

Public Document Pack

TENDRING DISTRICT COUNCIL

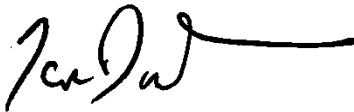
Committee Services
Room 29
Town Hall
Station Road
Clacton-on-Sea
Essex
CO15 1SE

17 March 2025

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 25 March 2025 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



Ian Davidson
Chief Executive

To: All members of the
Tendring District Council

TENDRING DISTRICT COUNCIL

AGENDA

For the meeting to be held on Tuesday, 25 March 2025

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 7 - 12)

The Council is asked to approve, as a correct record, the minutes of the extraordinary meeting of the Council held on Tuesday 11 March 2025.

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 - Report of the Head of Democratic Services & Elections - A.1 - "Save Citizens Advice Tendring" (Pages 13 - 20)

To formally report the receipt of a petition submitted requesting the Council to continue to fund Citizens Advice Tending and the Mental Health Hub and to enable Council to consider that petition alongside Cabinet's formal response to that petition, arising from the meeting of the Cabinet held on 17 March 2025.

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 21 - 98)

The Council will receive the minutes of the following Committees:

- (a) Resources and Services Overview & Scrutiny of Monday 13 January 2025;
- (b) Community Leadership Overview and Scrutiny of Tuesday 14 January 2025;
- (c) Community Leadership Overview and Scrutiny of Tuesday 28 January 2025;
- (d) Audit of Thursday 30 January 2025;
- (e) Standards of Wednesday 5 February 2025;
- (f) Planning Policy & Local Plan of Monday 10 February;
- (g) Audit of Thursday 13 February 2025; and
- (h) Human Resources and Council Tax of Monday 24 February 2025.

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 Motion to Council Pursuant to Council Procedure Rule 12 - Planning Consents and Renewable Energy Stipulations (Pages 99 - 102)

Pursuant to the provisions of Council Procedure Rule 12, Council will consider a motion, notice of which has been given by Councillor Bensilum.

14 Reference from the Cabinet - A.2 - Adoption of the Procurement Strategy (Pages 103 - 182)

To enable Council to adopt the Procurement Strategy, as required by the Council's Policy Framework.

15 Joint Report of the Monitoring Officer and the Cabinet - A.3 - Amendments to Tendring District Council's Members' Planning Code & Protocol following a Review (Pages 183 - 204)

To enable Council to consider proposed amendments to the Members' Planning Code & Protocol following a review carried out by the Standards Committee and consideration by the Cabinet.

16 Joint Report of the Monitoring Officer and the Cabinet - A.4 - Annual Review of the Constitution (Pages 205 - 250)

To consider proposed amendments to the Constitution that have been submitted by the Cabinet.

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 Reference from the Human Resources and Council Tax Committee - A.5 - Human Resources Committee and Arrangements for Statutory Officer and Non-Statutory Chief Officer Appeals (Pages 251 - 266)

To seek Council's approval of the Human Resources & Council Tax Committee's proposed amendments to the Terms of Reference of the Committee to include the determination of Appeals of Chief Officers for recommendation onto Full Council, together with a recommendation to establish a Chief Officer Employment Appeals Sub-Committee and to review the Council's HR Policies and Procedures, to ensure they are consistent with the changes concerning appeals processes.

19 Reference from the Human Resources and Council Tax Committee - A.6 - Pay Policy Statement 2025/26 (Pages 267 - 290)

To present for Council's approval the Pay Policy Statement for 2025/26.

20 Reference from the Human Resources and Council Tax Committee - A.7 - Review of Changes to the Chief Executive's Terms and Conditions (Pages 291 - 304)

To enable Full Council to consider the recommendations made by the Human Resources and Council Tax Committee following that Committee's review of previous changes made to the Chief Executive's Terms and Conditions.

21 Report of the Chief Executive - A.8 - Review of the Allocation of Seats to Political Groups on the Council (Pages 305 - 314)

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.

22 Questions Pursuant to Council Procedure Rule 11.2 (Pages 315 - 316)

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.

23 Urgent Matters for Debate

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

Date of the Next Scheduled Meeting of the Council

Tuesday, 29 April 2025 at 7.30 pm - 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, 11TH MARCH, 2025 AT 7.30 PM
IN THE COMMITTEE ROOM, AT THE TOWN HALL, STATION ROAD, CLACTON-
ON-SEA, CO15 1SE**

Present:	Councillors Davidson (Vice-Chairman, in the Chair), Alexander, Amos, Baker, Barrett, Barry, Bray, Bush, Calver, Chapman BEM, Codling, A Cossens, M Cossens, Doyle, Everett, Fairley, Ferguson, Fowler, Goldman, Griffiths, Guglielmi, Harris, I Henderson, J Henderson, P Honeywood, S Honeywood, Keteca, Kotz, Newton, Oxley, Placey, Platt, Scott, Smith, G Stephenson, M Stephenson, Sudra, Talbot and White
In Attendance:	Ian Davidson (Chief Executive), Lisa Hastings (Director (Governance) & Monitoring Officer), Katie Wilkins (Head of People), Ian Ford (Committee Services Manager), William Lodge (Communications Manager), Bethany Jones (Committee Services Officer), Katie Koppenaal (Committee Services Officer) and Kai Aberdeen (Theatre General Manager (Technical))

113. CHAIR

In the absence of the Chairman of the Council (Councillor Casey), the Chair was occupied by the Vice-Chairman (Councillor Davidson).

114. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Bensilum, Casey, Morrison, Skeels, Steady, Thompson, Turner and Wiggins.

115. MINUTES OF THE LAST MEETING OF THE COUNCIL

It was moved by Councillor M E Stephenson and:-

RESOLVED that the minutes of the Budget and Council Tax setting meeting of the Council held on 11 February 2025 be approved as a correct record and be signed by the Chairman.

116. DECLARATIONS OF INTEREST

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

117. REPORT OF THE CHIEF EXECUTIVE - A.1 - LOCAL GOVERNMENT REORGANISATION

Council had before it a detailed report of the Chief Executive (A.1) which set out an update in relation to Local Government Reorganisation, following the decision made by Council on 21 January 2025, and in readiness for the submission of an Interim Plan to Government by 21 March 2025, as formally required by the invitation from the Minister of State for Local Government and English Devolution to all Leaders of Councils in two-tier areas and Unitary Councils in Essex.

Council recalled that, following the submissions by Essex County Council, Thurrock and Southend-on-Sea Unitary Councils on 10 January 2025 to join the Government's new Devolution Priority Programme and committing to local government reorganisation, an announcement had been made by the Deputy Prime Minister on 5 February 2025 confirming 'Greater Essex's' inclusion on the Priority Programme.

The Government had also legislated that the elections scheduled for May 2025 for Essex County Council and Thurrock Council would be suspended, as confirmed by the Local Authorities (Changes to Years of Ordinary Elections) (England) Order 2025.

Members were reminded that, on 5 February 2025, the Minister of State for Local Government and English Devolution had written to Leaders of Councils in two-tier areas and Unitary Councils in Essex, formally inviting them, together with the other council leaders in the area, to develop a proposal for local government reorganisation. The formal invitation had set out further detail on the criteria against which proposals would be assessed, guidance for the development of the proposals and the timeline for this process. The formal invitation was attached as Appendix A to the Chief Executive's report (A.1).

Councils would be expected to submit a final proposal on Local Government Reorganisation by 26 September 2025 and the formal invitation required an Interim Plan to be provided to Government on, or before, 21 March 2025, setting out progress on developing proposals in line with the criteria and guidance. The level of detail that was possible at this stage might vary from place to place but the expectation was that one Interim Plan would be jointly submitted by all councils in the area. It might be the case that the Interim Plan described more than one potential proposal for the area, if there was more than one option under consideration. The invitation set out a list of matters the Interim Plan should cover which were set out at (a) to (h) in the aforementioned Appendix A.

The Invitation had also stated that the final proposals must be made by 26 September 2025, and have regard to the guidance from the Secretary of State set out in the Schedule to the invitation, and to any further guidance on responding to the invitation received from the Secretary of State. An authority responding to the invitation might either make its own proposal or make a proposal jointly with any of the other authorities invited to respond.

Guidance within the Schedule set out the Criteria for unitary local government (* relating to the final proposal) such as:

1. *A proposal should seek to achieve for the whole of the area concerned the establishment of a single tier of local government.*
2. *Unitary local government must be the right size to achieve efficiencies, improve capacity and withstand financial shocks.*
3. *Unitary structures must prioritise the delivery of high quality and sustainable public services to citizens.*
4. *Proposals should show how councils in the area have sought to work together in coming to a view that meets local needs and is informed by local views.*
5. *New unitary structures must support devolution arrangements.*
6. *New unitary structures should enable stronger community engagement and deliver genuine opportunity for neighbourhood empowerment.*

The Interim Plan, as set out at Appendix B to the Chief Executive's report (A.1) detailed the progress made to date by Greater Essex's local authorities in developing proposals for local government reorganisation within the area. It had been developed by councils working collaboratively, both to explore new unitary structures, and the working arrangements required to enable the development of full reorganisation proposals, in the interests of local residents.

Members were informed that the development of Local Government Reorganisation (LGR) proposals was being led by Essex's local authority Leaders, through Greater Essex's Leaders and Chief Executives' Forum (which included the Police, Fire & Crime Commissioner). All were committed to taking forward the joint work within the context of the Nolan principles - ensuring honesty, respect, integrity, accountability, openness, objectivity, and selflessness and had begun work on a vision for change.

It was reported that four working groups of political leaders and chief officers had been established, so far, to respond to the invitation from the Minister and to ensure that the evidence was marshalled to support the business case collaboratively. Those working groups were focused on:

- 1) **Scale and Value for Money**, to ensure that our new structures are capable of delivering great services and securing good outcomes at best value to taxpayers.
- 2) **Quality public services**, to ensure that as we engage in the complex disaggregation and aggregation of sensitive service systems, we do so without compromising our ability to serve our residents effectively and maximise the opportunities to accelerate our transformation ambitions.
- 3) **Identity and Community**, to ensure that our new councils continue to reflect the identities and communities of our residents to support their sense of control, agency and trust in local government.
- 4) **Supporting Devolution**, to ensure that the new arrangements we put in place dovetail with the new Greater Essex Combined County Authority (GECCA) and enable us to capture the benefits of undertaking both of these fundamental change activities simultaneously.

Further working groups would be established around other priority topics as the programme developed.

Council was advised that, at the meeting of the Essex Leaders and Chief Executive's forum held on 28th February 2025, all Leaders had agreed to support the Interim Plan finalised through their discussions being taken through each authority's formal governance arrangements.

Apart from initial details around the signatories to the Interim Plan, an overview of Greater Essex, the Interim Plan had been structured under separate sections with the following headings:

- Section 1 – working together to develop proposals for reorganisation.*
- Section 2 - working with others to develop and refine our proposals.*
- Section 3 – emerging concepts for reorganisation.*
- Section 4 – shaping LGR to support our devolution ambitions.*
- Section 5 – the costs of mobilising change.*
- Section 6 – support from Government.*

The response had been structured covering the areas set by Government but whilst each section referenced the relevant criteria as set out by the Minister in his formal invitation, they would not necessarily be referenced under the same headings.

All councils had supported the need for a robust evidence base, in accordance with the Government's criteria in order to help them decide how many unitary authorities were appropriate for Greater Essex. The evidence as to the best configuration was multi-dimensional, including:

- *Financial sustainability*
- *Socio-demographics*
- *Geography (coastal, urban and rural)*
- *Economic corridors*
- *Travel corridors, such as work / home routes*
- *Communities and community clusters*

Council was reminded that the decision to agree the Interim Plan was an Executive Decision to be made by the Cabinet or Leader of the Council, although the views of all District Councillors could be sought and fed into the overall process. Through this report and the holding of the extra-ordinary meeting of Council, the views of all Councillors were being sought.

The Chief Executive (Ian Davidson) introduced his report and outlined the salient points contained within it.

Councillors M E Stephenson, Chapman BEM, Guglielmi, Harris, Bush, Bray, Talbot and I J Henderson addressed Council during the debate on the Chief Executive's report. Concerns, views and matters raised included:-

- *Contracts present and future;*
- *Other functions missing from the document, such as waste disposal, planning & minerals, social care & Essex Pension Fund Board;*
- *Adequacy of capacity funding provided by the Government;*
- *Communication strategies;*
- *Consultation & engagement with residents;*
- *Impact on the delivery of services by TDC under the pressure of the tight deadlines being imposed by the Government*
- *Understanding the impact on staffing between existing and new authorities; and*
- *Relationships with Town and Parish Councils and the timing of the planned Community Governance Review.*

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

RESOLVED that Council -

- i) notes the update on Local Government Reorganisation for Greater Essex and the formal invitation, as set out in Appendix A to the Chief Executive's report (A.1);
- ii) supports the opportunity for Full Council to provide its views through debate prior to the Leader of the Council making an Executive Decision on the Interim Plan setting out progress on developing proposals in line with the criteria and guidance;

- iii) acknowledges the efforts of both the Leader of the Council and the Chief Executive in representing Tendring District Council on the development of the Interim Plan;
- iv) subject to the feedback through the debate, endorses the direction of discussion on developing plans, as set out in the Interim Plan, as set out in Appendix B to the Chief Executive's report (A.1); and
- v) welcomes the continuation of providing, periodically, briefings to Members (and reports to this Council as necessary) as the agenda around devolution and local government reorganisation develops locally.

The Meeting was declared closed at 8.17 pm

Chairman

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COUNCIL

25 MARCH 2025

REPORT OF THE HEAD OF DEMOCRATIC SERVICES & ELECTIONS

A.1 PETITION: “SAVE CITIZENS ADVICE TENDRING”

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To formally report the receipt of a petition submitted requesting the Council to continue to fund Citizens Advice Tendring and the Mental Health Hub and to enable Council to consider that petition alongside Cabinet’s formal response to that petition, arising from Cabinet’s meeting held on 17 March 2025.

EXECUTIVE SUMMARY

A paper petition submitted by Danny Mayzes as lead petitioner, was received on Friday 21 February 2025. Following a check carried out by Officers in Electoral Services, the petition was found to contain at least 514 names and addresses that were legible and those persons were included on the electoral register.

The text of the paper petition stated:-

“We the undersigned petition Tendring District Council to continue to fund Citizens Advice Tendring and the Mental Health Hub to ensure this vital advice service can continue to support the residents, families and small businesses of the Tendring District. The core grants of £144,000 and £28,000 per annum should be reinstated for 2025/2026 and beyond. Citizens Advice is a national treasure and a staple of UK life, and we want this protected locally for the people of Tendring at all costs.

The Council has stated publicly that it would not be able to deliver the same level of advice for less cost, and that Council staff would not have the knowledge to deliver the advice required in-house. The Council praises Citizens Advice Tendring as value for money, and despite core funding not having increased in 10 years, the advice service by Citizens Advice Tendring is better than ever and must be retained.”

In addition, the Lead Petitioner, Danny Mayzes, had submitted an E-Petition with the same text. That E-Petition had been e-signed by 349 individuals who had given an address within the District.

As this matter was an executive function (Partnerships Portfolio) the Cabinet was the appropriate body to consider this matter in the first instance and this duly took place at the meeting of the Cabinet held on 17 March 2025.

Section 2 of the Council’s adopted Scheme for Dealing with Petitions states, inter alia,:-

“(b) A valid petition containing 501, or more signatures from Tendring residents or non-residents who can be clearly identified as either working or studying in Tendring, will be reported to

Council to advise that the petition has been received. Once it has been investigated, a report will be prepared and presented with the petition at the next meeting of the Council for consideration. If it relates to a matter that is an Executive function under the law the petition will also be presented to the first practicable meeting of the Cabinet and any views, comments or recommendations made by Cabinet will be incorporated into the aforementioned report to Council.”

In accordance with the Petitions Scheme, Danny Mayzes was invited to attend the meeting on 17 March 2025 to address the Cabinet, outlining the reasons for the submission of the petition and what action the petitioners would like the Council to take.

Having discussed the petition it was for Cabinet to decide what views, comments or recommendations it wished to be incorporated into this report to Full Council.

Cabinet, having duly considered the Petition together with the information provided in the Officer report, decided:-

“That Cabinet –

- (a) notes the allocation of £0.072m to Citizen’s Advice Tendring to continue to contribute to the existing information and advice guidance service through direct funding for the interim period up to 30 September 2025 in accordance with a subsidy scheme; and*
- (b) recommends to Council that having considered the petition and having reviewed the assessment and advice set out within the Head of Democratic Services & Elections’ report (A.8), Cabinet believes the right approach is to test which is the best organisation to provide advice in Tendring through the procurement process, as was set out in the January 2025 report to Cabinet.”*

RECOMMENDATION(S)

That, having duly considered the Petition together with the Cabinet’s views, comments or recommendations, Full Council decides, what action, if any it wishes to take in this matter.

REASON(S) FOR THE RECOMMENDATION(S)

To comply with the adopted scheme for dealing with petitions, as set out in the Council’s Constitution.

ALTERNATIVE OPTIONS CONSIDERED

There are several courses of action available to the Council once the petition has been considered, (whilst acknowledging that this is a Executive function matter and therefore ultimately down to the Cabinet to decide) including:

- *No action (with reasons as to why no action is proposed)*
- *Taking the action requested in the petition*

- *Taking an alternative or amended course of action to that requested in the petition (with reasons as to why such action is being taken)*
- *Undertaking research into the matters raised (this could include referring the matter to the relevant Portfolio Holder, or officer of the Council) and holding a meeting with the petitioners.*
- *Referring the petition to a Committee or Cabinet or an external person/body (such as the County Council or Government body or Public Services or the Ombudsman or Member(s) of Parliament)*
- *Holding a public meeting*
- *Holding an inquiry*
- *Providing a written response to the lead petitioner setting out the Council's views on the request in the petition*
- *Deferring consideration of the petition to a future committee, Cabinet or Council meeting*
- *Calling for a referendum (if permitted under the legislation and subject to costs)*

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

In respect of the Corporate Plan 2024/28 Priority Themes the Council's decision will contribute to:

- Financial Sustainability and Openness

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.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

External grant funding is an executive function that is delegated by the Leader of the Council to the Cabinet collectively and, individually, to the Partnerships Portfolio Holder in Schedule 3 of Part 3 of the Council's Constitution. The overall function of the Council's Executive is the discharge, in accordance with the Council's policy framework all functions of the Council (including "local choice functions") except those functions which cannot by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and other legislation, be the responsibility of the Executive.

FINANCE AND OTHER RESOURCE IMPLICATIONS

There are no direct implications immediately resulting from consideration of this report. However, should Council be minded to request Cabinet to explore the possible sustained long-

term funding of the Citizens Advice Tendring and the Mental Health Hub then various matters would need to be considered and decided upon such as the application of the Council's adopted External Grants Policy and the allocation of a Budget.

