officers on such reasonable terms and conditions as the authority thinks fit.</p>	

OUTCOME OF CONSULTATION AND ENGAGEMENT

Full consultation has taken place with the local Unison Branch Executive and they are supportive of the proposed Statement for 2024/25 and its adoption.

EQUALITIES

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.

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

The Council is committed to being an inclusive employer in all of its people policies and practices.

In determining the pay and remuneration of all of its employees, the Council will comply with all relevant employment legislation.

The Council ensures its pay structures, and all pay differentials can be objectively justified through the use of the NJC job evaluation mechanism (*with the exception of Deputy Chief and Chief Officer remuneration*) which directly determines the relative levels of posts in grades according to the requirements, demands and responsibilities of the role.

Since 2018, the Council has been required to publish mandatory gender pay gap reporting in order to meet the requirements of the Equality Act 2010 (*Specific Duties and Public Authorities*) Regulations 2017.

Data for the 2023/24 reporting period shows the following:

Mean* difference across Gender

**The mean is a statistical measure that is calculated by adding up all the values in a dataset and dividing the sum by the total number of values.*

The difference between the male and female mean hourly rate is £1.24.
The male mean hourly rate is 8.2% higher than the female mean hourly rate.

Median** difference across Gender

***The median is the middle number in a set of data when the data is arranged in ascending (this is more common) or descending order.*

The difference between the male and female median hourly rate is £0.15.
The male median hourly rate is 1.2% higher than the female median hourly rate.

NB: There are currently more males at Chief Officer level and 80% of apprentices included in the overall calculation are female. These factors will impact the mean calculation, making the male hourly rate higher. The median calculation does not weight these individual factors as heavily, thus reflecting a more balanced hourly rate overall.

The ratio of Male to Female at quartile level is in keeping with composition at an overall organisational level.

The Council's data demonstrates that there is no material disparity at each pay level within the organisation, when viewed within the context of the UK average of 14.3% (*for all employees, full and part time*) in 2023 (ONS October 2023).

The Council's pay gap will continue to be subject to review, in line with the reporting requirements and if any substantial gaps are identified, as the Council interprets the data, a suitable action plan will be prepared.

SOCIAL VALUE CONSIDERATIONS

The Council aims to lead by example as a major local employer. This includes following recognised best practice and keeping up to date with legislation.

Examples of this include being a Disability Confident Leader and an Employer Recognition Scheme Gold Award holder; both of these commit the authority to being an advocate in these areas.

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

This report has no direct implication on the Council's aspiration to be net zero by 2030.

OTHER RELEVANT IMPLICATIONS

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

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

ANY OTHER RELEVANT INFORMATION

There are no background papers associated with this report.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Localism Act 2011 required this Council to produce a Pay Policy Statement by 31 March 2012 and every subsequent financial year thereafter.

The Human Resources & Council Tax Committee has historically overseen the preparation of a draft Pay Policy Statement for recommendation onto Full Council for approval and adoption for the subsequent financial year to ensure that remuneration is set within the wider pay context, also giving due consideration to the relationship between the highest and lowest paid in the organisation.

The draft Pay Policy Statement 2024/25 references Statutory Guidance on the making and disclosure of Special Severance Payments by Local Authorities in England which was published by the Department for Levelling Up Housing and Communities (DHLUC) in May

2022.

Special Severance Payments are additional, discretionary sums paid on top of statutory and contractual redundancy or severance terms by public sector employers in England.

In light of the Monitoring Officer's comments concerning the recommended review of the authority's Organisational Change and Redundancy and Flexible Retirement Policies (*which contain provisions regarding contractual and statutory severance payments*), having undertaken a light touch review, it is not considered that these policies require revision at this time.

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

Full Council adopted the Pay Policy Statement for 2023/24 at its meeting on 2 March 2023

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Chief Officer Structure Chart.

APPENDICES

Appendix – Pay Policy Statement 2024/25.

REPORT CONTACT OFFICER(S)

Include here the Name, Job Title and Email/Telephone details of the person(s) who wrote the report and who can answer questions on the content.

Name	Katie Wilkins
Job Title	Head of People
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A.7 APPENDIX

Tendring District Council Draft Pay and Reward Policy

2024/25



Contents

Introduction	3
Purpose of the Statement	4
Managing Remuneration	4
Determination of Grade and Salary for Chief Officers and lowest-paid Employees	4
Responding to a major local emergency	6
Committee Attendance	7
Transparency within Tendring District Council	8
Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017	8
Off-Payroll working in the Public Sector (IR35)	9
Severance & Redundancy Payments	10
Other Rewards	11
Review of the Pay Policy Statement	11
Other Policies	12

Introduction

Section 38 (1) of the Localism Act 2011 (Chapter 8) requires local authorities to produce an annual Pay Policy Statement. The provisions within the Act do not seek to change the right of each local authority to have autonomy on pay decisions, however, it emphasises the need to deliver value for money for local taxpayers.

Schedule 2 of Part 3 of the Constitution delegates to Full Council the preparation and approval of a Pay Policy Statement for the upcoming financial year in accordance with Chapter 8 of the Localism Act 2011.

Tendring District Council recognises that in the context of managing public resources, remuneration at all levels needs to be of an adequate level in order to secure and retain high quality employees dedicated to the service of the public whilst ensuring value for money to the public purse. The Council's vision includes the provision to adopt a reward strategy that is modern, sustainable, fair and transparent and rewards its workforce appropriately for their contribution to the Council.

The Council follows the transparency requirements on remuneration as set out in the Local Government Transparency Code 2015. This Code was issued to meet the government's desire to place more power into citizens' hands to increase democratic accountability and make it easier for local people to contribute to the local decision-making process and help shape public services.

Part of the Code includes publishing information relating to the remuneration of senior officers within a local authority. A full list of senior remuneration and monthly salary information across all pay bands is available and published on the Council's website www.tendringdc.gov.uk.

The Council's Statement of Accounts includes details of all Chief Officers pay.

The matters that must be included in the statutory Pay Policy Statement are as follows:

- A local authority's policy on the level and elements of remuneration for each Chief Officer (*for Tendring District Council this comprises the Chief Executive, and Management Team for the authority, which also includes both the Monitoring Officer and the Section 151 Officer*).
- A local authority's policy on the remuneration of its lowest-paid employees (*together with its definition of "lowest-paid employees" and its reasons for adopting that definition*).
- A local authority's policy on the relationship between the remuneration of its Chief Officers and other officers.
- A local authority's policy on other aspects of Chief Officers' remuneration: remuneration on recruitment, increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.

Purpose of the Statement

The Pay Policy Statement 2024/25 has been designed to give an overview of the Council's framework regarding pay and rewards for staff within the Council. The framework aims to ensure the ability of the Council to recruit talented individuals whilst ensuring value for money for the residents of Tendring.

Tendring District Council requires high calibre leaders within the organisation to deliver high quality public services, especially in difficult fiscal conditions. Taxpayers should be assured of value for money, with public resources not used inefficiently on excessive senior salaries. The primary aim of the Pay Policy is to set a framework to attract, retain and motivate staff to ensure the organisation can perform at its best. Research shows that individuals are attracted, retained and engaged by a range of both financial and non-financial rewards, so a coherent link between reward and the overall approach to people management leads to the best possible outcome.

Managing Remuneration

Tendring District Council has a fair, equitable and transparent approach to remuneration in accordance with equal pay legislation. This includes incremental progression based on length of service and more proactively on:

- Achieving annual performance levels (*if applicable*).
- Development progression against defined frameworks (*Career Progression for many posts*).

Determination of Grade and Salary for Chief Officers and lowest-paid Employees

The Council's Pay Policy is influenced by a number of factors which include, market information, market forces and budgetary position. Pay ranges are revisited from time to time to ensure they remain appropriate when benchmarked against external independent appropriate compensation surveys, applicable to each role.

The Council has adopted the National Pay Grades, as set out by the National Joint Council (NJC) and is subject to the national negotiations regarding pay and conditions of service (*commonly known as the 'Green Book'*). Within the current pay structure there are 21 Pay Bands and 80 Incremental Pay Points.

Apprentices are not included as they have a contract for learning and training with the Council, rather than an employment contract and are paid according to the Government approved apprenticeship pay rates.

The NJC is responsible for negotiating pay awards for local government employees in the UK. The NJC pay awards are negotiated between the employers' side and the trade unions' side of the NJC.