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;	Not applicable in this instance but would need to be seriously considered if there was a desire to provide sustained long-term funding of CAT and the Mental Health Hub going forward.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Nothing in addition to those matters already set out in the report.
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.	Not applicable in this instance.

MILESTONES AND DELIVERY

Not Applicable in this instance.

ASSOCIATED RISKS AND MITIGATION

Not Applicable in this instance.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The Council's adopted Scheme for Dealing with Petitions states, inter alia:-

- Receipt of a petition will be formally acknowledged to the lead petitioner in writing or by email as appropriate, within five working days of its receipt.*
- The appropriate Ward Member(s) will be informed of receipt of a petition and when and how the petition will be considered.*

- *When a petition is being considered by Cabinet or Council/Committee, the lead petitioner will be invited to address the Cabinet or Council/Committee, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead petitioner, present the petition to Cabinet or Council/Committee on behalf of the relevant petitioners.*
- *The lead petitioner will be informed, in writing, of the Cabinet or Council's decision and this information will also be published on the Council's website via the Minutes of the relevant meeting at which the petition was dealt with. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and will also be given the opportunity to attend and address that meeting and if appropriate, answer any questions posed at the meeting.*

EQUALITIES

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

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex, sexual orientation.

Not Applicable in this instance.

SOCIAL VALUE CONSIDERATIONS

There are no social value considerations relevant to this report having regard to the Public Services (Social Value) Act 2012.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2050

There is no impact on the Council's aim for its activities to be carbon neutral by 2050 including the actions, policies and milestones in its Climate Change Action Plan.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

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

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	All (potentially)

PART 3 – SUPPORTING INFORMATION

CORPORATE DIRECTOR (PLACE & ECONOMY)'S ASSESSMENT AND ADVICE (AS SUBMITTED TO CABINET ON 17 MARCH 2025)

The petitioner highlights the importance of providing a vital advice service.

Cabinet decided on this matter on 31 January 2025 with the report of the Partnerships Portfolio Holder: Procurement of information and support service. The advice to Cabinet is drawn from that report, which sought approval from Cabinet to provide an information and advice service to local residents with revised requirements via an associated specification and procurement process, with the new arrangements commencing on 1 October 2025. [...] This approach ensures a joined-up approach across the various sectors within the area with the underlying aim of maximising the use of the Council's resources.

Citizens Advice Tendring have been made aware of the proposed approach set out above and they may consider submitting their own 'bid' for the work the Council is seeking to procure and respond to the outcome of that process.

In summary, Cabinet has approved the provision of an information and advice service to local residents, which it will procure via a modular approach to determine who is best placed to deliver the services required and provide best value for the taxpayer. There is a process in place to determine the best provider of advice services for residents. As such, Cabinet should enact the recommendations made in the January 2025 report.

In relation to the Mental Health Hub, the funding for the Mental Health Hub run by Citizen's Advice Tendring remains in the Council's budget and continues.

Partnerships Portfolio Holder's Comments and Recommendations as submitted to Cabinet on 17 March 2025:

"I believe passionately in the importance of advice and information to enable residents to make the best decisions and navigate the systems that provide financial and other support. That is why the Council extended the funding to Citizens Advice Tendring for six months to ensure there is no gap in provision and why we want to go through a process to test the best value provision of advice in the District.

Having considered the petition and reviewed the assessment and advice set out in this report, I believe the right approach is to test which is the best organisation to provide advice in Tendring through the procurement process, as was set out in the January 2025 report to Cabinet."

BACKGROUND

In accordance with the Petitions Scheme, Danny Mayzes has been invited to attend this meeting to address Council, outlining the reasons for the submission of the petition and what action the petitioners would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Council.

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

Cabinet, at its meeting held on 31 January 2025 (Minute 118 refers), considered a report of the Partnerships Portfolio Holder in relation to the procurement of an information and advice service that:-

- (1) sought approval from Cabinet to provide an information and advice service to local residents with revised requirements via an associated specification and procurement process, with the new arrangements commencing on 1 October 2025.
- (2) sought approval from the Cabinet for the allocation of **£0.072m** to Citizen's Advice Tending to continue to contribute to the existing information and advice guidance service through direct funding for the interim period up to 30 September 2025 in accordance with a subsidy scheme.

At that meeting Cabinet had:-

“RESOLVED that Cabinet –

- a) *approves the provision of an information and advice service to local residents;*
- b) *agrees to the procurement of such services for a contract period of three years commencing 1 October 2025, and agrees to a modular procurement approach to determine what a provider could offer for various levels of potential funding e.g. £50,000, £100,000, or £150,000 per year;*
- c) *authorises the Portfolio Holder for Partnerships, in consultation with the Deputy Chief Executive, to approve the specification for the provision of an information and advice service based on the broad principles set out within the report of the Partnerships Portfolio Holder (A.5);*
- d) *approves for an interim period of six months from 1 April 2025, the continuation of the existing agreement with CAT at a cost of £0.072m, supported by the existing budget for information and advice services to local residents;*
- e) *in respect of the contribution of £0.072m to CAT, agrees to extend the current Addressing Health Inequality – Advice, Support and Mental Health Support Subsidy Scheme for 2025/26;*
- f) *authorises the Deputy Chief Executive, in consultation with the Portfolio Holder for Partnerships and the Monitoring Officer, to finalise the administrative requirements for the production of the Subsidy Scheme in accordance with the Subsidy Control Act 2023 and Statutory Guidance and to publish it on the Government website prior to any awards; and*
- g) *agrees to extend the current Service Level Agreement with Citizens Advice Tending (CAT) from 1st April 2025 until 30th September 2025 on the terms and conditions as set out in the updated agreement shown in Appendix B to the report (A.5).”*

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Paper Petition and E-Petition submitted by Danny Mayzes (as the Lead Petitioner) on 21 February 2025.

Report of the Partnerships Portfolio Holder (A.5) entitled “Procurement of Information and Advice Service” that was submitted to the formal meeting of the Cabinet held on 31 January 2025.

Published Minutes of the meeting of the Cabinet held on 31 January 2025.

Published Report of the Head of Democratic Services entitled Petition: “Save Citizens Advice Tending” that was submitted to the formal meeting of the Cabinet held on 17 March 2025.

Published Decisions of the meeting of the Cabinet held on 17 March 2025.

APPENDICES

None

REPORT CONTACT OFFICER(S)

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**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW
AND SCRUTINY COMMITTEE,
HELD ON MONDAY, 13TH JANUARY, 2025 AT 7.00 PM
IN THE TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors P Honeywood (Chairman), M Cossens (Vice-Chairman), Bensilum, Doyle, Goldman, Harris, S Honeywood, Newton and Steady
Also Present:	Councillor Andy Baker (Portfolio Holder for Housing & Planning; Deputy Leader of the Tendring Independents Group), Councillor Gina Placey (Portfolio Holder for Partnerships) and Councillor Mark Stephenson (Leader of the Council; Portfolio Holder for Finance & Governance; Leader of the Tendring Independents Group) (except items 72 (part) and 73 (part))
In Attendance:	Richard Barrett (Director (Finance and IT) & Section 151 Officer), Gary Guiver (Director (Planning & Communities)), Tim Clarke (Assistant Director (Housing and Environment)), Andy White (Assistant Director (Building and Public Realm)), Keith Simmons (Head of Democratic Services and Elections & Deputy Monitoring Officer), Katie Wilkins (Head of People), Ian Ford (Committee Services Manager) and Bethany Jones (Committee Services Officer)

68. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

In relation to members of the Committee, there were no apologies for absence submitted nor substitutions made on this occasion.

The Committee was informed that the Portfolio Holder for the Environment (Councillor Smith) who had been due to attend the meeting was unable to do so due to illness.

69. MINUTES OF THE LAST MEETING

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

RESOLVED that the Minutes of the last meeting of the Committee held on 17 December 2024 be confirmed as a correct record and be signed by the Chairman.

70. DECLARATIONS OF INTEREST

In relation to any possible discussions of the Careline service at this meeting, Councillors P B Honeywood and S A Honeywood both declared an Other Registrable Interest insofar as a member of their family was a customer of Careline.

The Monitoring Officer (Lisa Hastings) had decided, prior to the commencement of the meeting, that as Councillors P B Honeywood and S A Honeywood were not Decision Makers on the future of the Careline service, she had consented to grant them both a Dispensation in order to allow them to remain in the meeting.

71. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

72. **REFERENCE FROM THE CABINET - A.1 - EXECUTIVE'S INITIAL BUDGET PROPOSALS FOR 2025/26 (GENERAL FUND AND HOUSING REVENUE ACCOUNT)**

The Committee scrutinised the Executive's initial budget proposals for 2025/26 in respect of both the General Fund (GF) and Housing Revenue Account (HRA) for in accordance with the provisions of Budget and Policy Framework Procedure Rule 3 of the Council's Constitution.

Members were aware that reports relating to the Executive's initial GF and HRA Budget proposals for 2025/26 had been considered by Cabinet on 20 December 2024, with the comments of the Committee now requested as part of developing the Executive's final budget proposals for presenting to Full Council in February 2025.

The following sets out each report in turn:

1) Appendix A - Updated General Fund Financial Forecast / Budget 2025/26

At its meeting on 20 December 2024 (Minute 98 referred), Cabinet had:-

"RESOLVED that –

- a) *the updated Financial Forecast and proposed budget position for 2025/26, as set out in item A.5 of the Report of the Corporate Finance & Governance Portfolio Holder and its appendices, be approved; and*
- b) *the Resources and Services Overview and Scrutiny Committee's comments be requested on this latest financial forecast and proposed position for 2025/26."*

2) Appendix B - Updated Housing Revenue Account Business Plan and Budget Proposals 2025/26

At its meeting on 20 December 2024 (Minute 104 referred), Cabinet had:-

"RESOLVED that -

- (a) *the updated HRA 30-year Business Plan, which includes the proposed revised position for 2024/25 along with budget proposals for 2025/26, be approved; and*
- (b) *the Resources and Services Overview and Scrutiny Committee's comments be requested on this latest HRA financial forecast."*

The Committee recalled that, at its meeting held on 17 December 2024 (Minute 67 referred), Members had considered, inter alia, the Committee's approach to budget scrutiny at this meeting and it had been resolved:-

-
- (c) *“agrees that its approach to budget scrutiny to be undertaken at its meetings on Monday, 6 January (informal) and Monday, 13 January 2025 in respect of the draft General Fund and draft Housing Revenue Account budgets for 2025/26 and beyond will be as follows:-*
- (1) at its informal meeting on 6 January, the Committee will receive a presentation from the Director (Finance and IT) on the latest budget position and will then look to decide which Portfolio Holders will be required to appear before the Committee on 13 January;*
 - (2) on 13 January, the Committee will consider the highlights and general overview of the budget but will particularly focus on how costs are built from the ground upwards with an eye to the implications of LGR;*
 - (3) that the meetings on 6 January and 13 January will both commence at 7.00 p.m.; and*
 - (4) that the members of the Cabinet be requested to hold the evening of Monday 13 January 2025 in their diaries in case they are required to appear before the Committee.”*

At the informal meeting of the Committee held on 6 January 2025 Members had decided that the following members of the Executive would be required to appear before the Committee:-

Councillor Mark Stephenson (Leader of the Council and the Portfolio Holder for Corporate Finance & Governance);

Councillor Andy Baker (Portfolio Holder for Housing & Planning);

Councillor Gina Placey (Portfolio Holder for Partnerships); and

Councillor Adrian Smith (Portfolio Holder for the Environment & ICT).

At that informal meeting, the Committee had also agreed a set of questions that would be put to the aforementioned Portfolio Holders. Those questions had been duly circulated to those Portfolio Holders and formal answers obtained. Those questions and answers were as set out in the Appendix to these Minutes. At the meeting Committee members asked supplementary questions. Those supplementary questions and the responses thereto were indicated in red in the Appendix.

Following the question-and-answer session the Portfolio Holders were thanked for their attendance.

The Committee then proceeded to determine whether it had any comments or recommendations it wished to make or put forward to the Cabinet.

Councillor M A Cossens moved and Councillor S A Honeywood seconded that:-

- (a) the Committee has recorded that it felt that it was not in a position to comment on the robustness of the budget plans for 2025/26 and beyond and, in this regard, it noted that:*

- (i) in respect of the General Fund, the Forecast Risk Fund (used to smooth deficits in particular years) would be exhausted within 2028/29 and (as at the day of the meeting) there were no specific plans to address the full savings/income generation necessary up to that point to support a balanced budget from that point;*
- (ii) in respect of the Housing Revenue Account, there were not the written plans to move it to a sustainable position; and*

(b) Cabinet be informed of the above and requested to address the issues raised.

Councillor Bensilum then moved and Councillor Steady seconded that Councillor Cossens' motion be amended by the addition of a sub-section (iii) to paragraph (a) to read as follows:-

- (iii) through the papers submitted and statements made to the Committee, it was understood that plans to address (i) and (ii) were being worked upon;*

In accordance with the provisions of Council Procedure Rule 16.6, Councillor Cossens, with the consent of Councillor S A Honeywood, altered his motion to incorporate the text of Councillor Bensilum's amendment.

Councillor Cossens' motion, as altered, was put to the vote and it was unanimously:-

RESOLVED that -

- (a) the Committee has recorded that it felt that it was not in a position to comment on the robustness of the budget plans for 2025/26 and beyond and, in this regard, it noted that:-
 - (i) in respect of the General Fund, the Forecast Risk Fund (used to smooth deficits in particular years) would be exhausted within 2028/29 and (as at the day of the meeting) there were no specific plans to address the full savings/income generation necessary up to that point to support a balanced budget from that point;
 - (ii) in respect of the Housing Revenue Account, there were not the written plans to move it to a sustainable position;
 - (iii) through the papers submitted and statements made to the Committee, it was understood that plans to address (i) and (ii) were being worked upon; and
- (b) Cabinet be informed of the above and requested to address the issues raised.

73. REFERENCE FROM THE CABINET - A.2 - EXECUTIVE'S INITIAL HIGHLIGHTS PRIORITIES PROPOSALS

Earlier on in the meeting as detailed under Minute 70 above and in relation to any possible discussions of the Careline service at this meeting, Councillors P B Honeywood and S A Honeywood had both declared an Other Registrable Interest insofar as a member of their family was a customer of Careline.

The Monitoring Officer (Lisa Hastings) had decided, prior to the commencement of the meeting, that as Councillors P B Honeywood and S A Honeywood were not Decision Makers on the future of the Careline service, she had consented to grant them both a Dispensation in order to allow them to remain in the meeting.

The Committee scrutinised the Executive’s initial proposals for highlight priorities in 2025/26.

Members were aware that a report relating to the Executive’s initial proposals for highlight priorities for 2025/26 had been considered by Cabinet on 20 December 2024, with the comments of the Committee now requested as part of developing the Executive’s final proposals.

Appendix A – Delivering against the Council’s Corporate Plan 2024-28 – Initial Proposals for Highlight Priorities for 2025/26

At its meeting on 20 December 2024 (Minute 96 referred), Cabinet had:-

“RESOLVED that -

- (a) *the initial highlight priorities for 2025/26, as set out at Appendix B to the report (A.3), be approved for consultation;*
- (b) *all Councillors, other partners and the public be invited to consider the initial priorities referred to in (a) above; and*
- (c) *the outcome of the consultation referred to in (b) above be reported to Cabinet on 21 February 2025 in order that Cabinet can formally adopt its finalised highlight priority actions for 2025/26 with relevant milestones during that year.”*

At the meeting of the Committee the following questions were asked to which the Portfolio Holder for Partnerships and others, when appropriate, responded.

Committee Member asking the Question	Question (summary form)	Individual giving the response (Portfolio Holder for Partnerships, unless otherwise indicated)	Response (Summary form)
Paul Honeywood	In relation to Careline and the former contract with ‘YourStride’, has there been a financial re-evaluation of the viability of Careline in the light of the ending of this contract i.e. what		Officers are working on this and a report will be submitted to Cabinet in February which will set out that impact.

	has been the financial impact?		
Peter Harris	In relation to Careline, is the Council considering the social impact of any cessation of the service as well as the financial aspects?		Yes, it is alongside other matters such as recruitment problems, value for money and quality of service and whether TDC is still the best service provider given the increase in alternative providers in the marketplace.
Graham Steady	In relation to Careline, was all of that service's debt caused by the Your Stride contract?	Gary Guiver (Director for Planning & Communities)	That's one of the things that Officers are looking at and it will be covered in the report to Cabinet in February. The intention of the report to Cabinet in February is to revisit the five options previously reported to Cabinet and the financial assumptions around those. That will provide a projection of the expected financial performance resulting, in part, from the termination of the 'Your Stride' contract and the removal of its 9,500 external customers.
Peter Harris	In relation to the Crime and Disorder Reduction Strategy, and the		It was recognised in around 2019 that something extra was needed at Harwich as their

	<p>cost to TDC of £25,000 for a PCSO at Harwich, why is TDC paying for this when there is not one in other areas such as Clacton and the Council is looking to cut costs?</p>		<p>crime figures were second to Clacton and Harwich did not have the bespoke crime prevention campaigns that existed in Clacton. So hence the decision to joint fund with Harwich Town Council the PCSO which was renewed last year. Going forward this will be part of the grant funding review so it is not guaranteed to be renewed. It was felt prudent to carry on for the time being with this funding last year.</p>
<p>Mark Cossens</p>	<p>Is there a possibility of the Harwich PCSO becoming a Special Expense given that it is being done in parts of the District and not in others for example Frinton & Walton Town Council funds three PCSOs?</p>	<p>Richard Barrett (Director (Finance & IT) and Section 151 Officer)</p>	<p>I do not believe so but I will investigate that further.</p>
<p>Peter Harris</p>	<p>In the event that the Cabinet continues to fund the PCSO in Harwich would it look at similar requests from other parts of the District to part fund their PCSOs?</p>		<p>Cabinet has previously decided that any consideration whether to continue to part fund the Harwich PCSO post 31 March 2025 will be undertaken following the Council's new</p>

		<p>Mark Stephenson (Leader of the Council)</p>	<p>arrangements for the consideration of any external funding requests. So anybody can apply for anything but there is no guarantee that it would be granted when matched against the grant funding criteria.</p> <p>This was originally a response by the previous administration to very high crime figures in Harwich. This was done in consultation with Essex Police who have significant crime initiatives in place in Clacton (the highest crime area). We are not offering this out to other areas. It was felt to be a good proposal at the time to joint fund with Harwich Town Council an extra Officer in Harwich. Other parish/town councils in the District solely fund their own PCSOs. This matter along with all other external grants are now under review.</p>
<p>Paul Honeywood</p>	<p>In relation to the CCTV Project, what permissions do we need from ECC Highways and do we have them?</p>	<p>Andy White (Assistant Director (Building and Public Realm))</p>	<p>A small number of the camera locations require Highways Act Section 50 Agreements for cabling et cetera. Those applications</p>

			have been submitted and whilst consents have not yet been granted discussions are ongoing.
Paul Honeywood	What is the projected timeframe to complete this project given the end date for the funding of 31 March 2025?	Andy White (Assistant Director Building and Public Realm))	Construction phase begins on 17 February and the bulk will be installed within March. There will be a phase of testing, commissioning and troubleshooting going on until 10 April 2025. We understand that the Prolice, Crime and Fire Commissioner for Essex does not intend to withdraw funding but we will be seeking to confirm that.
Paul Honeywood	Will the planning applications for the CCTV project need to go before the Planning Committee and will this be in February?	Gary Guiver (Director for Planning and Communities)	Yes, that is the plan.