The authority has adopted a localised arrangement whereby, the NJC Pay Award applies to all officers of the Council, including Chief Officers, with the exception of the

Chief Executive who is subject to the **Joint Negotiating Committee Conditions of Service**.

Employees who are new to the Council and Local Government are usually appointed at the first point of the salary banding, save for exceptional circumstances.

National Single Status and the NJC Job Evaluation Scheme have been adopted by the Council. Training has been provided by the Regional Employers (EELGA) to ensure that there are a sufficient number of managers and union officials within the organisation who have the skills to implement and apply job evaluation within the Council. This Job Evaluation Scheme is recognised by employers and trade unions nationally and the scheme allows for robust measurement against set criteria resulting in fair and objective evaluations.

Neither the Assistant Directors, nor Chief Officers are subject to the NJC Job Evaluation Scheme. The setting of pay at this level is subject to benchmarking, with pay rates set to attract and retain key employees. In all instances, the agreement of pay is subject to Equal Pay legislation.

The authority's highest paid employee is the Chief Executive with a salary range of £134,760 to £144,243.

With effect from 1 April 2020, an allowance for the role of Deputy Chief Executive was introduced. This allowance is payable if/when the Chief Executive requires a Deputy Chief Executive to cover particular roles and functions in their absence. The current rate of this allowance is £3,000 per annum. From April 2022 onwards, this allowance and that paid to the Monitoring Officer and Section 151 Officer (*and their assigned deputies*), was index linked to the NJC inflationary awards.

Car mileage, motorcycle and bicycle payments for all employees are paid at the Inland Revenue Rate. This is currently £0.45/mile (*for the first 10,000 miles, after which a rate of £0.25/mile is applicable*) for car mileage, £0.24/mile for motorcycles, and £0.20/mile for bicycles.

Use of the Inland Revenue Rate enables the Council to have a fair and consistent rate of reimbursement for business mileage across the Council.

On official business, and to encourage Officers to car share on business journeys, the Council has also adopted the additional 5p per passenger, per mile in accordance with Inland Revenue guidance.

Other allowances payable within the Council include the following:

- Committee Attendance
- Overtime Payments
- Standby Payments
- Disturbance Payments
- First Aider Payments

The Council's Allowances Policy supplements the Pay Policy Statement. This recognises that on occasion, officers will be required to respond outside of standard working hours to provide services to its residents.

The principles of this policy are as follows:

- To ensure staff are paid in a consistent way throughout the organisation.
- To compensate staff providing a contractual out of hour's standby service to meet the Council's statutory duties.
- To ensure that payment structures are fair and sustainable for the future.
- The Council wants to be a responsible employer to meet the health and safety and well-being needs of staff by encouraging the use of TOIL for recovery from supporting service delivery outside of standard working hours.

Within Tendring District Council there are three distinct categories of service provision:

- 1) Services that have 24-hour, 7 day a week scheduled provision.
- 2) Services that are delivered predominantly during standard office hours, but also provide a standby service outside of these hours. Standby is used to address calls that require attention which cannot wait until standard opening hours.
- 3) Services delivered during standard office hours, occasionally needing to provide an extra response on an ad hoc basis.

The following overtime arrangements were introduced from 1 April 2018:

- Staff up to SCP 43 (*the top of Grade 11*) can claim overtime. Overtime will only be paid if the time off is not an option for operational service delivery. Overtime must be authorised in advance by the relevant Corporate Director.
- Overtime will be paid at plain rate only for Category 2 and 3 services.
- Category 1 services may be paid enhanced rates of overtime for evenings, weekends and bank holidays for those staff having already worked 37 hours any one week.

In addition, the Council has a statutory requirement to maintain an Emergency Response service for the district. Officers who support this service (*in an on-call capacity*) are referred to as First Call Officers.

Furthermore, the Council's Emergency Planning Manager holds a staff call down list, whereby, staff are stood up when an emergency incident occurs.

In February 2023, the Council updated its Allowances Policy to extend the payments made in these circumstances beyond First Call Officers, to all staff supporting the authority's response, as follows: -

Responding to a major local emergency

From time to time the organisation, in conjunction with other agencies, responds to a local actual or threatened, emergency or disaster. On these occasions all staff are

required to provide their support. Staff who are placed on standby outside of standard office hours, will be entitled to claim the standard daily standby allowance.