Following that question-and-answer session the Portfolio Holders were thanked for their attendance.

The Committee then determined whether it had any comments or recommendations it wished to make or put forward to the relevant Portfolio Holder or the Cabinet.

After a discussion, it was moved by Councillor M A Cossens, seconded by Councillor S A Honeywood and unanimously:-

RESOLVED that -

- (a) Cabinet be recommended to urgently address: (1) the projected General Fund savings/income generation requirements to 2028/29 to support a balanced budget

from that point; and (2) to move the Housing Revenue Account to a sustainable position; and

- (b) further to (a), Cabinet engage swiftly with the Committee with sufficient details in respect of the necessary plans concerned to enable the Committee to perform its overview and scrutiny role as a critical friend to the Cabinet.

The meeting was declared closed at 10.20 pm

Chairman

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Community Leadership Overview and
Scrutiny Committee

14 January 2025

**MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP OVERVIEW AND
SCRUTINY COMMITTEE,
HELD ON TUESDAY, 14TH JANUARY, 2025 AT 7.30 PM
IN THE TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors Steady (Chairman), Barrett (Vice-Chairman), Davidson, Goldman (substitute for Councillor Doyle), Griffiths and Oxley
Also Present:	Councillor Placey (Portfolio Holder for Partnership)
In Attendance:	Lee Heley (Deputy Chief Executive and Corporate Director for Place & Economy), Richard Barrett (S151 Officers and Assistant Director for Finance & IT), John Fox (Head of Health & Community), Keith Simmons (Head of Democratic Services & Elections), Hattie Dawson-Dragisic (Performance and Leadership Support Officer), and Emma Haward (Leadership Support Officer)
Also In Attendance:	Brad Thompson (Jaywick Sands Community Forum), Ian McKeown (Clacton Arts Centre), Adrian Goody (Clacton Arts Centre), and Dr Karen Dennis (Ketchup Clothes)

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillors Ferguson and Doyle with Councillor Goldman attending as a substitute for Councillor Doyle. An invitation to attend the Committee had also been extended to the Leader of the Council but the Chairman of this Committee had agreed that he did not need to attend. Invitations were also sent to a number of organisations that had applied for grants from the Council and apologies had been received from the following organisations: the Lemmings, Headway Essex, Inclusion Ventures and, ATF (Achieve, Thrive, Flourish). It was highlighted that albeit representatives from Headway Essex and Inclusion Ventures weren't in attendance at the meeting written material had been circulated to the Committee from those organisations.

2. MINUTES OF THE LAST MEETING

It was RESOLVED that the Minutes from the meeting of the Committee held on 15 October 2024, be approved as a correct record and be signed by the Chairman.

3. DECLARATIONS OF INTEREST

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

4. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

5. REPORT OF THE PARTNERSHIPS PORTFOLIO HOLDER - A.1 TO CONSIDER GRANT FUNDING BY THE COUNCIL AND OTHERS AND ITS APPROPRIATENESS GIVEN THE NEEDS OF THE DISTRICT

To introduce this item to the Committee the Chairman invited the Portfolio Holder for Partnerships, Councillor Gina Placey and the Head of Health & Community, John Fox to speak to the Committee. The Portfolio Holder advised the Committee that the report highlighted the significant work the Cabinet considered in respect of use and allocation of grants on 19 April 2024. The Portfolio Holder further advised that, within the report submitted to Cabinet, it identified the types of allocation of funding, it also included a flowchart to identify possible funding routes and set out parameters for allocating funding to ensure a consistent approach was being followed. The Council's Head of Health & Community then addressed the Committee by highlighting the importance of the Grant Funding process being closely linked to the themes that make up the Council's Corporate Plan, such as 'working with partners to improve quality of life, to achieve the Council's expectation of 'good' governance and to meet the objective of financial sustainability. The Chairman of the Committee then invited the Deputy Chief Executive and Corporate Director for Place & Economy, Lee Heley, to speak to the Committee. He highlighted the importance of the process of grants being allocated in an effective way to support the Council pursue its Corporate Plan.

Following the introduction of the report, the Committee then asked questions of the Portfolio Holder that has been formulated at their informal meeting on 9 January 2025. These questions and answers are set out in the table below.

Question	Committee Member Asking question	Cabinet Members to Answer Question	Answer
1. The Portfolio Holder's Report set out the scope of this enquiry as approved by Full Council – can she detail for us how this report addresses this scope	Councillor Barrett	Councillor Placey	<p>This report provides a background and highlights a number of reports agreed at Cabinet which are referenced in the previous relevant decisions section of the report.</p> <p>Within those reports reference is for example made (in Appendix 1 of the report of 19 April 2024 on the review of grant funding) to the types of grant funding and extent of that funding and over what time period. The funding referred to in those reports was therefore reviewed for its appropriateness and in addition reference is made to the importance of securing and evaluating outcomes.</p> <p>In particular the report of 20 September 2024 sets out the process and administration of funding going forwards and that the receipt and allocation of funding are covered by checklists (appendices B and C). As part of the reports (executive summary of 20 September 2024 report) it is highlighted that specific schemes or activities for funding are</p>

			not pre-determined as these may change over time but criteria are set and there is usually an open call process to ensure fair allocation.
2. Looking at the flowchart on page 15 of our papers, is it the case that if an application for grant funding was received that does not meet the Council's Corporate Plan Priorities, would it instantly be rejected. As an example, if the application was to assist with Animal Welfare.	Councillor Barrett	Councillor Placey	The flowchart is clear that allocation of funding does need to meet the Corporate Plan priorities and the Council would therefore not expect to fund items outside this. Each application would be looked at broadly to see if it fits into the Corporate Priorities. These are the Administration's priorities which have been consulted on and approved at Council and so it is right that this is the focus for allocation.
3. What check and balances in places for grant funding? As an example, what checking takes place that a project had been delivered against the application? Are there assurances organisations are using the funding for the schemes they have applied for? Are site visits carried out?	Councillor Davison	Councillor Placey	The flow chart in the External Funding Review report identifies the importance of grant criteria and in terms of a commissioned service that there is a specification. In addition, the allocation of funding checklist highlights the importance of criteria for use of the funding. This ensures clarity about what grants are used for and officers do seek updates from those provided with funding to ensure it meets the original criteria. This may include a site visit. Although is more usually via written update.
4. Is there any mileage in introducing a flexible delivery on grants? Could organisations receive funds every other year, allowing funds to be used for other projects?	Councillor Steady	Councillor Placey	Grants are delivered against criteria which has not as yet included a flexible alternate year's approach. Such an approach may be ineffective as grant availability changes between years. However, consideration may be given to whether funding has received by an organisation previously to ensure fairness of allocation.
5. Does the Portfolio Holder think there would be value in establishing a Group of Councillors to look across the board at all grant funding schemes, a Member Oversight Working Party perhaps? In asking this I am aware of the praise	Councillor Griffiths	Councillor Placey	Currently there are a number of routes for oversight for grant funding. Reports have gone to and been agreed by Cabinet in terms of the grant process and use of funding. In addition, wider reports such as the community projects update agreed at Cabinet also highlights allocation of funding in terms of grants. This Overview and Scrutiny meeting also provides an opportunity to review grant funding. I therefore think there

given to the Working Party that oversaw the Tendring Community Fund.			is already sufficient opportunity for the use of grants to be reviewed.
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Further questions were asked by the Committee in relation to external organisations being aware of the information of possible Grant Funding opportunities and were advised that information is made public through the Council's Social Media posts, on the Council's website and through asking Members and Partners to share the information more widely. This prompted a discussion around holding open days or sessions with small organisations to support in the process of applying for Grant Funding.

The Chairman of the Committee invited the representatives present from external organisations, namely Clacton Arts Centre, Jaywick Sands Community Forum, and Ketchup Clothes to address the Committee and provide their thoughts and experiences of the Council's Grant Funding process and areas that they felt the process could be improved. The representations of the organisations advised the Committee of the type of grant they applied for, how they found the process of applying and how they felt the funding awarded had supported their organisation positively. Brad Thompson, Chairman and Trustee of the Jaywick Sands Community Forum, informed the Committee that he was kept well-informed in the process and that there were strict requirements to provide proof of how they intended to use the funding. Following the receipt and use of this funding by Jaywick Sands Community Forum a report was provided to the Council with evidence detailing what had been done.

Dr Karen Dennis, owner of Ketchup Clothes, advised the Committee that she had received funding through the UK Shared Prosperity Fund. She advised the Committee of her experience of working with the Council and that the process of applying for grant funding had been relatively easy and transparent.

The Chairman of the Committee thanked the Portfolio Holder and Officers for their attendance and their explanations of the grants flowchart and checklist adopted internally to identify when matters could follow an 'open call' grant arrangement and when it would require 'procurement'. The Committee also wish to record its thanks to all those who contributed to the enquiry into Grant Funding by/through the Council including written submissions from Headway Essex and Inclusion Ventures and the attendance by representatives from Jaywick Sands Community Forum, Ketchup Clothes and from Clacton Art Centre and their insight into the processes and value of grant opportunities for community activities.

The content of the report had not fully addressed the request from the Committee and the language used was particularly difficult to engage with due to its technical nature and absence of explanation.

The Committee **RESOLVED TO RECOMMEND** to Cabinet to seriously consider the following actions:

- (a) the establishment of an Oversight Group of Members for grant schemes across the Council;
- (b) some form of gap analysis – even is full analysis is too large a project to be achieved and the opportunities to 'flex' grant giving to maximise the range of organisations receiving financial support in the District across the years.

- (c) further standardised processes for different grant giving arrangements to help deliver best practice across those separate grant giving arrangements (eg around the length of time between opening invitations for applications and the closing date, common and plain language to explain the processes (and be available on the website), details of other grants received, the time between closure of application and determination/notification of outcomes, and the post grant-giving monitoring arrangements).
- (d) Adopt a consistent 'you said, we did' opportunity for organisations applying for grant funding to feed back on their experiences;
- (e) Look at organising an open day for community/voluntary groups in conjunction with other grant funding organisations (and CVST) to disseminate information on those grant schemes and help to break down barriers to access grant funding for these community/voluntary groups.

The Committee also **RESOLVED TO RECOMMEND** to:

- (f) request that the Chairman of the Committee and the Portfolio Holder to consider the recommendations above and to encourage a positive response to them from Cabinet; and
- (g) Note that there are proposals for LGR in Great Essex and that we are awaiting confirmation from Government to whether these will proceed and over what timetable. On the basis that Government does approve the principle of LGR in Greater Essex the Committee record that it would wish to undertake an enquiry into the implications of LGR on areas within its responsibility (including grant funding) in the work programme for 2025/26 and that this enquiry would look at possible areas where the transition to a new unitary structure could be supported.

The meeting was declared closed at 8.45 pm

Chairman

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Community Leadership Overview and
Scrutiny Committee

28 January 2025

**MINUTES OF THE MEETING OF THE COMMUNITY LEADERSHIP OVERVIEW AND
SCRUTINY COMMITTEE,
HELD ON TUESDAY, 28TH JANUARY, 2025 AT 7.30 PM
IN THE COMMITTEE ROOM, AT THE TOWN HALL, STATION ROAD, CLACTON-
ON-SEA, CO15 1SE**

Present:	Councillors Steady (Chairman), Barrett (Vice-Chairman), Davidson, Doyle, Ferguson, Griffiths and Oxley
Also Present:	Councillors Kotz (Portfolio Holder for Assets & Community Safety; Joint Chairman of the Community Safety Partnership Board), Placey (Portfolio Holder for Partnerships; Joint Chairman of the Community Safety Partnership Board) and Smith (Portfolio Holder for the Environment & ICT) (all except item 11)
In Attendance:	Tim Clarke (Assistant Director (Housing and Environment)) (except item 11), Keith Simmons (Head of Democratic Services and Elections & Deputy Monitoring Officer), Grant Fenton-Jones (Environmental Health Manager) (except item 11), Leanne Thornton (Community Safety & Safeguarding Manager) (except items 10 (part) - 11), Bethany Jones (Committee Services Officer) and Katie Koppenaar (Committee Services Officer)

6. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence submitted nor substitutes appointed by Members on this occasion.

7. DECLARATIONS OF INTEREST

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

8. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

On this occasion no Councillor had submitted notice of a question pursuant to Council Procedure Rule 38.

**9. REPORT OF THE CORPORATE DIRECTOR OF OPERATIONS AND DELIVERY -
CONSIDERATION AND DEVELOPMENT OF A CRIME AND DISORDER
REDUCTION STRATEGY 2025-2028**

The Committee considered a report of the Corporate Director (Operations & Delivery) which set out the proposed Crime and Disorder Reduction Strategy 2025 – 2028 and offered Members the opportunity to provide feedback on that draft strategy having heard from some of the key partners working with the Council through the Community Safety Partnership.

The following parties were in attendance to respond to any questions raised by the Committee.

Tim Clarke – Assistant Director (Housing and Environment) (TDC);
Councillor Gina Placey – Joint Chair of the Community Safety Partnership Board; and
Councillor Peter Kotz – Joint Chair of the Community Safety Partnership Board.

Members were aware that, as set out in Article 6 of the Council's Constitution, the Community Leadership Overview & Scrutiny Committee acted as the Council's designated "crime and disorder committee" for the purposes of Section 19 of the Police and Justice Act 2006 and had the power –

(a) *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;*

(b) *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 had 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 was a local crime and disorder matter in relation to a member of the authority.

In accordance with the Council's Constitution and The Crime and Disorder Act 1998, as amended by section 97 and 98 of the Police Reform Act 2002, there was a requirement on Community Safety Partnerships to develop a Crime and Disorder Reduction Strategy

The Committee was informed that the Strategy had been ratified by the Community Safety Partnership Strategic Board on 9 January 2025. The Strategy would be presented to Cabinet on 21st February 2025.

In presenting the Strategy to Cabinet the relevant Portfolio Holders would recommend that Cabinet agreed to recommend the adoption of the Crime and Disorder Reduction Strategy 2025 – 2028; and that authority be delegated to the Corporate Director for Operations and Delivery to make future minor updates or amendments to the Strategy in consultation with the Portfolio Holder responsible for community safety.

The Strategy would then go to the Full Council meeting on 25 March 2025 for adoption by the Council.

It was reported that the Strategy set out the overarching framework for the Council and its partners in the Community Safety Partnership (CSP) to reduce crime and disorder by formalising the work that would be undertaken with the CSP and the Council's Community Safety Team over the next three years.

It set out the priorities for reducing crime and disorder and Anti-Social Behaviour (ASB), whilst protecting vulnerable people across Tendring over the next three years.

Through working together, the CSP had achieved many successes in reducing crime and disorder and ASB, protecting those who were vulnerable and making Tendring safe and secure for residents, businesses and visitors.

The Council was proud of those achievements. In order to build upon previous work and to understand the challenges that arose the Council work with partners to address the challenges to ensure a safer Tendring for its residents.

Members were informed that the Strategy was based upon a wide range of data and information, from public consultation to crime and disorder information that were brought together in an annual Strategic Assessment. Through the assessment four key themes within the Strategy (as set down below) had been identified that fed into the CSP priorities. The challenges facing children, young adults and families that had evolved and continued to do so were recognised. For example, criminal gangs were targeting children to move drugs in and out of towns and other areas, including in Tendring. This was a national issue, but there was a need to be aware of criminal gangs, and to be able to spot the signs that children might be being targeted.

- 1. Tackling violence against women and girls is at the forefront of the CSP's agenda and reflects the Government's priority in tackling this issue, following the tragic deaths of Sarah Everard, Balvinder Gahir, Bibaa Henry, Nicole Smallman and Julia James, and an increase in reports of domestic abuse.*
- 2. Our ambition is to increase support for victims and survivors, increase the number of perpetrators brought to justice and reduce the prevalence of violence against women and girls.*
- 3. We will work in partnership across the CSP & Health and Wellbeing Board and with our partners and communities to achieve progress on our priorities during the lifetime of this strategy and seek to bring about real change for residents and visitors to Tendring.*
- 4. The CSP brings the opportunity for organisations and groups to come together to improve crime and disorder and ASB in Tendring and create an environment where people and communities can flourish, the CSP remains committed to making Tendring safe.*

The Committee was advised that the findings of the strategic assessment had informed the decision to select the CSP Priorities for Tendring which would be:

1. Tackling ASB and the root causes of ASB;
2. High Harm Violence (with a focus on Violence Against Women and Girls (VAWG) and Domestic Abuse);
3. Drug and knife enabled Serious Violence (Gangs and County Lines); and
4. Emerging threats and Trends (i.e.: Shoplifting, Vehicle Crime, Arson & Criminal Damage).

Members were cognisant that there were no financial implications associated with the adoption of this Strategy as the Strategy formalised existing arrangements which were currently fully funded via the Police Fire and Crime Commissioner Annual Grant.

Councillor Kotz, Joint Chairman of the CSP Board and Tendring District Council's Portfolio Holder for Assets and Community Safety addressed the Committee by way of an introduction to the Strategy and recorded his thanks to the Community Safety & Safeguarding Manager (Leanne Thornton) and her Team for producing the Strategy. Councillor Kotz reminded the Committee that this was a high-level strategic document, and he requested that Members' questions be concentrated on matters at the District level rather than at the local Ward/neighbourhood level.

The Community Safety & Safeguarding Manager gave a presentation that highlighted the salient points of the Strategy which, in turn, had been based upon an annual strategic assessment.

At the meeting of the Committee the following questions were asked to which the Portfolio Holder for Partnerships and others, when appropriate, responded.

Committee Member asking the Question	Question (summary form)	Individual giving the response (if any)	Response (if any) (Summary form)
Councillor Griffiths	How is the Council/CSP communicating with residents to try to allay their fear of crime?	Leanne Thornton	Community Ambassadors are often out and about in town centres talking to residents receiving information / intelligence and putting over messages. Similarly, at Community safety Events. Community Days & Nights of Action also take place for example visiting pubs and clubs to talk to licensees and customers and put across safety messages relating to drink spiking.
Councillor Griffiths	Is there any "teeth" behind this Strategy or is it just 'for show'? How can it be demonstrated that the CSP has a grip on the crime and disorder issues		

	highlighted in this report?		
Councillor Doyle	How do the District's crime and disorder figures relate to those at the national level?	Leanne Thornton	Essex County Council undertakes a crime survey, and the statistics are then passed to this Council. Those statistics show that Tendring is on a par with the rest of Greater Essex.
Councillor Doyle	Are there support mechanisms available for those Council Officers who face such challenges out on the street and may encounter scenes of a violent and/or upsetting nature?	Leanne Thornton	Mutual support is available within the Team. Support mechanisms were available via HR and the EAP if counselling/mental health support was required. There were also reporting mechanisms available if "concerns or issues" needed to be sent up the "chain of command".
Councillor Oxley	Anti-Social Behaviour is prevalent in Walton. Is there a way of moving forward the request for a Public Spaces Protection Order more quickly?	Leanne Thornton	Am aware of the street drinking issue in Walton. Unfortunately, a significant amount of evidence is required to justify putting a PSPO in place and that must come from Essex Police. As yet the threshold has not been met.
Councillor Davidson	Crime Reporting figures are not accurate as most residents do not report crime as they believe nothing will	Leanne Thornton	Historically, reporting has been an issue due to the need to either visit a Police Station in person or use the

	<p>happen in response and so it is not worth their while. Therefore, Tendring's figures look good but are not accurate. How can we encourage and educate residents to report crime?</p>		<p>ineffective 101 telephone system. However, there are more ways than ever to report crime e.g. online or via the dedicated TDC telephone number. The Community Safety Team encourages the public at every opportunity to report crime as all crime reported is risk assessed, categorised and solvability assessed.</p>
<p>Councillor Davidson</p>	<p>Need to find a way to challenge children who are seen wearing suspiciously expensive clothes, footwear or other accessories as to where the money to buy them came from as a way of discovering whether they are caught up in shoplifting or 'county lines' drug distribution.</p>	<p>Leanne Thornton</p>	<p>A recent anti-shoplifting initiative has been the introduction of the Shop Safe Radio System, funded by the CSP, whereby shop owners are in constant contact with the CST and Essex Police and can report ASB and shoplifting as it happens. In addition, Essex Police and Essex Fire & Rescue have a joint education team that goes into schools and youth clubs and give sessions on various crime prevention and personal safety matters.</p>
<p>Councillor Davidson</p>	<p>Are there programmes to educate children on the dangers of</p>	<p>Leanne Thornton</p>	<p>Yes. This is part of the work of the Essex Police and Essex Fire &</p>

	carrying knives and knife crime?	Councillor Placey	Rescue Joint Education Team. In addition, the CST is working locally with the “U-Turn” knife crime charity. Efforts are ongoing to encourage more schools to invite the Joint Education Team in.
Councillor Ferguson	Need to come up with a “Report It” campaign alongside the publication of this Strategy in due course. In addition, there is a need to promote the work and achievements of TDC and the CSP.	Tim Clarke Leanne Thornton	Will take away the idea of a publicity campaign and discuss it with the Council’s Communications Manager. The CSP produces an annual report of its achievements which can be shared with Members and more widely disseminated. Essex Police also produce a comprehensive monthly newsletter which can be subscribed to.
Councillor Ferguson	What is a ‘Minerva’ Zone?	Leanne Thornton	This is a specific area/location in the local community where women and girls report that they do not feel safe. If enough reports are received, then an action under the Police’s “Minerva” initiative will be carried out.

Councillor Steady	Referred to the BBC News report that Essex Police had revealed plans to make all 99 of its PCSOs redundant to help balance its budget. This will mean that the speedy implementation of the Council's CCTV project is even more urgent as a gap would now be generated in community policing.	Councillor Kotz	Not aware of the full details of this so can not comment as yet. Referred also to the Home Office's mooted changes to policing. Was aware that the CCTV Project planning applications would be considered at Planning Committee next week. He felt that the role of this Committee was to keep a good eye on the Strategy's priorities and how they were implemented as a 'rolling' live document.
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A Member suggested that the Committee Members should go out and about with the Community Ambassadors to help Members understand the crime and disorder problems and issues within the community. Leanne Thornton welcomed that suggestion and offered to facilitate this. Councillor Kotz mentioned that Essex Police were also extending a similar invitation.

The Chairman thanked Leanne Thornton for her excellent report and presentation.

Councillor Kotz thanked the Committee for their constructive comments.

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

RESOLVED that –

- (a) the Crime and Disorder Strategy presented to the Committee be supported and Cabinet advised of this support for delivery by the appropriate partners including Essex Police;
- (b) the Committee -
 - (i) commends the Strategy authors for ensuring that the language and format and use of graphics to create what is an accessible document for most readers;

- (ii) urges the Cabinet to ensure that all reasonable and appropriate steps are taken to care for the health, safety and wellbeing of all staff involved in enforcement activities and community safety;
- (iii) recognises the increasing levels of violence against the person, shoplifting, possession of weapons, personal robbery, hate crime and domestic abuse and the need for robust action to address these growing crime problems in the District;
- (iv) urges the Community Safety Partnership to adopt, as a priority, the need to educate and encourage confidence in the reporting of crime by the public and business managers to reduce significantly the current levels of under reporting by victims; and
- (v) expresses its concern for delivery of the priorities on the basis of the plans announced on the day of the meeting for all 99 PCSOs in Essex to be made redundant.

10. REPORT OF THE ASSISTANT DIRECTOR OF HOUSING AND ENVIRONMENT - WATER QUALITY IN THE TENDRING DISTRICT

The Committee considered a report of the Assistant Director (Housing & Environment) which would provide it with statistical evidence and data regarding the quality of Seawater, Freshwater Courses and Drinking Water within the District of Tendring.

The data collated had been obtained, principally, via the Environment Agency, along with further information on water quality and data around Private Water Supplies and Oyster beds provided by the Council's Environmental Health Service.

At the meeting the Portfolio Holder for the Environment & ICT (Councillor Smith) introduced this item by way of a statement he read out.

The Environmental Health Manager (Grant Fenton-Jones) gave a brief overview of the report, drawing out its salient points and especially the information contained within the appendices. He reported that, overall, the bathing and drinking water quality was excellent and for bathing there were only two areas of minor concern i.e. Holland Haven and Mistley/Manningtree.

Mr. Fenton-Jones informed the Committee that, since January 2024, third party water distributor/supplier inspections (e.g. caravan park sites) had been an extra burden on the Team's statutory workload.

Mr. Fenton-Jones also reported that Natural England were in the process of commissioning a bio-diversity study and action plan for the Stour and Orwell Rivers which would especially focus on invasive species and their impact on water quality. He undertook to keep the Committee updated.

Committee Member asking the Question	Question (summary form)	Individual giving the response (if any)	Response (if any) (Summary form)
Councillor Griffiths	How would the	Grant Fenton-	The Team's focus

	Council carry out its Regulation 8 inspections on mobile home sites with intermittent use and seasonal use caravan parks.	Jones	would be on sampling sites that used stored water and a pump supply. The site owners would need to carry out a Legionella risk assessment as part of the licensing regime before that site could re-open for the new season. For those sites with mains supply the focus would be a robust examination of that site's customer safety policies and practices.
Councillor Doyle	How will the Council ensure that the new housing targets will be met without overloading the water supply and foul and surface water drainage systems?	Grant Jones	Fenton- Anglian Water's willingness to grant Discharge Consents will be a necessary and significant factor in achieving the required growth in housing supply. Environmental Health will work closely with Planning colleagues as a consultee on planning applications on matters such as SuDS attenuation; climate change amelioration; encouragement of 'grey water' recycling; separation of 'foul' water from rainwater.
Councillor Barrett	Can you confirm	Grant Fenton-	Yes, 100%. This

	that the misuse of storm drain overflows is a low level issue for Anglian Water in this District?	Jones	District is doing well currently and is expected to improve even further over the next ten years.
Councillor Davidson	Does the Environmental Health Team regular the Dock River at Parkeston?	Tim Clarke	No, that is an Environment Agency responsibility.
Councillor Doyle	Does this Council actively advise the public that Gull poo is toxic?	Grant Fenton-Jones	The Council is already responding to a similar enquiry about problems caused by pigeons and so that work could be expanded to include Gulls.

It was moved by Councillor Davidson, seconded by Councillor Doyle and:-

RESOLVED that the Committee –

- (a) welcomes the reports on water quality and that this demonstrates the generally good news story for the District and its water quality;
- (b) also welcomes the biodiversity action plan being developed for the Stour and Orwell rivers; and
- (c) notes the opportunities to be explored around visiting the sewage treatment work at Holland Haven; the company in Harwich who are taking sewage waste and converting it into energy bricks and clean water; and the Brightlingsea Harbour Commissioners in respect of the research project being undertaken with the University of Essex.

11. **REVIEW OF THE WORK PROGRAMME**

The Committee considered a report of the Head of Democratic Services & Elections which provided it with an update on its approved Work Programme for 2024/25 (including progress with enquiries set out in its Work Programme), feedback to the Committee on the decisions in respect of previous recommendations from the Committee in respects of enquiries undertaken and a list of forthcoming decisions for which public notice had been given.

Members were reminded that the Council had commissioned the Centre for Governance and Scrutiny (CfGS) to undertake an ‘Overview & Scrutiny Development Review’ in

2021 as a way of further improving that function at the Council. Two relevant recommendations arising from that review had been:

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

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

The inclusion of the matters set out in the “purpose of the report” section of the Head of Democratic Services & Elections’ report sought to further re-enforce the inter-relationship of the matters referred to. As such, it was designed to further support consideration of work programming of the Committee and contribute to addressing progress with the Corporate Plan.

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

- (1) Work Programme for 2024/25 approved by Full Council on 6 August 2024 (Appendix A);
- (2) feedback to the Committee on the decisions in respect of previous recommendations from the Committee in respects of enquiries undertaken (none on this occasion); and
- (3) a list of forthcoming decisions for which notice had been given since publication of the agenda for the Committee’s last meeting (Appendix B).

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

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

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

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

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

Also pertinent to the Committee's considerations were its terms of reference as set out in Article 6.01(i) of the Council's Constitution together with the provisions of Overview and Scrutiny Procedure Rule 7 (Work Programme) and the themes of the Council's Corporate Plan which were:-

- *Pride in our area and services to residents*
- *Raising aspirations and creating opportunities*
- *Championing our local environment*
- *Working with partners to improve quality of life*
- *Promoting our heritage offer, attracting visitors and encouraging them to stay longer*
- *Financial Sustainability and openness*

Members noted that the Committee had held an informal meeting on Thursday 9 January 2025, during which the attendees had received a very informative presentation from Dr. Emily Murray of the Centre for Coastal Communities (University of Essex). A Member suggested that Dr. Murray be invited to attend a future formal meeting of the Committee and the Head of Democratic Services & Elections undertook to add that as a provisional item on the Committee's 2025/26 Work Programme.

Members also received or would shortly receive an update of the work of the Task & Finish Groups established by the Committee, namely:

- Crime and Disorder (Familial Violence/Abuse);
- Joint working with Parish and Town Councils; and
- Youth Provision for School Age Children outside of school.

It was **RESOLVED** that –

- (a) the progress with enquiries set out in its Work Programme 2024/25, plus any feedback to the Committee on the decisions in respect of previous recommendations and the list of forthcoming decisions be noted; and
- (b) the updates of the work of the Committee's Task and Finish Groups be formally received and noted.

The meeting was declared closed at 9.19 pm

Chairman

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**MINUTES OF THE MEETING OF THE AUDIT COMMITTEE,
HELD ON THURSDAY, 30TH JANUARY, 2025 AT 10.30 AM
IN THE COMMITTEE ROOM, AT THE TOWN HALL, STATION ROAD, CLACTON-
ON-SEA, CO15 1SE**

Present:	Councillors Sudra (Chairman), Steady (Vice-Chairman), Fairley and Morrison
In Attendance:	Richard Barrett (Director (Finance and IT) & Section 151 Officer), Craig Clawson (Internal Audit Manager), Karen Hayes (Executive Projects Manager (Governance)), Ian Ford (Committee Services Manager), Katie Koppenaal (Committee Services Officer) and Bethany Jones (Committee Services Officer)

53. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was submitted on behalf of Councillor Platt (with no substitute appointed).

54. MINUTES OF THE LAST MEETING

It was moved by Councillor Sudra, seconded by Councillor Fairley and:-

RESOLVED that the Minutes of the meeting of the Committee, held on 9 December 2024, be approved as a correct record and be signed by the Chairman.

55. DECLARATIONS OF INTEREST

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

56. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

On this occasion no Councillor had submitted notice of a question pursuant to Council Procedure Rule 38.

57. REPORT OF THE INTERNAL AUDIT MANAGER - A.1 - REPORT ON INTERNAL AUDIT: SEPTEMBER 2024 - DECEMBER 2024

The Committee was provided with a periodic report on the Internal Audit function for the period September 2024 to December 2024.

That report was summarised as follows:-

- *A total of eight audits had been completed since the previous update in September 2024.*
- *Seven out of eight audits in this period had received a satisfactory level of assurance. Disabled Facilities Grants and Council Adaptations had received an overall 'Improvement Required' opinion.*
- *It was requested that the Careline Follow Up Audit be deferred as decisions were still to be made on the future of the service. This was a total of five audit days that the Internal Audit Manager wanted to reallocate to the Payroll audit as a brand new*

- system had been implemented and it was believed that the audit could take longer than originally anticipated.*
- *As the Internal Audit Manager was providing the updates on Risk Management whilst the Assurance and Resilience Manager remained on secondment it was requested that the related audit be deferred and the five allocated days be used towards current and future updates on Risk Management until the responsible officer returned.*
 - *During this period an issue had arisen relating to a substantial precept payment being paid incorrectly to the incorrect Parish Council. The funds had been recovered in full and the issue resolved, however it had identified a weakness in control that needed to be resolved.*

INTERNAL AUDIT PROGRESS 2024/25

It was reported that a total number of eight audits had been completed during the period of September 2024 to December 2024. Seven out of the eight audits in this period had received a satisfactory level of assurance. The Disabled Facilities Grants and Council Adaptations had received an overall 'Improvement Required' opinion.

A further eight audits from the 2024/25 Internal Audit Plan were in the fieldwork phase. The final six audits from the plan had been allocated based on the available resource.

The Internal Audit Manager requested that the Careline Follow Up Audit be deferred as decisions were still to be made on the future of the service. This was a total of five audit days that he wanted to reallocate to the Payroll audit as a brand new system had been implemented and it was believed that the audit would take longer than originally anticipated. Many processes and controls had had to change during the implementation of the ITrent HR/Payroll system and some of those processes were now shared between both departments, therefore reallocating the five days from the Careline review would provide more time for the auditors to get a better understanding of the system.

As the Internal Audit Manager was still providing the updates on Risk Management whilst the Assurance and Resilience Manager remained on secondment it was requested that the related audit be deferred and the five allocated days be used towards current and future updates on Risk Management until the responsible officer returned.

Members were informed that the Team were currently at the same stage as last year in terms of audits completed, therefore it was anticipated that enough work would be completed in time to provide the Head of Internal Audit's Annual Opinion in June 2025.

Quality Assurance

Members recalled that the Internal Audit Team issued satisfaction surveys for each audit completed. The Team had yet to receive completed surveys for the audits completed in this period.

Resourcing

The Committee was reminded that the Internal Audit Team currently had an establishment of 4 FTE posts with access to a third-party provider of Internal Audit Services for specialist audit days as and when required. An Audit Technician post remained vacant. However, a new apprentice who supported the Internal Audit, Fraud and Compliance teams had been appointed in November 2024.

Outcomes of Internal Audit Work

The Committee was aware that the Public Sector Internal Audit Standards (PSIAS) required the Internal Audit Manager to report to the Committee on significant risk exposures and control issues. Since the last report eight audits had been completed and the final report issued.

Assurance	Colour	Number this Period	Total for 2022/23 Plan	
Substantial		2	2	
Adequate		7	11	
Improvement Required		1	1	
Significant Improvement Required		0	0	
No Opinion Required		2	2	Two consultative engagements in 2024/25 to date

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

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

No contract in place for Disabled Facilities Grants relating to Council Housing Stock

Issue

There were no contracts in place and each adaptation required the quotation process to be initiated and treated as individual jobs, unlike the building maintenance contracts. This specifically related to Council housing and was therefore limited to the HRA budget.

In some cases, those works could exceed tender limits when aggregated both overall and to individual companies. As one example, over the last two years, the Council had paid one external company just over £150,000 (£100k last year & £50k so far for this year) to undertake disabled adaptation works, none of which were obviously specialist. The total spend by contractors for the financial year 2023-24, amounted to over £550,000.

Risk

It was felt that a failure to source a contract, in adherence with the Council's Constitution, was not only a risk of breaching the Council's rules by disaggregating expenditure, but that the service could be paying higher prices for individual works as opposed to set fees within a contract.

There was also an associated risk of external companies carrying out works, without any formal checks to establish that they were suitable to undertake works for the Authority.

Agreed Action

As a short-term solution quotes would be obtained to the value of £30k-£50k in line with procurement rules. This would provide some resilience of not having to rely on one contractor to undertake the work. In the long term, a full tender process for the Housing Responsive Repairs contract would be carried out in May 2026, which would include the works of disabled council adaptations as part of that. For specialist work, procurement frameworks would be explored with a view to using them.

Payment made to the incorrect Council in error

It was reported that, although the Accounts Payable audit was yet to begin, an issue had been identified by the Payroll and Payments team whereby a payment of over £340k meant for a specific parish had been paid to another parish instead in error. The Payments Team had promptly reported the issue and had corrected the mistake. However, it had identified a weakness in the control environment that required an immediate remedy.

Members were informed that there were several payment methods that were used to pay suppliers, individuals, other Councils etc. The type of method used depended on the supplier and whether an invoice had been provided or not.

Payment requisition was a method that could be used when an invoice was not available, but payment needed to be made. Historically, this method had been used to make contract payments, grant payments, faster payments and some precept payments to Parish Councils. The service requiring the payment to be made were required to complete a specific form and send it to the Payroll and Payments Team for processing. This process was not to be used regularly as it was meant for organisations that could not provide an invoice or when there was a requirement to make a payment faster than usual. It was understood however that services had begun to use this method even when an invoice was available to be paid.

The Committee was advised that the responsibility of ensuring bank details were correct had usually been left to the service as they were the ones requesting the payment to be made. This was where the weakness within the control had been identified. If bank details were different on the form from the bank details held on the payment system, then the Payroll and Payments Team were required to contact the company (or Council Service Unit in this instance), via the contact details held on file to confirm the change. This had not occurred in this instance as the change of details had already occurred from an earlier request without anyone realising the error.