Furthermore, if they are deployed outside of standard office hours, they are eligible for TOIL or overtime (subject to service arrangements and at the managers' discretion) up to six hours. TOIL or overtime applies after the first 30 minutes of 'call' for each standby day.

*If their deployment extends beyond 6 hours, then they will also be paid a one-off ex-gratia payment of up to £200, **as determined by the Emergency Planning Manager** (subject to deductions).*

The February 2023 update to the Council's Allowances Policy also included the following: -

Committee Attendance

*Officers may be required to attend Committee meetings **outside of the standard working day** as part of their role. The Council pays a one-off allowance, per Committee meeting, **for any meetings that proceed beyond 6.00pm**. This allowance is linked to the NJC pay award. If the duration of the meeting is 3 hours or less, officers will receive this allowance.*

For meetings exceeding a 3-hour period, the officer will receive the allowance as mentioned above, in addition they can claim TOIL for the time attended over the 3-hour period.

The Council does not currently operate any bonus schemes.

With effect from 1 April 2020 onwards, the Council adjusted subsistence rates to mirror HMRC rates of reimbursement and to ensure alignment with mileage payments. Any payment is made on production of actual receipts and subsistence payments are only allowable when an Officer is working outside of the district.

The current rates of reimbursement are as follows:

Working outside of the district for more than 5 Hours - £5

Working outside of the district for more than 10 Hours - £10

Working outside of the district for more than 15 Hours, or if the travel is ongoing after 8pm - £25

In a personal capacity as (*Deputy/Local/Acting*) Returning Officer, the holder of the post of Chief Executive is separately remunerated in respect of their statutory duties at Parliamentary, European Parliamentary, Referendums, County, Police and Crime Commissioner and District and Parish Council Elections.

Fees for conducting Parliamentary, European Parliamentary Elections, Police and Crime Commissioner Elections and National Referendum are determined by way of a Statutory Instrument.

In respect of acting as Deputy Returning Officer at elections of County Councillors, reference is made to the Scale of Fees and Expenses payable at Elections of County Councillors determined by Essex County Council.

The fee for undertaking the role of Returning Officer in respect of District and Parish Council Elections is by reference to the Scale of Fees and Expenses payable to the Returning Officer at elections of District and Parish Councillors.

As at the date of this publication, remuneration received by the holder of the post of Chief Executive, in relation to Returning Officer duties during 2023/24 was £18,862.

The Council is an admitted body of the Local Government Pension Scheme and Essex County Council administers the Pension Scheme for the Council.

Transparency within Tendring District Council

Existing legislation already requires the Council to publish statements regarding remuneration each year. The Council's Statement of Accounts includes a detailed analysis of the pay, benefits and pension entitlements for all Chief Officers.

The Council will continue to publish this information on an annual basis, and it is readily available to view on the Council's website www.tendringdc.gov.uk. This information also includes a structure of the Council's Chief Officers and Assistant Directors.

Following the 2023/24 pay award, remuneration for the lowest spinal column point on the authorities' pay scale is £22,366 per annum, which is equivalent to £11.59 per hour.

By comparing the midpoint of the highest paid post £139,502 and the lowest SCP on the latest agreed pay scale, post April 2023, £22,366 a multiple of **6.24** can be calculated, which is comfortably in range of the pay multiple cap for Local Government pay as detailed in the Hutton Review of Fair Pay in the Public Sector.

The Council aims to keep this multiple under review to ensure that it is kept at an appropriate level.

The current median pay for 'Chief Officers' (excluding the Chief Executive) is £74,592 (*this is based on full time equivalent annual salary, also excluding election fees*).

The current median pay for employees (*excluding Chief Officers and the Chief Executive*) is £29,269.

The Council publishes a monthly report of salaries paid, by pay band and the number of staff within each pay band on the Tendring District Council website- www.tendringdc.gov.uk.

Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017

Since 2018, the Council has been required to publish mandatory gender pay gap reporting in order to meet the requirements of the Equality Act 2010 (*Specific Duties*

and Public Authorities) Regulations 2017. The Council has a requirement to publish data including the following:

- The mean gender pay gap.
- The median gender pay gap.
- *The mean bonus gender pay gap.*
- *The median bonus gender pay gap.*
- *The proportion of males and females receiving a bonus payment.*
- The proportion of males and females in each quartile band.

Three of the above requirements will not be applicable, as the Council does not operate bonus schemes for Officers.