Therefore, going forward the Payroll and Payments Team would take a 'no trust' approach and would no longer make a payment via the requisition process unless the service had provided evidence of the bank details in an official format from the organisation / individual concerned. They would also check the duplicate bank details report regularly to ensure none of the details had been duplicated historically. This would only work if the Council had paid the supplier in the past, it was not a control for new payments.

Update on previous significant issues reported

All previous significant issues were now provided within Appendix B of the Internal Audit Manager's report.

The Internal Audit Manager and the Director (Finance & IT) responded to the Committee's questions on this report.

After discussion it was moved by Councillor Fairley, seconded by Councillor Sudra and unanimously:-

RESOLVED that –

- (a) the contents of the Internal Audit Manager's report (A.1) be noted;
- (b) the Internal Audit Manager's request that the Careline Follow Up Audit be deferred as decisions were still to be made on the future of the service and that the five audit days be reallocated to the Payroll audit be approved; and
- (c) a senior Officer from the Council's new Project Delivery Unit be requested to attend the next ordinary meeting of the Committee in March 2025 to answer Members' questions regarding the governance aspects of that team's work.

58. REPORT OF THE INTERNAL AUDIT MANAGER - A.2 - CORPORATE RISK UPDATE

The Committee considered the updated Corporate Risk Register which was normally updated and presented to the Committee every six months. The Register had been last presented in April 2024.

The following table summarised the position at the end of the period under review with updated information provided within the register where necessary:-

Item	Number
New Risks Identified	0
Risks Removed	1
Risk Score Amended	0
Risks Under Review	4
Risks Amended	9

Corporate Risk Management Framework

It was anticipated that there would be a need to change the responsibilities section of the risk management framework soon due to changes in roles. No changes had been made at this time. The assessment criteria and objectives of the framework currently remained the same. The framework had been included at Appendix A of the Internal Audit Manager's report following a recent review and was for Members' information only.

Corporate Risk Register

The Committee was informed that the register had been subject to the review process with all officers responsible for the risks identified within the risk register, with some highlights as follows:-

- Financial Strategy, IT Security, Data Protection and Coastal Defence remained as high risk on the Corporate Risk Register. The responsible officers had provided an update on the ‘Current Action Status’ of the risk register.
- The Human Resource risks around lack of capacity and loss of key staff had now been merged as one risk. Although both were separate issues, they had the same impact on the Council with regards to not being able to deliver key services. Additional sub-risks with mitigation had been included within the ‘Current Action Status’ of the overarching corporate risk.
- The changes to the Corporate Risk Register set out in this report reflected minor changes undertaken since the Committee had last considered the register in April 2024. It provided updates, where needed and revised changing deadlines.

The Internal Audit Manager recommended that a further review be undertaken to determine where some risks could now be removed or potentially merged. Examples of this could be to remove risk 2d – Transforming Tendring Project as the Council’s transformation project had been completed several years ago or risk 2e – Essex Family Solutions as it was now a partnership between ECC and TDC and therefore no longer considered a significant corporate risk.

There might also be an opportunity to merge some risks such as IT Security and Information Management risks potentially reducing four risks to one or two. This was because all those risks were managed centrally with the same controls and procedures reducing the inherent risk for all areas identified.

The Committee noted that the Internal Audit Team had been working with the IT department to build an in-house system to manage Business Impact Assessments (BIA) for all services across the Council. The Internal Audit Manager had now collected all BIA’s required. Some final testing of the system was being undertaken before all BIA’s were uploaded. This would allow all departments to log in and update their risks periodically rather than chasing spreadsheets and collating data that could be very time consuming.

The below table sets out all amendments to the Risk Register since it had been last considered by the Committee in April 2024.

Risk Register Item	Amendments / Comments
New Risks Identified	None
Risks Removed	4b – Lack of Capacity to Deliver Core Services (Merged with 4a – Loss of Key Staff)
Risk Scores Amended	None
Risk number changed.	None

Risks Amended	<p>Item 1b – Catastrophic IT network failure – Controls updated within the current action status.</p> <p>Item 1c - Ineffective communication / management of information – additional information on information breaches added to the current action status.</p> <p>Item 1d - Ineffective Cyber Security Physical and Application (software) Based Protection Management – additional information added regarding immutable back ups and Zero Trust Network Architecture (ZTNA).</p> <p>Item 2f – Garden Communities – Current action status updated to reflect the latest timeline of events.</p> <p>Item 3a – Member Conduct – Current action status updated to reflect and increase in complaints and training provision updates.</p> <p>Item 4a – Loss of Key Staff – merged with 4b and now includes all sub risks and mitigation against the overarching corporate risk.</p> <p>Item 6a - Loss of sensitive and/or personal data through malicious actions loss theft and/or hacking – additional update on policy and procedures included within current action status</p> <p>Item 6b - Disconnection from PSN Network – additional information relating to IT Security Healthchecks and Cyber Assessment Frameworks.</p> <p>Item 7a – Local Plan - current action updated to reflect current timelines.</p>
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Members were informed that no changes had been required for the following risks. The responsibility for some risks had recently changed and therefore might require a further update for future reports.

Risk number	Risk title	Responsible officer
1a	Failure to effectively manager assets	Andy White
2a	Coastal defence	Andy White
2b	Community Leadership Projects	Lee Heley
2c	Building Council Homes	Damian Williams
2d	Ineffective delivery of transforming Tendring	Andy White

	project	
2e	Essex Family Solutions	Lee Heley
3b	Failure to comply with legislative requirements.	Lisa Hastings
3c	Health and Safety	John Higgins / Clare Lewis
3d	Fraud and Corruption	Richard Barrett / Craig Clawson
5a	Financial Strategy	Richard Barrett
8a	Failure to collect levels of income required from Council Tax to fund the Councils financial requirements.	Richard Barrett
8b	Failure to collect levels of income required from non-domestic rates to meet the shares between the Government, Essex County Council, Essex Fire Authority and TDC	Richard Barrett
9a	Ineffective Emergency Planning	John Fox/Catherine Boyer-Besant
9b	Ineffective Business Continuity Planning	John Higgins

The Committee was made aware that the Fraud and Risk Team continued to oversee the Council's Risk Management supported by the Council's Internal Audit Team. The table below set out the work currently being undertaken.

Agreed Action	Current Position
Management Team to promote the importance of operational risk management within the organisation and ensure that Senior Managers implement a process for identifying and mitigating risks in coordination with the Assurance and Resilience Manager	Management team continue to be updated with urgent matters on a quarterly basis.
Actions to be undertaken to identify and record key operational risks within service areas relating to risk management and business continuity. Support to be provided by Internal Audit manager if required	Due to changes in responsibilities a review is now being undertaken with all services relating to their business continuity plans.

Follow Up Item

Arrange Risk Management training for all departments across the council	Suitable Risk Management training has been identified; this will be rolled out as part of the Members training programme. Dates to be arranged via the Committee Services Team.
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The Internal Audit Manager and the Director (Finance & IT) responded to the Committee's questions on this report.

After discussion it was moved by Councillor Sudra, seconded by Councillor Fairley and unanimously:-

RESOLVED that –

- (a) the contents of the Internal Audit Manager’s report (A.2) be noted;
- (b) the Internal Audit Manager’s recommendation that a further review be undertaken to determine where some risks could now be removed or potentially merged or others added, be supported; and
- (c) a training workshop/module on risk management for the Committee be explored and that it takes place before the Committee meets to make any decision on the review referred to in (b) above.

59. REPORT OF THE DIRECTOR (FINANCE & IT) - A.3 - TABLE OF OUTSTANDING ISSUES

The Committee had before it a report (A.3) that reported progress on the outstanding actions identified by the Committee along with general updates on other issues that fell within the responsibilities of the Committee.

Table of Outstanding Issues

It was reported that the Table of Outstanding Issues had been reviewed and updated since it had been last considered by the Committee in September 2024.

There were two main elements to this report as follows:-

- 1) Updates against general items raised by the Committee – Appendix A; and
- 2) Updates against the 2023/24 Annual Governance Statement Action Plan – Appendix B

In terms of item 1) above, there were no significant issues to raise, with actions remaining in progress or further details provided within the report.

The Committee was informed that, in respect of the 2023/24 Annual Governance Statement Action Plan, although this remained subject to the Committee’s final approval later in the year once the work of the External Auditor was completed, for timely and practical reasons the version currently published at the end of May 2024 alongside the Unaudited Statement of Accounts presented the most up to date position for the Committee’s consideration. This approach enabled the actions and associated updates to be considered as early as possible within the Committee’s annual work programme. Appendix B therefore included outstanding items from last year’s Annual Governance Statement alongside new items for the current year. There were no significant issues to highlight at the present time with actions and activities remaining on-going, with the plan subject to amendment following the completion of the external audit process.

Appointment of Independent Person(s) to the Audit Committee

Members were informed that it had been originally planned to present a draft person specification to this meeting of the Committee, however due to several competing priorities it was now planned to present this to the Committee at its March 2025 meeting. Although this had introduced a slight delay to the process it would still be possible to carry out the necessary process to enable an Independent Person to be appointed to the Committee as early as possible in 2025/26.

External Funding Review

As highlighted within the report to the Audit Committee at its September 2024 meeting, the Committee had been asked by Cabinet for their support and assurance on the associated governance processes. This item had now been captured within Appendix A with further updates to be presented to future meetings of the Committee.

External Audit Delays

Members recalled that the outstanding Statement of Accounts and associated External Auditor's reports for the years up to and including 2022/23 had been considered and agreed by the Committee at its December 2024 meeting. Although it had been hoped to present the Statement of Accounts and associated external auditor reports for 2023/24 to this meeting of the Committee, work remained ongoing to finalise the position, and it was therefore proposed to seek to arrange a special meeting of the Committee in early February 2024 to consider that item.

Local Audit Reform: The Government's strategy for overhauling the local audit system

Members were made aware that the recently published English Devolution White Paper set out the Government's intention to legislate to radically streamline and simplify the local audit system, bringing as many audit functions as possible into one place. The report before it provided the Committee with a detailed update on the Government's associated strategy aims to set out a new and proportionate Local Audit Office.

RIPA – Regulatory Investigatory Powers Act 2000

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

Whistleblowing

Members were advised that the Authority had not received any Whistleblowing Policy notifications since the adoption of its policy in July 2023.

The Executive Projects Manager (Governance) and the Director (Finance & IT) responded to the Committee's questions on this report.

After discussion it was moved by Councillor Sudra, seconded by Councillor Steady and unanimously:-

RESOLVED that the progress against the actions set out in Appendices A and B to the report (A.3) be noted.

60. SPECIAL MEETING OF THE COMMITTEE

The Director (Finance & IT) informed Members that the Chairman of the Committee (Councillor Sudra) had agreed that a special meeting of the Committee would be held on Thursday 13 February 2025, commencing at 10.30 a.m. in the Committee Room, at the Town hall, station Road, Clacton-on-Sea.

The purpose of the meeting would be to enable the Committee to consider the outstanding Statement of Accounts and associated External Auditor's reports for 2023/2024.

The Committee noted the foregoing.

The meeting was declared closed at 11.51 am

Chairman

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Standards Committee

5 February 2025

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON WEDNESDAY, 5TH FEBRUARY, 2025 AT 10.00 AM
IN THE TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors Wiggins (Chairman), Oxley (Vice-Chairman), Alexander, J Henderson and Talbot
In Attendance:	Lisa Hastings (Director (Governance) & Monitoring Officer), Keith Simmons (Head of Democratic Services and Elections & Deputy Monitoring Officer), Karen Hayes (Executive Projects Manager (Governance)), Bethany Jones (Committee Services Officer) and Katie Koppenaal (Committee Services Officer)
Also in Attendance:	David Irvine and Jane Watts (two of the Council's four appointed Independent Persons)

30. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Newton (with no substitute), Sue Gallone (one of the Council's Independent Persons) and Clarissa Gosling (one of the Council's Independent Persons).

31. MINUTES OF THE LAST MEETING

It was moved by Councillor Oxley, seconded by Councillor Talbot and:-

RESOLVED that the Minutes of the meeting of the Committee held on Thursday 24 October 2024 be approved as a correct record and be signed by the Chairman.

32. DECLARATIONS OF INTEREST

In relation to report A.1 (Planning Probity Protocol – Results of Consultation and Revised Planning Probity Protocol), Councillors Alexander and Wiggins both declared as a point of information for the public record that they were current, serving members of the Council's Planning Committee.

33. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

34. REPORT OF THE MONITORING OFFICER - A.1 - PLANNING PROBITY PROTOCOL - RESULTS OF CONSULTATION AND REVISED PLANNING PROBITY PROTOCOL

The Committee considered the report that presented the updated revised version of the Planning Probity Protocol, following consultation with the members of the Planning Committee, the Portfolio Holder for Housing and Planning, Planning Officers and the Independent Persons.

It was reported that some themes emerging from the consultation were:

- the concept of Bias needed to be stronger.
- stronger links to the Members' Code of Conduct, declarations of interest and the impact of participation at meetings.

- importance of seeking advice earlier.
- a determination should be made as to which Planning Applications submitted by Officers of the Council in their personal capacity should be submitted to the Planning Committee for determination i.e. Senior Officers above a certain grade and all Officers employed within Planning Services and Legal Services.
- the importance of Member Training needed to be stressed within the Planning Probity Protocol.
- stronger details needed around Planning Committee Members attending public meetings with applicants, developers and objectors, and
- site visits section needed to be stronger relating to the exceptional circumstances.

Members were made aware that the outcome of the consultation was set out in detail in Appendix B of the Officer report. In addition, it was considered necessary to include some text around the Protocol on Member and Officer Relations, as that had been omitted in the first review and was relevant.

It was moved by Councillor J Henderson, seconded by Councillor Oxley and unanimously:-

RESOLVED that the Standards Committee –

- (a) notes the outcome of the consultation with the members of the Planning Committee, the Portfolio Holder for Housing and Planning, Planning Officers and the Independent Persons;
- (b) endorses the revised Planning Probity Protocol (subject to tracked changes being accepted as well as the typing errors being amended) and recommends to Full Council that it be adopted and incorporated into the Council's Constitution;
- (c) subject to (b) includes an additional recommendation to Full Council that the Planning Committee's Terms of Reference be amended to reflect the proposed seniority of Officers and all Officers within Planning and Legal Services personal planning applications to be referred to the Planning Committee; and
- (d) subject to Full Council's approval of the Planning Probity Protocol, that training on the Protocol forms part of the Mandatory Training as required by Council Procedure Rule 33.3 for Members of the Planning Committee.

35. REPORT OF THE MONITORING OFFICER - A.2 - GOVERNMENT CONSULTATION ON STRENGTHENING THE STANDARDS AND CONDUCT FRAMEWORK

Members were told that the Government had launched a consultation regarding the application of standards and conduct in local authorities. The consultation had opened on 18 December 2024 and ran for 10 weeks, closing on 26 February 2025. It stated: *"This consultation seeks views on introducing a mandatory minimum code of conduct for local authorities in England, and measures to strengthen the standards and conduct regime in England to ensure consistency of approach amongst councils' investigation of serious breaches of their member codes of conduct, including the introduction of the power of suspension."*

Appendix A of the Officer report was a set of proposed answers to the specific questions which had been posed, together with supporting text where appropriate.

Members were also made aware that back in 2019, there had been a national review of the standards framework, and a number of recommendations had come out. Some of the recommendations required changes to legislation, especially in relation to sanctions. The previous Government had responded to that review and had said that they had no intention of amending the legislation at that current time, but that a model code had been produced by the Local Government Association (LGA) and Tendring District Council had adopted that model code.

The Committee was informed that the consultation sought views on introducing measures to strengthen the standards and conduct regime in England and ensure consistency of approach amongst councils' investigation of serious breaches of their Members' codes of conduct, including the introduction of the power of suspension.

Specific proposals being consulted upon for legislative change included:

- the introduction of a mandatory minimum code of conduct for local authorities in England
- a requirement that all principal authorities convened formal standards committees to make decisions on code of conduct breaches, and publish the outcomes of all formal investigations
- the introduction of the power for all local authorities (including combined authorities) to suspend councillors or mayors found in serious breach of their code of conduct and, as appropriate, interim suspension for the most serious and complex cases that might involve police investigations
- a new category of disqualification for gross misconduct and those subject to a sanction of suspension more than once in a 5-year period
- a role for a national body to deal with appeals.

Officers told Members that in addition, the consultation sought views on how to empower victims affected by councillor misconduct to come forward and what additional support would be appropriate to consider.

The consultation suggested that the Government was in favour of introducing those sanctions, but the consultation was seeking input from the sector and any other interested parties.

Members were updated on an amendment to the wording of the response to Question 19 in Appendix A of the Officer report which now stated: *"Although we feel that it should remain with the Standards Committee but in the event that the national consultation supports suspension being referred to an independent body, it is unclear how a referral to an independent body would work in practice, could create a delay and increase Council resources to manage the process?"*

Officers also updated Members on the figures relating to Question 13a in Appendix A of the Officer report which were for 2021/22, 2022/23, 2023/24 and 2024/25 up until the present time, those were as follows:

Complaints received from Elected Members: 10

Complaints received from Co-opted Members: 5

Complaints received from the public: 22
Complaints received from Officers: 0

Officers told Members that some of the complaints received from the public were from ex co-opted members.

It was moved by Councillor J Henderson, seconded by Councillor Alexander and unanimously:-

RESOLVED that the Standards Committee:-

- (a) agrees a formal response should be provided on behalf of Tendring District Council to the Government's consultation exercise,
- (b) agrees to submit the proposed response, as set out in Appendix A and as amended through the debate at the meeting; and
- (c) agrees that the power of suspension should be returned to Local Authorities to re-enforce the importance of upholding breaches of the Code of Conduct but it should not be used for political purposes and with the ability for an appeal.

36. REPORT OF THE MONITORING OFFICER - A.3 - STANDARDS COMMITTEE - REVIEW OF STANDARDS HEARING PROCEDURE

It was reported that the Standards Committee framework was responsible for the function of Standards Hearings, be it whether held by the Standards Committee for District Councillor complaints or a Sub-Committee for Town and Parish Councillor complaints.

Members heard that matters reaching the Standards Hearing Procedure arose from complaints received under the Council's Members' Code of Conduct complaints procedure and followed a finding of a breach of the Members' Code of Conduct.

The Committee was reminded that in April 2024 the Committee had considered a proposed updated Hearing Procedure that reflected best practice and case law, and which would supplement the Council's Complaints Procedure for dealing with allegations that a Member had breached the Code of Conduct. Full Council had previously approved the Standards Framework with effect from November 2013, which had included a Complaints Procedure. The Complaints Procedure referred to the hearing in paragraph 7.1.2 and that it would follow the relevant procedures setting out how the hearing would be conducted. The purpose of the document was to ensure that all parties understood the process which would be followed at the hearing and to assist the Chairman to conduct a fair and proper hearing. When a hearing was convened, a copy of the procedures would be set out with the Report.

Members were told that at its April 2024 meeting the Committee had been also informed that the Hearing Procedure had been approved by the Standards Committee in March 2014 and in consideration of the length of time since its adoption and with a Hearing that was due to be held in May 2024, it was felt important by the Monitoring Officer to ensure that the Council's procedures reflected best practice and were up to date. The Standards Committee had subsequently approved the amended Hearing Procedure for

immediate adoption for both the Standards Committee and the Town and Parish Councils' Sub-Committee.

Officers also told Members that the opportunity for a further review of the Standards Hearing Procedure came after a Standards Hearing was conducted in May 2024 where the procedure was utilised and had been put through a 'stress test', having been infrequently used as the necessity had not arisen. The Hearing Procedure had not failed and was robust in its application, however there were some operational matters prior to the Hearing which would be addressed in the process, once a matter was referred for a hearing by the Monitoring Officer. Subsequently, informal discussion sessions had taken place with Members of the Standards Committee and Independent Persons, with their views and subsequent amendments reflected within the Officer report and within the Standards Hearing Procedure as appropriate; whilst still reflecting the Standards Framework and Terms of Reference of the Standards Committee.

Finally, Members heard that once the proposals had been considered by the Standards Committee through a formal decision, further work could be undertaken on the documentation for approval.

It was moved by Councillor Talbot, seconded by Councillor Alexander and unanimously:-

RESOLVED that the Standards Committee:-

- a) notes the contents of the Officer report and endorses the proposals as set out therein;
- b) requests that Officers further review the Council's Complaints Procedure, proposes amendments as necessary and produces a flowchart detailing the process following an investigation being concluded to referral for a hearing, where evidence of a breach has been found; and
- c) requests that Officers then present a revised Council's Complaints Procedure, Standards Hearing Procedure and flowchart to a future meeting of the Committee.

37. **COMPLAINTS UPDATE**

The Committee had before it the Monitoring Officer's update on existing and new conduct complaint cases.

TENDRING DISTRICT COUNCIL MONITORING OFFICER UPDATE FEBRUARY 2025				
Council	Complainant	Current status	Final outcome	Comments
Existing Cases from last update:				
Council	Complainant	Current status	Final outcome	Comments
DISTRICT	METROPOLITAN BOROUGH COUNCILLOR –	Hearing held on 16 May 2024	Standards Hearing – determined	Matter relates to behaviour whilst acting in an official

	received 18 August 2023	Sanctions not fully complied with	breach of Code of Conduct – Committee sanctions published on Council's website	capacity. Following the meeting of the Standards Committee in October 2024, the Chairman as requested by the Committee wrote to the Subject Member to which no response has been received. In presenting this item, options available will be covered by the Monitoring Officer during the meeting.
PARISH	PARISH COUNCILLOR – received 08 May 2024	CLOSED – 18 Oct 2024	Informal resolution	Matter relates to behaviours within the Parish Council between multiple Councillors. Code of Conduct training conducted, however there may be a need to provide further support.
TOWN	PUBLIC - received 05 Jun 2024	ONGOING - INVESTIGATION	Investigation – externally appointed Investigator	Matter relates to behaviour whilst acting in an official capacity. A draft report has been received and submitted to parties for comment.
PARISH	PUBLIC – received 23 Sep 2024	CLOSED – 21 Oct 2024	No further action	Matter relates to behaviour whilst acting in a non-official capacity, therefore the Code of Conduct was not engaged.
DISTRICT	PUBLIC – received 30 Sep 2024	CLOSED – 28 Oct 2024	No further action – decision by former Deputy Monitoring Officer	Matter related to behaviour whilst acting in an official capacity and behaviours between District Councillors. It was considered there was a lack of evidence to support

				the complaint proceeding.
DISTRICT	PUBLIC – received 02 Oct 2024	CLOSED – 29 Nov 2024	No further action	Matter related to acting within a Ward Member's responsibility and in accordance with the Council's Procedures.
PARISH	PARISH COUNCILLOR – received 21 Oct 2024	CLOSED – 18 Dec 2024	Informal resolution was offered to both parties, but only accepted by one	Matter relates to behaviour whilst acting in an official capacity and behaviours between Parish Councillors. The Subject Member attended a reflective session with the Monitoring Officer. The Complainant did not wish to proceed any further.
TOWN	PUBLIC – received 05 Dec 2024	ONGOING	Investigation to be commenced	Matter relates to use of social media.
TOWN	PUBLIC – received 05 Dec 2024	ONGOING	Pending	Matter relates to public statements on the Town Council's website.
PARISH	PARISH COUNCILLOR – received 18 Dec 2024	CLOSED – 07 Jan 2025	No further action	Subject Member resigned from Parish Council.
New Cases since last update - four				
<u>General Notes – 2024/25 Summary:</u>				
Overall, nine cases had been received so far in 2024/25. Since the last update, one case had resulted in Code of Conduct training being conducted, one remained being investigated by an externally appointed investigator, one had been appointed to an internal investigator, five had been closed with no further action as there had not been a breach of the Code of Conduct and one remained ongoing.				
<u>Requests for dispensations:</u>				
There had been eight requests for dispensations during this period.				

The Monitoring Officer further reported to the Committee an update following, the outcome of the hearing on 16th May 2024, where the Standards Committee made a decision on sanctions as a result of the Code of Conduct being breached by Councillor

Turner. Two of these sanctions have not been complied with, being issuing an apology to Members of the Local Government Association's Coastal Special Interest Group and undertaking training organised by the Monitoring Officer.

No response had been forthcoming from Councillor Turner to communication from the Monitoring Officer since the meeting in May. The Chairman of the Standards Committee had written to Councillor Turner following the Committee's resolution in October 2024, requesting him to comply with the sanctions and decisions of the Standards Committee made on 16 May 2024. The letter had also expressed disappointment that it had not been followed up despite communications to that effect. The letter had also included an opportunity to speak to an Independent Persons who had not been involved in the hearing process.

Failure to comply with sanctions recommended by the Standards Committee following a finding of a breach of the Members' Code of Conduct continues to be a breach in accordance with paragraph 8. However, the Standards Committee did not believe that further Council resources should be engaged in this matter, due to the on-going lack of alternative sanctions available, but remained disappointed that the breaches continue.

The Committee expressed its ongoing support to its previous decision which it considered reasonable in all the circumstances and to the Council's Monitoring Officer in upholding high standards of conduct.

It was moved by Councillor Talbot, seconded by Councillor Alexander and unanimously:-

RESOLVED that:-

- (a) the contents of the Monitoring Officer's Complaints Update be noted; and
- (b) the Standards Committee recommends to Full Council that it formally agree with the decision of the Standards Committee on 16 May 2024, that whilst the 2 sanctions remained outstanding being issuing an apology and undertaking training, Councillor Turner should not be allocated Committee membership or represent the Council on any Outside Bodies as his behaviour continues to undermine the high standards of conduct that the Council expects from its elected Members.

The meeting was declared closed at 11.46 am

Chairman

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Planning Policy and Local Plan Committee

10 February 2025

**MINUTES OF THE MEETING OF THE PLANNING POLICY AND LOCAL PLAN
COMMITTEE,
HELD ON MONDAY, 10TH FEBRUARY, 2025 AT 6.00 PM
IN THE COMMITTEE ROOM, AT THE TOWN HALL, STATION ROAD, CLACTON-
ON-SEA, CO15 1SE**

Present:	Councillors Guglielmi (Chairman), Bray, Chapman BEM, M Cossens, Fairley, Newton, Scott and M Stephenson
Also Present:	Councillor Baker (Portfolio Holder for Housing & Planning)
In Attendance:	Gary Guiver (Director (Planning & Communities)), Lisa Hastings (Director (Governance) & Monitoring Officer), Ian Ford (Committee Services Manager), Paul Woods (Planning Policy Team Leader), Bethany Jones (Committee Services Officer) and Katie Koppenaal (Committee Services Officer)

62. ELECTION OF A VICE-CHAIRMAN OF THE COMMITTEE

The Committee was informed that, following Councillor Bush's replacement as a member of the Committee by Councillor M Stephenson, the office of Vice-Chairman had become vacant. The Committee was therefore requested to elect a new Vice-Chairman to serve in that office for the remainder of the 2024/25 municipal year.

It was thereupon moved by Councillor M Stephenson, seconded by Councillor Fairley and:-

RESOLVED that Councillor M Cossens be elected Vice-Chairman of the Committee for the remainder of the 2024/25 Municipal Year.

63. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was submitted on behalf of Councillor Fowler (with no substitution).

64. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the last meeting of the Committee, held on Monday 16 September 2024, be approved as a correct record and be signed by the Chairman.

65. DECLARATIONS OF INTEREST

In relation to Agenda Item 7 (Report of the Director (Planning & Communities) - A.1 - Local Plan Review: Changes to National Policy and an Updated Issues and Options Consultation Document), Councillor Fairley declared a non-registerable interest as family members owned land at Horsley Cross. Having taken the report into account and having consulted the Council's Monitoring Officer, Councillor Fairley stated her belief that she was able to remain in the meeting and take part in the Committee's discussions on this agenda item.

The Monitoring Officer (Lisa Hastings) confirmed that this was indeed the case.

66. 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.

67. 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 on the three Officer reports.

A resident of Thorpe-le-Soken, Mr. David Banks, made a statement in relation to report A.1 of the Director for Planning and Communities. His statement touched upon the following matters:-

- *Thorpe-le-Soken was listed as a Tier 3 Settlement and Question 14 in the Appendix raised the question that these Tier 3 Settlements with Stations should be a focus for more radical long-term growth. But Thorpe Station & Maltings was listed as Tier 4.*
- *Thorpe Station is a mile away from Thorpe 'high street' and down an unrestricted 'B' road with countryside on either side.*
- *Thorpe in its true sense has never had a station within it.*
- *Thorpe Maltings is an opportunity to look south and to get a grip of that derelict area and infill down the B1414 thereby finally linking the village to the station.*
- *A much-needed by-pass also to the south could and should be part of this holistic vision.*
- *Thorpe-le-Soken faces years of disruption with the wind farm cable connection projects to the north of the village within half a mile.*
- *Any extra development must go to the south with infill and a by-pass as Thorpe itself is at its limit.*

At the Chairman's request, the Director (Planning and Communities) responded to the points made by Mr. Banks.

68. REPORT OF THE DIRECTOR (PLANNING & COMMUNITIES) - A.1 - LOCAL PLAN REVIEW: CHANGES TO NATIONAL POLICY AND AN UPDATED ISSUES AND OPTIONS CONSULTATION DOCUMENT

Earlier on in the meeting, as detailed under Minute 65 above, Councillor Fairley had declared a non-registerable interest as family members owned land at Horsley Cross.

The Committee considered a comprehensive report of the Director (Planning and Communities) which:-

- 1) updated it on the confirmed changes to the National Planning Policy Framework (NPPF) published by the Government in December 2024, including the introduction of new mandatory housebuilding targets, and their implications for this Council's Local Plan Review;
- 2) sought Members' agreement to updated versions of the 'Guiding Principles' and 'Vision & Objectives' for the Local Plan review to those previously considered by the Committee, which responded to the above-mentioned changes in national planning policy;

- 3) presented an updated version of the 'Issues and Options Consultation Document' to that previously considered by the Committee and which included revised spatial strategy options that responded to the significant increase in the amount of land required to meet the Government's new mandatory housebuilding target; and
- 4) sought Members' agreement to proceed with the formal public consultation on the updated Issues and Options Consultation Document.

Members were aware that throughout the first nine months of 2024, the Council had been carrying out the early stages of the mandatory five-yearly review of its Local Plan, following a work programme and guiding principles that had been agreed by this Committee at its meeting held in December 2023. That work had involved undertaking a 'Call for Sites' consultation, preparing an updated Vision and set of Objectives for the updated Local Plan, developing strategy options for future growth within the District, and preparing an 'Issues and Options' Document for public consultation – all of which had been agreed by this Committee at its meetings held between December 2023 and July 2024.

The Committee recalled that the formal public consultation on Issues and Options, which had been intended to take place in May and June 2024, had been then delayed due to the calling of the Parliamentary General Election and the need to respect restrictions during the pre-election period. It had been intended to move the consultation to September/October 2024. However following the General Election and the resulting change in Government, the new Deputy Prime Minister on 30 July 2024 had launched an eight-week consultation on reforms to the National Planning Policy Framework (NPPF) and other changes to the planning system. It had become obvious that the proposals that formed part of the Government's consultation, including proposals to impose mandatory housebuilding targets on Councils, would clearly impact significantly on the work carried out on this Council's Local Plan Review to date and, if carried forward, would mean that the six spatial strategy options set out in the previously agreed Issues and Options Consultation Document would be out of date and out of step with Government policy.

The details of the Government's draft proposals had been reported to the Committee in September 2024, and a response to the Government's consultation had been agreed by members of the Committee and duly submitted later that month by Officers following its formal approval by the Portfolio Holder for Housing and Planning. The Committee had also agreed to postpone the Issues and Options Consultation, until there was greater clarity from the Government as to what requirements the Local Plan would be expected to meet.

It was reported that on 12 December 2024, the Government had published the finalised version of the updated NPPF – within which the most significant change was the requirement for the Council to use the revised 'Standard Method' calculation to calculate its mandatory housebuilding target for the Local Plan review. As a result of this change, Tendring's housebuilding target would increase from 550 homes a year from the adopted Local Plan to 1,034 homes a year from January 2026 (the 5th anniversary of the adoption of the Local Plan).

The Committee recognised that this significant change in national policy meant that much of the work carried out by the Committee and its Officers throughout 2024 needed to be revisited. The main implications of this were summarised below:

- Housebuilding requirements: The confirmed housing requirement of 1,034 homes a year was significantly higher than the 770 homes a year (based on the previous Standard Method) that had been previously anticipated for the updated Local Plan. The new requirement meant the Council had to plan for 7,000-8,000 new homes up to 2041, over and above the 9,600 already in the pipeline (expected on sites allocated in the adopted Local Plan, sites already under construction, and sites with planning permission). This was double the amount of housing the Council had, up until now, been preparing to plan for through the Local Plan review.
- Spatial Strategy Options: The six spatial strategy options previously considered and agreed by the Committee for public consultation in 2024 set out alternative ways of delivering 3,000-4,000 extra homes in the District of Tendring up until 2041. With the residual requirement now doubling to 7,000-8,000 homes, those spatial strategies no longer aligned with national policy. Meeting a housing target of that scale would be extremely challenging in this District, and the potential alternative approaches for accommodating that level of growth in a realistic manner were limited, to a large extent, by the District's geography and infrastructure. Officers had therefore revisited the options and had identified four new alternatives - each with fundamental similarities, but which were now recommended for public consultation as part of the new Issues and Options Document.
- Vision and Objectives: Due to the sheer scale of the housing target that the updated Local Plan would now need to address, any spatial strategy option would likely require a significant departure from the approach to growth taken in the current adopted Local Plan. All options were likely to require the establishment of one or more strategically located garden villages within the District. So, to ensure the vision and objectives of the Local Plan reflected this likely eventuality, an addition to the draft Vision was proposed which, if supported, would be included as part of the new Issues and Options Consultation Document.
- Guiding Principles: Most of the guiding principles for the Local Plan review agreed by the Committee in December 2023 were still relevant going forward. This was because despite the higher housing target, the overall approach to reviewing and updating the Local Plan did not need to change. However, some focussed revisions were proposed, to reflect the change in the timeline for the review, and the fact that the approach and options for growth would need to change in the light of the new national policy. Those changes were recommended for inclusion in the revised Issues and Options Consultation Document.
- Timetable and work programme: Due to the delay in conducting the Issues and Options Consultation and the additional work required to address the significantly increased housing requirement, it would no longer be possible to submit the Local Plan for examination by July 2025 as originally hoped. The Government had however acknowledged that many Councils would be in a similar position and had therefore extended the deadline for submitting Plans for examination under the current system (rather than waiting for the new-style Local Plan system). The updated programme for reviewing the Local Plan now aimed for submission in early 2026 – as close to the five-year anniversary of the current Local Plan as possible. An overview of the programme was reflected in an updated Local Development Scheme (LDS) to be considered by the Committee separately.

The Committee was advised that the emerging proposals around Devolution and Local Government Reorganisation did not affect the Council's existing duties to review and update the Local Plan. Government officials had advised Councils to continue with work on their individual Local Plan reviews to ensure that coverage of up-to-date Local Plans across the country remained. Whilst the Government was expected to release more details in the coming year of how plan-making was expected to work across newly formed combined strategic authorities and constituent unitary authorities in the future, the work carried out on this District's current and emerging Local Plans would be valuable in informing and feeding into new-style Strategic and Local Plans in the future.

Members were informed that Councils were however being encouraged to align their timetables and evidence-base production with neighbouring authorities as best as they could in the run up to future reorganisation and efforts were being made to achieve alignment with Colchester and Braintree Councils who were already proceeding on similar timetables, having already worked together with this Council previously on the jointly prepared Section 1 Local Plan adopted in 2021.

It was therefore recommended by Officers that the Council pushed ahead with the Local Plan review now that there was clarity on housebuilding targets and an updated version of the Issues and Options document was presented in its entirety at Appendix 1, with a detailed explanation of the proposed changes since the May 2024 version set out within the body of the Director's report.

At the meeting, the Director (Planning and Communities) gave a MS Power Point presentation that drew out salient points in respect of:-

- *(Revised) Housing Growth Requirements and Trajectory 2013-2041;*
- *TDC's six 'spatial strategy options' for 3,000 - 4,000 extra homes (scrapped);*
- *Current Position;*
- *Options Revisited – Where does TDC start?*
- *Options Revisited – Smaller Urban Settlements;*
- *Options Revisited – Large Villages with Railway Stations;*
- *Options Revisited – Garden Villages;*
- *Option A – A120 and Railway Focus;*
- *Option B – Triangle of Garden Villages;*
- *Option C – A133/B1033 Garden Villages; and*
- *Option D – Four Garden Villages.*

The Director (Planning and Communities) also outlined the potential implications of Devolution for Greater Essex and local government re-organisation on this District and that the Government's firm advice was to push ahead with the review of the local plan as it remained a statutory requirement.