The challenge within Tendring District Council and across the UK is to eliminate any gender pay gap. If any gaps are determined, as the Council interprets data, an action plan will be prepared.

Data for the 2023/24 reporting period shows the following:

Mean difference across Gender

The difference between the male and female mean hourly rate is £1.24.
The male mean hourly rate is 8.2% higher than the female mean hourly rate.

Median difference across Gender

The difference between the male and female median hourly rate is £0.15.
The male median hourly rate is 1.2% higher than the female median hourly rate.

NB: There are currently more males at Chief Officer level and 80% of apprentices included in the overall calculation are female. These factors will impact the mean calculation, making the male hourly rate higher. The median calculation does not weight these individual factors as heavily, thus reflecting a more balanced hourly rate overall.

The ratio of Male to Female at quartile level is in keeping with composition at an overall organisational level.

The Council's data demonstrates that there is no material disparity at each pay level within the organisation, when viewed within the context of the UK average of 14.3% (*for all employees, full and part time*) in 2023 (ONS October 2023).

This information is published on the Council's website as well as a designated Government website.

Off-Payroll working in the Public Sector (IR35)

Due to the requirement for particular specialist skills or due to peaks in workloads, the Council occasionally engages the services of agency workers or consultants for short term assignments.

With effect from 1st April 2017, HMRC updated the requirements and regulations for off payroll workers within the public sector. From this date, individuals working through their own company in the public sector are no longer responsible for determining the application of intermediaries' legislation and paying the relevant tax and NICs. This responsibility was moved to the public sector employer.

The Council has undertaken and reviewed the current status of all workers with individual agencies and HMRC, all of which remain compliant with the legislation.

Severance & Redundancy Payments

The Council has adopted policies regarding severance and redundancy payments. Full details can be found in the following.

- Organisational Change and Redundancy Policy.
- Flexible Retirement Policy.

In the case of the Organisational Change and Redundancy Policy the authority looks to ensure that the policy is workable, affordable, and reasonable, whilst having regard to foreseeable costs.

For severance, all policies and payments are the same for the "lowest-paid employee" and the Chief Officers of the Council.

Tendring District Council needs to ensure sufficient flexibility in order to respond to unforeseen circumstances and there may be occasions when the Council must take a pragmatic approach to severance.

Special Severance Payments

Special Severance Payments are additional, discretionary sums paid on top of statutory and contractual redundancy or severance terms by public sector employers in England.

The Council will adhere to statutory guidance regarding the payment of 'Special Severance Payments'.

This guidance forms part of the best value regime for local authorities in England. The best value duty, as set out in section 3 of the Local Government Act 1999 ("the 1999 Act"), provides that "*A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness*". On this basis, the government has determined that these payments should only be considered in 'exceptional' cases.

In the circumstances where it is decided that a Special Severance Payment should be made, the authority will ensure these arrangements meet the government's recommended criteria that they are fair, proportionate, lawful and provide value for money for the taxpayer.

Furthermore, the authority will ensure that it adheres to the government's expectations that any Special Severance Payments should be approved according to the following process: -

- Payments of £100,000 and above must be approved by a vote of Full Council, as set out in the Localism Act 2011.
- Payments of £20,000 and above, but below £100,000, must be personally approved and signed off by the Head of Paid Service, with a clear record of the Leader's approval and that of any others who have signed off the payment.
- Payments below £20,000 must be approved according to the local authority's scheme of delegation. It is expected that local authorities should publish their policy and process for approving these payments.

Other Rewards

The Council has both financial and non-financial rewards* for staff as follows: -

- Access to the Local Government Pension Scheme.
- Learning & Development, including sponsorship.
- 'Salary Sacrifice' schemes, such as an AVC scheme (*being tax efficient and at nil cost to the Council*).
- Health schemes – the Council has been able to offer a number of wellbeing initiatives to its employees in partnership with ACE and PROVIDE (*at nil cost to the Council*).
- Occupational Health provision and a fully funded Employee Assistance Programme.
- Additional development opportunities – e.g. secondments, special projects, flexible working, and recognition through awards such as the Celebration of Success and STARS events.
- Free car parking.
- Flexi-time scheme.
- Discounted corporate gym membership.
- Additional days annual leave granted after 5 years of continuous service with Tendring District Council.