The Director (Planning and Communities) responded to Members' questions thereon. Those questions concerned matters such as:-

- (1) *given the District's historic levels of annual housebuilding and the now unrealistic expectations that 1,000+ houses would be built over a sustained period of time, what would happen if this Council could not comply with those mandatory targets;*
- (2) *what parameters are set around those areas that cannot deliver the required new housing due to, for example, inadequate highway infrastructure or insufficient transport provision;*

- (3) *what feedback has there been from developers in terms of deliverability and viability;*
- (4) *what percentage of agricultural land will be given up in order to meet these housing targets;*
- (5) *if the Authority over delivers in terms of meeting the housing target one year, can that surplus be carried forward and off-set against an under-achieving year;*
- (6) *given the amount of land within the District that will be taken up by new quarries, the Norfolk – Tilbury Pylon Project and the electricity cables for the proposed off-shore windfarms, this will limit the areas where the new housing can be provided;*
- (7) *have the issues of potential drinking water shortages, the extra strain on the wastewater disposal system, the provision of new schools and extra health facilities provision been accounted for;*
- (8) *there will be a need to have in place more local skills training provision for the extra builders, electricians, plumbers, carpenters, roofers et cetera that will be needed to build these thousands of extra homes;*
- (9) *will there be opportunities for small scale developments for retirees who wish to downsize but stay within their local community and not go into a care home;*
- (10) *more emphasis should be placed on re-using ‘brownfield’ sites rather than ‘greenfield’ or ‘grey field’;*
- (11) *has a call for sites been made yet;*
- (12) *is it still the case that if TDC is no longer able to demonstrate a five year supply of housing land then the “tilted balance” in favour of approval of planning applications will apply; and*
- (13) *the local plan review timetable will need to take account that the Planning Inspectorate may receive a lot of Local Plan Submissions at the same time which could generate a long delay before the Inquiry could be held.*

The Planning Policy Team Leader then drew Members’ attention to the milestones for the review of the Local Plan which were:-

Issues and Options Consultation	Spring 2025
Consultation on Preferred Options draft Local Plan	Summer/Autumn 2025
Publication of Submission Draft Local Plan	Winter 2025/26
Submission	Early 2026
Examination and main modifications	Spring/Summer 2026
Adoption	Summer/Autumn 2026

The Planning Policy Team Leader then highlighted the changes that had been made to the Issues and Options consultation document in response to the Government’s changes to the NPPF.

At the invitation of the Chairman, the Portfolio Holder for Housing and Planning (Councillor Baker) commented on the subject matter of this item.

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

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

RESOLVED that the Planning Policy and Local Plan Committee –

- (a) notes the contents of this report (A.1);
- (b) having duly considered the recommended revisions to the previously agreed Guiding Principles, Vision & Objectives, and Spatial Strategy Options, agrees their inclusion within the updated Issues and Options Consultation Document;
- (c) agrees that the Tendring District Local Plan Review: Issues and Options Consultation Document, as set out at Appendix 1, be published for public consultation in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 and in accordance with the consultation arrangements set out in this report (A.1);
- (d) authorises the Director (Planning and Communities), in consultation with the Chairman of the Planning Policy and Local Plan Committee and the Portfolio Holder responsible for Housing and Planning, to make specific changes to the aforementioned consultation document to address or correct any minor factual, typographical or other errors that might be discovered prior to its publication for consultation; and
- (e) authorises the Director (Planning and Communities), in consultation with the Chairman of the Planning Policy and Local Plan Committee and the Portfolio Holder responsible for Housing and Planning, to agree any specific arrangements in respect of the consultation exercise including dates, publicity and events.

69. REPORT OF THE DIRECTOR (PLANNING AND COMMUNITIES) - A.2 - LOCAL DEVELOPMENT SCHEME AND EVIDENCE BASE UPDATE

The Committee considered a detailed report of the Director (Planning and Communities) (A.2) sought its agreement to publish a new 'Local Development Scheme' (LDS), 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 report also provided the Committee with an update on current progress in respect of the evidence base that would inform the review of the Local Plan.

Members were aware that the purpose of the Local Development Scheme (LDS) was to set out an indicative timetable for preparing key Planning documents. It was particularly useful for members of the public, partner organisations and third parties to understand the broad programme of work and how the Council proposed to resource and manage it.

It was reported that the LDS covered the review of the Local Plan, the preparation and adoption of the Tendring Colchester Borders Garden Community (TCBGC) Development Plan Document (DPD), and the production of other key planning documents. It included the anticipated timetable of consultation periods, examinations and expected dates of adoption. 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 therefore forward plan and organise their time and resources accordingly.

The Committee recalled that it had agreed to commence the mandatory five-year review of the Local Plan at its meeting held on 20 December 2023. Following the Government's consultation in the summer of 2024 about proposed changes to the NPPF, work on the Local Plan review had been paused whilst the Council awaited certainty regarding the housing requirement the Local Plan would need to accommodate. The new version of the NPPF and associated standard method for calculation housing need had been published in December 2024, and work could now resume. The timetable for reviewing the Local Plan had been updated to reflect the anticipated timeline over the coming year.

Members were informed that the indicative timetable for the TCBGC DPD had also been updated to reflect the most recent stages of work that had been completed and the anticipated timeframes for receiving the Inspector's final report – with adoption of the DPD anticipated in Spring 2025.

The Committee was reminded that the Community Infrastructure Levy (CIL) was an alternative means of securing developer contributions towards vital infrastructure based on a tariff system rather than individually negotiated Section 106 agreements. The introduction of a CIL was optional for local authorities and within the wording of its Local Plan policies this Council had always kept the option open. In the past there had not been strong enough justification for introducing a CIL in this District, but with the need to bring forward additional land for development through the Local Plan review in response to the Government's new housebuilding targets, the case for CIL might be stronger going forward.

To inform future decisions about the introduction of a CIL, a viability assessment had been commissioned, to establish whether CIL might be a suitable means of collecting development contributions in the Tendring District, and the process towards formally adopting a CIL Charging Schedule had been set out in the LDS. Once the initial evidence had been prepared, the findings would be reported to the Planning Policy and Local Plan Committee who would decide whether the draft Charging Schedule should proceed to public consultation.

It was important that all policies and proposals in Local Plans were informed and underpinned by proportionate but robust technical evidence, and the LDS contained an overview of the documents that were likely to be required as part of the Local Plan Review. Various elements of the 'evidence base' to inform the current review of the Local Plan were under way, and an update on the status of those reports and studies were included within the body of the Director's report.

Having introduced the report, the Planning Policy Team Leader then responded to the following question:-

- *should the ongoing nationally important infrastructure projects that were affecting the District be included within the LDS?*

The Chairman suggested that an informal meeting / workshop should be arranged to enable Committee Members to be briefed on the local plan technical evidence documents that were due to be received in the Spring 2025 and also to be briefed on the potential for a Community Infrastructure Levy especially in the light of local government reorganisation. The Director (Planning and Communities) undertook to arrange this in due course.

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 Bray and unanimously:-

RESOLVED that the Planning Policy and Local Plan Committee –

- (a) approves the updated Local Development Scheme (LDS) 2025-2028 (attached as Appendix 1) for publication on the Council's website and for submission to the Ministry of Housing, Communities and Local Government; and
- (b) notes the contents of the report (A.2) and the progress of the supporting evidence base.

70. REPORT OF THE DIRECTOR (PLANNING AND COMMUNITIES) - A.3 - AUTHORITY MONITORING REPORT 2023 - 24

The Committee considered a detailed report of the Director (Planning and Communities) (A.3) which informed it of the findings of the Authority Monitoring Report (AMR), which monitored the key indicators set out in the adopted Local Plan (Chapter 11).

It was reported that, following the Authority Monitoring Report for 2022/2023, which had been presented to and considered by the Committee in December 2023, Officers had prepared a further Authority's Monitoring Report (AMR) for the 2023/24 financial year. This report presented high level information in relation to the key indicators set out in the monitoring chapter of the Local Plan.

Members were informed that the AMR included chapters relating to the Local Development Scheme, Housing Delivery, and Employment, Commercial and Retail development. There was also information about the provision of infrastructure and community facilities, protection of the natural and historic environments, and the Tourism Strategy.

It was felt that the structure of the report enabled an annual update that would be beneficial to the process of reviewing and updating the Local Plan.

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

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

RESOLVED that the Planning Policy and Local Plan Committee –

- (a) notes the contents of this report (A.3); and
- (b) notes that the Authority Monitoring Report (AMR) forms a baseline assessment of the key monitoring indicators set out in the Local Plan which will help inform the review of the Local Plan.

The meeting was declared closed at 8.08 pm

Chairman

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Audit Committee

13 February 2025

**MINUTES OF THE MEETING OF THE AUDIT COMMITTEE,
HELD ON THURSDAY, 13TH FEBRUARY, 2025 AT 10.55 AM
IN THE TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors Sudra (Chairman), Steady (Vice-Chairman) and Morrison
Also Present:	Emma Larcombe (External Auditor (KPMG)) and Jodie Preston (External Auditor (KPMG))
In Attendance:	Richard Barrett (Director (Finance and IT) & Section 151 Officer), Karen Hayes (Executive Projects Manager (Governance)), Ian Ford (Committee Services Manager), Craig Clawson (Internal Audit Manager), Maddie Adger (Leadership Support Manager) and Katie Koppenaal (Committee Services Officer)

61. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absences were submitted on behalf of Councillor Fairley and Councillor Platt (with no substitutions appointed).

62. MINUTES OF THE LAST MEETING

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

RESOLVED that the Minutes of the meeting of the Committee, held on 30th January 2025, be approved as a correct record and be signed by the Chairman.

63. DECLARATIONS OF INTEREST

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

64. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

On this occasion no Councillor had submitted notice of a question pursuant to Council Procedure Rule 38.

65. REPORT OF DIRECTOR (FINANCE & IT) - A.1 - STATEMENT OF ACCOUNTS 2023/24 AND ASSOCIATED PLANNING, ANNUAL AND YEAR END REPORTS OF THE EXTERNAL AUDITOR

The Committee considered a report of the Director (Finance & IT) (A.1) which presented for consideration and approval the following, to enable the final opinion on the accounts a value for money arrangements to be formally issued by the External Auditor:

- *The External Auditor's External Audit Plan & Strategy for the year ending 31 March 2024;*
- *The External Auditor's Annual Report for the year ended 31 March 2024;*
- *The External Auditor's Value for Money report 2023/24;*
- *The External Auditor's Year End Report for the year ended 31 March 2024;*

- *The Council's Statement of Accounts (including Annual Governance Statement) for 2023/24 for consideration and approval for publication by the backstop date of 28 January 2025.*

Members were informed that, in-line with the backstops dates previously discussed, the Council's External Auditor had substantially completed the necessary audit work for 2023/24, with their associated audit reports attached.

As set out in their reports, the External Auditor anticipated issuing a disclaimed opinion for 2023/24. Later in their reports and within the attached External Auditor's reports, the reason for the disclaimed opinion primarily related to the back stop dates.

Members were reminded that, the Council's Statement of Accounts for 2023/24 were attached, which reflected any necessary amendments agreed in consultation with the External Auditor.

In respect of the External Auditor's value for money commentary, in terms of two of the three associated strands of work (financial sustainability and improving economy efficiency and effectiveness) the External Auditor had confirmed that they had not identified any significant weaknesses. In terms of the third strand of work (governance) they had identified a weakness that primarily related to the known issue relating to the Spendells House capital project.

It was reported that the External Auditor had made a limited number of recommendations as highlighted within their reports, including those associated with the Spendells House project mentioned above. Management responses had been set out within the External Auditor's attached reports and updates against each recommendation would be presented to future meetings of the Committee.

Members were advised that subject to the Committee's consideration of the various attached reports, and approval of the Statement of Accounts for 2023/24 (including the Annual Governance Statements) it was proposed to publish the Accounts by the backstop date of 28 February 2025.

In respect of the required management representation letter included within the recommendations in the Officer's report, this was provided directly at the meeting to enable the Audit Committee to approve it along with authorising the Director for Finance & IT and the Audit Committee Chairman to sign it before being forwarded onto the External Auditor. Members noted that in the report, the External Auditor did not currently plan on requesting any specific representations over and above those areas normally covered by their 'standard' letter.

Members were informed of two adjustments required to the Statement of Accounts compared to the version included in the Agenda which were as follows:-

1. Additional text to be added to the Balance Sheet note on page 175-176 of the Agenda

"In preparing the figures for 2023/24, it is important to highlight an issue that has emerged relating to specialised assets that are valued at the 31 March 2024. The Code of Practice on Local Authority Accounting in the United Kingdom 2023/24 states that for specialised assets where no market exists, the current value should be interpreted as

the present value of the assets' remaining service potential, which can be assumed to be at least equal to the cost of replacing that service potential. Under these circumstances, property, plant and equipment is measured at depreciated replacement cost (DRC). In terms of the assets held by the Council that fall within this category, these would broadly be leisure centres and public conveniences.

As highlighted within the Statement of Accounts, the Council employs an independent external valuer to determine the value of the Council's assets at the balance sheet date. A key element of the calculation reflects their associated professional guidance, which in respect of specialised assets includes the size and specification of a replacement building. In turn, a gross internal area (GIA) multiplied by a cost per square metre forms part of the underlying calculation of such values. It is understood that for 2023/24, the gross external area (GEA) was used rather than the GIA.

The value of the assets subject to the above is £20.355m (based on GEA) which has been reflected within the Council's balance sheet as at the 31 March 2024. Based on further exploratory work as part of the associated external audit process, it is unclear as to the overall impact of the above on the carrying value of the assets and the revaluation reserve.

In the context of the above, it has not been possible to amend the balance sheet values with evidenced based figures given the time constraints on publishing the Statement of Accounts for 2023/24 by the statutory deadline of the 28 February 2025 highlighted earlier. For transparency and completeness the intention of this note is to draw the reader's attention to this issue, with work remaining on-going to inform the balance sheet figures for 2024/25 that will be published later in 2025. This matter has also been highlighted within the Annual Governance Statement that forms part of these Statement of Accounts."

2. Additional text to be added to the Annual Governance Statement under "Other Governance Issues" on page 274 of the Agenda

"As highlighted within the Narrative Statement, an issue emerged during the External Audit of the 2023/24 accounts that relates to the balance sheet values of specialised assets that are required to be valued at depreciated replacement cost (DRC) as specified by The Code of Practice on Local Authority Accounting in the United Kingdom 2023/24.

It is acknowledged that the value of such assets may not have been correctly reflected within the Council's balance sheet as at the 31 March 2024 but it has not be possible to amend the balance sheet values with an adequately evidenced based figure given the time constraints on publishing the Statement of Accounts for 2023/24 by the statutory deadline of the 28 February 2025. This is an important governance matter and the Council is exploring options with the aim of addressing the issue within future year's accounts."

Emma Larcombe of KPMG, the Council's outgoing Appointed Auditor, led the Committee through five attachments to the Director's report which were:-

Attachment 1 – External Auditor's External Audit Plan & Strategy for the year ending March 2024.

Attachment 2 – External Auditor’s Annual Report for the year ended 31 March 2024.

Attachment 3 – External Auditor’s Value for Money Report (2023/24)

Attachment 4 – External Auditor’s Year End Report for the year ended 31 March 2024.

Attachment 5 – The Council’s Statement of Accounts 2023/24 for Publication (Including Annual Governance Statement).

<u>Summary of Questions asked by Members</u>	<u>Summary of Answers Received</u>
Are the fees going to be set by the PSAA and are you going to use that as a guideline?	[Ms Larcombe] The fees are discussed with the Section 151 Officer and then submitted to the PSAA and have done so with no dispute.
Can you guarantee there will be no backlogs?	[Ms Larcombe] We are already planning for 2024/25 and can assure you that any backstop dates will be met.
Can you outline the importance of materiality?	[Ms Larcombe] There are many factors to determine what level to assess the accounts to. This includes an assessment on expenditure risk.
Are there any other authorities that have been/are going through this audit process?	[Ms Larcombe] The issues encountered are specific to Tendring District Council, such as PPE.
Once the Property Plant Evaluation has been completed, will things become easier?	[Richard Barrett] That is correct.

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

Unanimously **RESOLVED** that, in respect of the 2023/24 Statement of Accounts and the associated External Auditor Reports relating to the year ended 31 March 2024, the Audit Committee:

- (a) Notes the contents of the External Auditor’s reports attached, including the value for money commentary set out therein;
- (b) Endorses the management responses set out within the attached External Auditor’s reports and requests Officers to report the progress against each item to future meetings of the Committee;
- (c) Approves the management representation letter relating to the year ended 31 March 2024;
- (d) Authorises the Director Finance & IT and the Audit Committee Chairman to sign the management representation letter relating to the year ended 31 March 2024;

- (e) Approves for publication the audited Statement of Accounts for 2023/24, as amended and approves for signing, the Annual Governance Statement set out therein, subject to any further minor amendments that may be agreed with the External Auditor; and
- (f) In respect of (e) above, authorises the Director (Finance and IT), in consultation with the Audit Committee Chairman to make any such adjustments that may be necessary before publication.

The meeting was declared closed at 11.27 am

Chairman

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Human Resources and Council Tax
Committee

24 February 2025

**MINUTES OF THE MEETING OF THE HUMAN RESOURCES AND COUNCIL TAX
COMMITTEE,
HELD ON MONDAY, 24TH FEBRUARY, 2025 AT 7.30 PM
IN THE TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE**

Present:	Councillors Chapman BEM (Chairman), Calver (Vice-Chairman), Amos, Baker, Guglielmi, Morrison and G Stephenson
In Attendance:	Lisa Hastings (Director (Governance) & Monitoring Officer), Katie Wilkins (Head of People), Jo Williams-Lota (Human Resources Manager), Lewis Vella (Finance Officer) (except items 15 - 20), Debianna Messenger (Work Based Learning Manager), Bethany Jones (Committee Services Officer) and Katie Koppenaal (Committee Services Officer)

9. CHAIRMAN'S ANNOUNCEMENT

The Chairman (Councillor Chapman BEM) requested that the Minutes record that the members of the Human Resources and Council Tax Committee had sent Carol Magnus an email before she retired to thank her for all her hard work over the last few years and that her hard work had been appreciated.

10. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence nor substitutions on this occasion.

11. MINUTES OF THE LAST MEETING

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

RESOLVED that the minutes of the last meeting of the Committee, held on Tuesday, 30 July 2024, be approved as a correct record and be signed by the Chairman.

12. DECLARATIONS OF INTEREST

Councillor Guglielmi stated for the public record in relation to Agenda Item 9 – **A.4 – Fostering Friendly Policy**, that he was on the Panel for Essex County Council that dealt with Fostering, but that he would still participate in the deliberations and the decision-making on this item.

13. 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.