*There are no rewards that only benefit Chief Officers within the Council.

Review of the Pay Policy Statement

The Localism Act stipulates that the Council's Pay Policy Statement should be kept under regular review on an annual basis. This includes a publication of the salaries of the most senior employees within the organisation compared to the lowest paid employees.

Other Policies

The Council has a number of policies that could have a financial benefit and should be read in conjunction with this Pay Policy Statement including the following:

- Allowances Policy.
- Market Forces Policy.
- Acting Up Policy.
- Career Grade Policy.
- Relocation Policy.
- Long Service and Retirement Gifts Policy.

All the above policies apply equally to all employees of Tendring District Council irrespective of their seniority.

The Human Resources & Council Tax Committee have responsibility for the discharge of the Part II – miscellaneous functions as set out 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; including the ‘decision-making on key Human Resource and Personnel issues not reserved by the Council or delegated to officers’. This extends to the agreement of key personnel policies, including those relating to Pay and Reward.

Ends.

COUNCIL

19 MARCH 2024

REPORT OF THE MONITORING OFFICER

A.8 LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN FINDING

(Report prepared by Keith Simmons)

The Constitution (Article 12.03(a)) requires the Monitoring Officer to report to Council (or to Cabinet for executive functions) if any decision or omission has given rise to maladministration. This report concerns an omission that the Local Government and Social Ombudsman ('the Ombudsman') has determined was maladministration.

This report is also required under section 5 of the Local Government and Housing Act 1989 in view of the aforementioned decision in this matter by the Local Government and Social Care Ombudsman as is mentioned in Part 3 of the Local Government Act 1974. The Chief Executive and Section 151 Officer have been consulted in the preparation of this report.

The complaint concerned the way the Council handled a planning enforcement and anti-social behaviour report from a member of the public. The member of the public reported to the Council alleged breaches of planning control (and anti-social behaviour) which they said meant they could not use and enjoy their own property in the area concerned.

By way of background, Councils can take enforcement action if they find planning rules have been breached. However, councils should not take enforcement action just because there has been a breach of planning control. Planning enforcement is discretionary and formal action should happen only when it would be a proportionate response to the breach. When deciding whether to enforce, councils should consider the likely impact of harm to the public and whether they might grant approval if they were to receive an application for the development or use.

In this case, the Council received and acted on an initial report of planning breaches (and anti-social behaviour). This included meeting with the individual. A further communication from the individual was then not directly responded to by the Council in a timely way. The Council did though, across that time, undertake extensive works to establish the degree of the planning breach and to inform action on the reports received. Interaction with the landowner in respect of matters at the site concerned was also undertaken to address issues raised by the member of the public.

The non-response to the second communication referenced above was, the Ombudsman concluded, maladministration. The Ombudsman was satisfied that the member of the public concerned had suffered avoidable frustration and uncertainty during the period to date. The planning enforcement case is still open.

The Ombudsman identified the following as an acceptable remedy and the Council has agreed to this as a suitable remedy:

- a) Within one month to provide a written apology for the delay identified and its planning enforcement investigation. *This has been done.*
- b) Within one month to make a symbolic payment of £250 to recognise the avoidable frustration and inconvenience caused. *The detail to facilitate this payment have been sought.*
- c) Decide if and what planning enforcement action is warranted and progress any action in a reasonable time. *Detailed further assessment work on the alleged planning breach has continued. It is envisaged, at this stage that the timeline for a decision*

as to whether enforcement action is lawful and warranted may be within the next several weeks.”

- d) Provide a monthly update to the member of the public about progress. *This is ongoing while the case is still live.*

This item is submitted for Council's consideration.

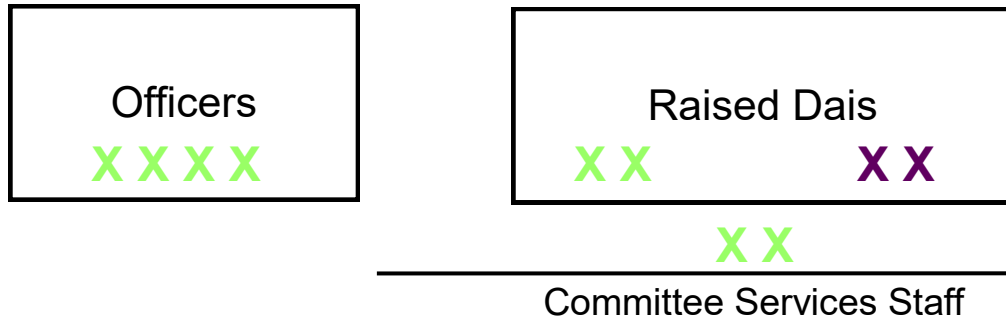
It is RECOMMENDED that Council 'notes' the report, including the progress with the agreed actions.

LAYOUT FOR MEETING OF THE COUNCIL - PRINCES THEATRE (MARCH 2024 MEETING)

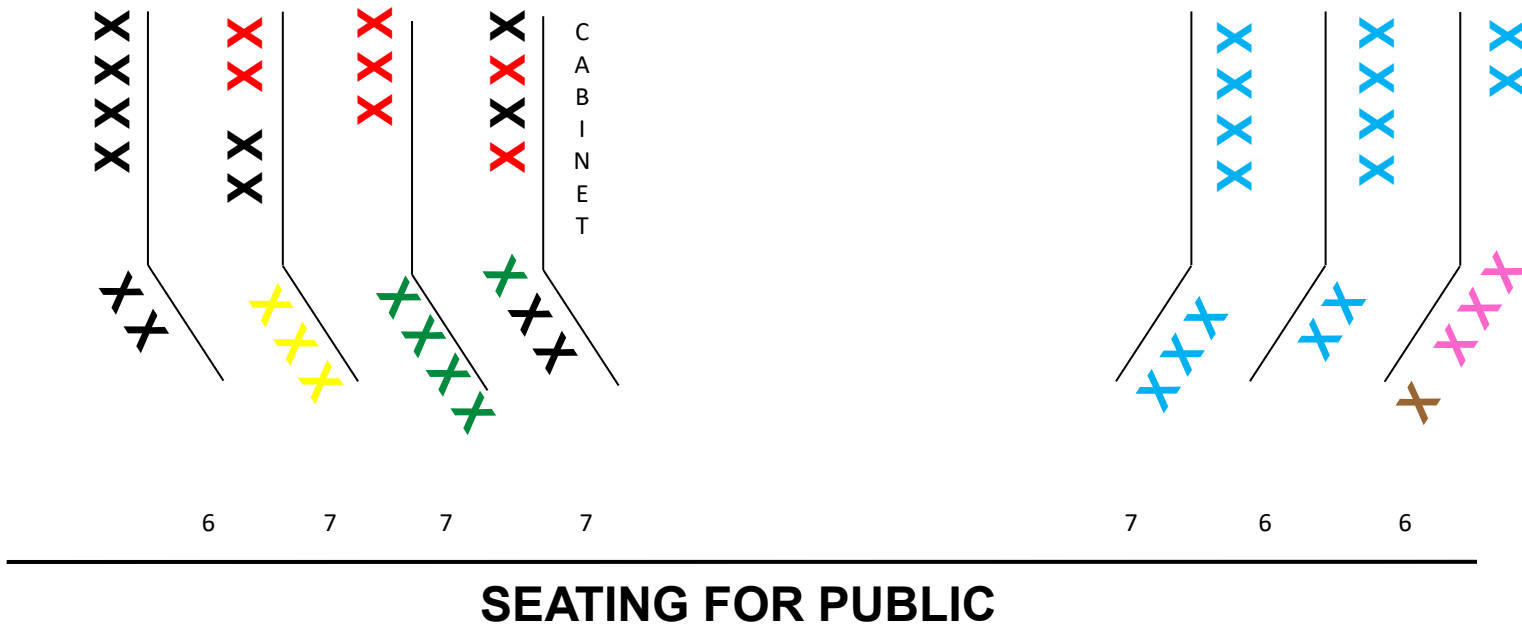
(Chairman
Vice Chairman
Chief Executive
Deputy Chief Executive &
Monitoring Officer)

KEY

- X (Blue) = Conservatives
- X (Black) = Tending Independents
- X (Green) = Independent
- X (Red) = Labour
- X (Yellow) = Liberal Democrats
- X (Purple) = Chairman and Vice-Chairman
- X (Lime) = Officers
- X (Brown) = Not in a Political Group
- X (Pink) = Tending Residents' Alliance



Page 125



Agenda Item 24

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