14. REPORT OF THE DIRECTOR (FINANCE & IT) - A.1 - FORMAL CONFIRMATION OF COUNCIL TAX AMOUNTS FOR 2025/26 FOLLOWING THE NOTIFICATION OF THE PRECEPTS FROM THE MAJOR PRECEPTING AUTHORITIES

The Committee heard that, at the meeting on the 11 February 2025, Council had considered the Executive's Budget and Council Tax proposals for 2025/26 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 were received from the major precepting authorities, the Human Resources and Council Tax Committee had the delegated responsibility to agree the total Council Tax for 2025/26.

The total Council Tax for the year was made up by the District and Parish/Town Council amounts approved by Council on 11 February 2025 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 judgement or choice to be made.

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

RESOLVED that:

- (a) the precepts issued by Essex County Council, Essex Fire and Essex Police, as set out in Appendix A to the Officer report (A.1), be noted; and
- (b) the amounts of Council Tax for 2025/26, as shown in Appendix C to the Officer report, for each of the categories of dwellings be confirmed.

15. APPRENTICESHIP UPDATE - VERBAL UPDATE

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

- An apprenticeship update; and
- Career Track update.

Questions from Members:	Answers from Officers:-
<i>What is Gingernut?</i>	<i>They are an apprenticeship provider with a Head Office in Colchester, they provide a lot of IT and Marketing Project Management apprenticeships that work across the country. There is a projects manager apprentice in Economic Growth at TDC. They started as Gingernut Media.</i>

16. REPORT OF THE HEAD OF PEOPLE - A.2 - UPDATE ON REVIEW OF CHANGES TO THE CHIEF EXECUTIVE'S TERMS AND CONDITIONS

The Committee heard that, at its meeting on 8 August 2024, the Human Resources Sub-Committee Panel had received a report in respect of the current terms and conditions of employment of the Chief Executive and, specifically, the reduced working hours (*of 27.75 hours per week*) approved by Council on 25 January 2025. The substantive post on the Council's establishment remained at 37 hours per week. In approving the reduced working hours arrangement for the post holder (Ian Davidson),

Full Council had determined that there should be annual reviews of the operation of the revised working hours arrangement.

Members were told that, in deciding to review the operation of the revised working hours arrangement for the current post holder, the Council had not specified the mechanism for that review. To advance that process, it had been determined that the composition of the Human Resources Sub-Committee Panel, as established by the Council, along with their role outlined for the Sub-Committee in the Officer Employment Procedure Rules concerning Statutory Officers, constituted the most effective approach for conducting such reviews.

Officers informed the Committee that, the Panel was composed of the Leader of the Council, the Deputy Leader of the Conservative Group and the Group Leader of the Independent Group (*and Chairman of the Human Resources and Council Tax Committee*). It also had the benefit of the presence and insight of Councillor Calver (*a member of the Labour Group and Vice-Chairman of the Human Resources and Council Tax Committee*).

The Committee was made aware that the special nature of the post of Chief Executive meant that the terms and conditions were set by the Joint Committee for Local Authority Chief Executives, as set out in the Chief Executives' Handbook, and locally agreed by Full Council, following the advice and recommendations of the Human Resources and Council Tax Committee.

Members noted that to assist the Panel in undertaking the review, the Panel had been presented with the statements of the former Leader of the Council, Councillor Neil Stock OBE, from the time of the original request to reduce the contractual working hours, as well as written representations from Councillor John Spence CBE, Chairman of the Essex Health and Wellbeing Board. Additionally, the Panel had been apprised of Mr Davidson's notable achievements during his tenure as the Council's Chief Executive, and reference was made to his nomination for an award from the Suffolk and North Essex Integrated Care System.

The Committee was also told that the Panel had been informed that, unless otherwise agreed, the Chief Executive remained fully committed to Tendring District Council, adhering to whole-time service, with specific operational arrangements coordinated with the Leader of the Council.

At the Panel's meeting on 8 August 2024:-

"It was moved by Councillor Mark Stephenson, seconded by Carlo Guglielmi, and unanimously:-

RESOLVED that:

- (i) the position in respect of terms and conditions of employment of the post holder be noted;*
- (ii) the following outcome of the review undertaken by the Panel of the operation of the current terms and conditions of the post holder be reported to the Human Resources and Council Tax Committee:*

- (a) *no alteration to the terms and conditions of employment was required and, as such, the current terms and conditions do not need to be amended;*
- (b) *the annual review determined by Council on 25 January 2022 be discontinued on the basis that the exercise of the review appeared to have no identifiable value to the Council going forward and there was a separate annual appraisal process for the post holder undertaken by the Leader; and*
- (c) *the tanks of the Panel for the valuable and enduring positive contribution of the post holder to the Council be recorded.*

Officers also informed the Committee that since the Human Resources Sub-Committee Panel had reviewed the Chief Executive's terms and conditions of employment, Essex Devolution and Local Government Reorganisation (LGR) had been announced.

The Committee was made aware that Devolution involved the transfer of powers and funding from central government to local authorities, enabling decisions to be made closer to the communities they affect.

Further, Local Government Reorganisation, focused on restructuring local government to create simpler, more efficient council structures. In Essex, that would involve replacing the current two-tier system, where services were split between Essex County Council and 12 City, Borough, or District councils, with a number of unitary authorities responsible for all local services. That reorganisation aimed to drive economic growth and deliver better public services by creating clear accountability and more streamlined operations.

Essex had been agreed to be part of Phase 1 of that initiative, highlighting its commitment to those transformative changes. The process included submitting interim plans, followed by full proposals, with the goal of establishing new unitary councils by 2028.

The Committee was notified that the Chief Executive's role was considered critical in the formation and implementation of those proposals for Tendring. Given his essential role, the Leader of the Council had requested that the Human Resources and Council Tax Committee review the previously agreed reduction to his working hours and endorse, *(also recommending to Full Council)* that it was reversed to support his continued leadership and involvement in those significant initiatives.

Members also noted the decision of Full Council at its meeting on 21 January 2025, whereby Full Council - *'mandates the Leader of the Council and Chief Executive to seek to ensure that the voice of Tendring (and North Essex more generally) is as strong as possible in any negotiations around devolution and local government reorganisation recognising its opportunities and challenges.'*

A Member queried whether the Chief Executive's pay would be backdated in view of the number of hours that he had been recently working over and above his contractually

agreed hours. Officers responded that this would not be possible under the terms and conditions of the Chief Executive's employment.

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

RESOLVED that the Human Resources and Council Tax Committee:

- (a) endorses the request from the Leader of the Council to reinstate the Chief Executive's full time working hours in light of the demands of Devolution and Local Government Reorganisation;
- (b) notes that a special dispensation is required to alter the terms and conditions of employment of the Chief Executive (*due to the special nature of this role*) in relation to the Council's Flexible Retirement Policy and its application, which reinstates the Chief Executive's full-time working hours as soon as practical;
- (c) recommends that Full Council:
 - I. considers the request from the Leader having been supported by the Human Resources and Council Tax Committee, to reinstate the Chief Executive's full time hours;
 - II. agrees to grant the special dispensation to the Council's Flexible Retirement Policy and its application to the Chief Executive, in his role at this time due to Devolution and Local Government Reorganisation;
 - III. subject to (i) and (ii) agrees the reinstatement to full time hours as soon as practical;
 - IV. that the annual review as determined by Council on 25 January 2022, be discontinued on the basis that the exercise of the review is unnecessary, given that there is a separate annual appraisal process for the post holder undertaken by the Leader; and
 - V. the thanks of the Council for the valuable and enduringly positive contribution of the post holder to the Council be recorded.

17. REPORT OF THE HEAD OF PEOPLE - A.3 - PAY POLICY STATEMENT 2025/26

The Committee heard that the Localism Act 2011, Chapter 8 (Pay Accountability) Sections 38 and 39, required the Council to prepare a Pay Policy Statement that articulated the Council's approach to a range of issues relating to the pay of its workforce.

Members were told that, Schedule 2 of Part 3 of the Constitution confirmed Full Council was 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.

Officers informed Members that the Human Resources and Council Tax Committee had historically overseen the preparation of a draft Pay Policy Statement for recommendation onto Full Council for its approval and adoption.

Members were also informed that 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 2025/26 therefore outlined the Council's approach to remuneration, detailing policies on the pay of Chief Officers and the lowest-paid employees, the relationship between different levels of pay, and the Council's adherence to the National Pay Grades set by the National Joint Council (NJC). That framework ensured a fair and transparent approach to remuneration, including incremental progression based on service length and performance.

Members noted that the statement also covered discretionary allowances for statutory and non-statutory officers, the use of market forces supplements to address recruitment and retention challenges, and the Council's policies on organisational change and redundancy payments, pay protection, and access to the Local Government Pension Scheme.

The Committee was also told that it set out the Council's position on the provision of mileage and subsistence payments, and its policies for overtime and standby allowances. The document also emphasised transparency and compliance with statutory regulations, including gender pay gap reporting, off-payroll working rules and severance payments.

Officers also informed Members that there was limited change reported in the 2025/26 draft Statement with the exception of the implementation of the 2024/25 pay award, (*following agreement between National Employers and National Unions*) whereby, there were further, notable changes at the lower to mid-end of the pay spine, as follows:-

Effective from 1 April 2024:

- *An increase of £1,290 (pro rata for part-time employees) will be added as a consolidated permanent addition on all NJC pay points 2 to 43.*
- *A 2.50% increase on all pay points above 43.*
- *A 2.50% increase on all allowances.*

The Committee was made aware 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 £5,323 (22.06%) over the three-year period to April 2024. For an employee at the mid-point of the pay spine (pay point 22), their pay would have increased over the same period by £5,140 (15.7%).

Further, the document had been reviewed to ensure it remained legally compliant, reflected best practice, and maintained a high level of transparency for both staff and the residents of Tendring. Changes applied to the draft Pay Policy Statement in 2025/26 were highlighted throughout the document in red text.

Officers reminded Members that the Human Resources and Council Tax Committee was requested to review and provide any comments on the draft Pay Policy Statement 2025/26 before its submission to Full Council.

Members noted that as soon as reasonably practicable after approving the draft Pay Policy Statement, the Authority must publish the Statement. Therefore, the Statement would be published on the Council's website following approval by Full Council in March 2025.

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

RESOLVED that the draft Pay Policy Statement 2025/26, as set out in Appendix A of the Officer report (A.3), be recommended onto Full Council for approval and adoption.

18. REPORT OF THE HEAD OF PEOPLE - A.4 - FOSTERING FRIENDLY POLICY

Earlier on in the meeting as reported under Minute 12 above, Councillor Guglielmi had declared for the public record that he was on the Panel for Essex County Council that dealt with Fostering, but that he would still participate in the deliberations and the decision-making for this item.

The Committee heard that according to Essex County Council's Fostering team, Essex currently had over 1,000 children in care, each facing significant disruption in their lives. Unfortunately, that number was increasing leading to a growing demand for more foster carers.

Members noted that foster carers provided essential care and stability to children who could not live with their birth families. For many of those children, foster care represented their first positive experience of family life. The shortage of foster carers across the UK often resulted in children being placed far from their communities.

The Committee was told that Tendring District Council recognised and valued the vital contributions that foster carers and supported lodgings carers made to society, particularly to the lives of children and young people in care.

The Committee was assured that, Tendring District Council understood that foster carers required flexibility in their working arrangements to meet the needs of their fostered children or young people.

Officers informed the Committee that, Tendring District Council aimed to achieve that by creating a fostering-friendly organisation that offered flexible working arrangements to accommodate the needs of all foster carers.

Members also heard that Tendring District Council acknowledged that the process of becoming an approved foster carer was lengthy and involved several reasonable but demanding expectations, particularly concerning training, assessment, and approval.

Therefore, the Council had introduced a policy to support any staff member who was a foster carer, approved connected person's carer, supported lodgings carer, or an approved kinship carer (*hereafter referred to as foster carers*). The policy would apply to all Council employees.

Officers made Members aware that to publicly demonstrate the Council's commitment to being a fostering-friendly organisation, the Council was also collaborating with Fostering Network UK to become a recognised Fostering Friendly Employer.

Members were also told that by recruiting more foster carers and supporting those employed by the Council, more children would be able to receive support locally, allowing them to stay connected with the people and places that mattered most to them. As a Fostering Friendly employer, the Council could be part of the solution.

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

RESOLVED that the Human Resources & Council Tax Committee:

- (a) approves and adopts the Council's new Fostering Friendly Policy and the organisation's commitment to becoming a recognised Fostering Friendly employer; and
- (b) requests the Leader of the Council to delegate responsibility to the Portfolio Holder for Partnerships to approve initiatives that promote fostering and becoming a foster carer.

19. REPORT OF THE HEAD OF PEOPLE - A.5 - WORKFORCE UPDATE REPORT

The Committee heard that the analysis of workforce data provided Members with statistics relating to the staff employed within the Council and how that compared to the Tendring District and national averages.

Members noted that, at the time of writing the Officer report (A.5), Tendring District Council had 521.2 full-time equivalent (FTE) employees. The FTE figure equated to 790 workers in total (including casual workers and learners). That was made up of 439 full time and 351 part-time staff.

The Committee was told that the 'Grow Our Own' initiative, aimed at enabling staff to obtain professional qualifications in areas with recruitment challenges, remained a priority. The organisation would maintain its sponsorship programme for qualifications and would leverage apprenticeships whenever feasible. Apprenticeships, up to and including Level 7 (postgraduate level), were increasingly accessible and could be financed through the organisation's Levy, levy sharing, or the organisation's co-investment scheme.

The Committee was reassured that the commitment of Tendring District Council employees 'to go the extra mile' continued despite the challenges identified above and should be noted.

Officers informed the Committee that the Officer report indicated that the equality data had largely remained consistent with previous reports. In some areas, that was a positive, particularly regarding gender balance, the gender pay gap, and age distribution. However, it was disappointing to note that the number of employees reporting a disability or identifying as non-white British had not increased.

Members also heard that the HR team was actively encouraging staff to complete the 'sensitive data' section on the HR and Payroll system and would continue to support employees in feeling comfortable sharing their disability status. However, the low number of employees recorded as non-white British was believed to be influenced by other factors, including the demographic representation of the Tendring area.

Officers made Members aware that recognising those challenges, the Council acknowledged the need for proactive measures to attract non-white British candidates to Council roles. By implementing targeted recruitment strategies and fostering an inclusive work environment, the Council aimed to enhance diversity and better reflect the community it served.

At its last meeting, the Human Resources and Council Tax Committee had endorsed the adoption of the People Strategy 2024 to 2029. A key focus of the strategy was updating and promoting the Council's Equality and Diversity Policy. As a priority, the HR team was collaborating with partner organisations to review and enhance the effectiveness of the policy, ensuring it aligned with the Council's commitment to fostering an inclusive and diverse workplace.

Members were also made aware that to further support the Council's Equality and Diversity Policy, the Council was introducing Inclusion and Diversity Champions. Those champions would model inclusive behaviour throughout the Council, assisting the HR team, managers, and colleagues in fostering an inclusive culture. The Inclusion and Diversity Champions planned to hold their inaugural meeting in March, and regular updates on initiatives, ideas, and progress would be provided.

Finally, while those efforts were set within the context of Local Government Reorganisation, the Authority remained committed to ensuring its staff were in the best possible position moving forward.

It was **RESOLVED** that the Human Resources and Council Tax Committee **NOTED** this report.

20. **REPORT OF THE DIRECTOR (LAW & GOVERNANCE) & MONITORING OFFICER - A.6 - HUMAN RESOURCES COMMITTEE AND ARRANGEMENTS FOR STATUTORY OFFICER AND NON-STATUTORY CHIEF OFFICER APPEALS**

The Committee heard that it was important to set out the context of seeking to amend the Terms of Reference of the Human Resources Committee and that the Council's Staff Handbook stated "*Employees have a right to appeal against any formal disciplinary decision. The appeals procedure was part of the Disciplinary Policy and Procedures.*"

Members were told that the Disciplinary Policy and Procedures issued by Human Resources updated October 2017 stated:

“15. APPEALS PROCEDURE

15.1 Refer to Appeal Policy”

APPEALS PROCEDURE (Updated August 2012):

“As an employee of the Council, there may be occasions where a formal decision was required to be taken about your employment. Where this occurs, formal policies and procedures will be followed to ensure a fair process is applied. It is essential that any actions or decisions made are based on facts and evidence provided as part of that process.

There may, however, be times where an employee is unhappy with the decision made or action taken. Where this occurs they have the right to appeal against that decision. The purpose of the Appeals Procedure is to outline the process which will be followed when exercising the right of appeal.

The right of appeal will usually apply where decisions are taken regarding the outcome of a disciplinary or capability hearing, formal grievance or redundancy selection. In all cases, the appeals process will be the same and further advice relating to each specific procedure can be found in the following policies:

- *Disciplinary Policy, Rules and Procedure*
- *Grievance Procedure”*

Members were also made aware that in paragraph 2.2 of the Disciplinary Policy and Procedure, the Scope of the Procedure was stated as:

“The procedure applies to all employees of Tendring District Council, with the exception of the Council’s Statutory Officers who are covered by National Employer’s procedures. These are agreements of the Joint Negotiating Committee (JNC) for Chief Executives and Chief Officers of Local Authorities. Cases where an employee’s ability to undertake the job they are employed to do is in question, will normally be dealt with under the Capability Procedure. Human Resources will advise on the best course of action to take in these circumstances.”

Officers informed Members that in September 2022, the Handbook for Chief Executives had been updated by the *Joint Negotiating Committee for Chief Executives*. The Conditions of Service for Local Authority Chief Officers had been last updated by the Joint Negotiating Committee in 2017. Further information on both of those documents was contained within the legal requirements section of the Officer report (A.6).

Consequently, there was a need to review whether the Council had the appropriate decision-making structure in place to accord with appeal requirements for the Chief Executive, Statutory Officers, and Non-Statutory Chief Officers and their deputies, as set in the relevant Staff Handbooks.

Members also heard that upon undertaking the review, it had been recommended that a Chief Officer Employment Appeals Sub-Committee was established with the Terms of Reference as set out in Appendix A of the Officer report, following a recommendation from the Human Resources and Council Tax Committee onto Full Council for approval and consequential amendments to the Council’s constitution.

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

RESOLVED that the Human Resources and Council Tax Committee:-

- (a) notes the outcome of the review undertaken by the Council's Monitoring Officer as requested by Full Council;
- (b) recommends to Full Council that:
 - (i) the Human Resources and Council Tax Committee's Terms of Reference be amended to include the determination of Employment Appeals of Chief Officers, with these functions being delegated to a Chief Officer Employment Appeals Sub-Committee;
 - (ii) a Chief Officer Employment Appeals Sub-Committee is established with the Terms of Reference as set out in Appendix A of the Officer report (A.6), with the necessary amendments being made to the Council's Constitution, to be highlighted in the reference report to Full Council;
 - (iii) political proportionality would not apply to the Employment Appeals Sub-Committee, on the basis that it is not a committee which meets regularly; and
- (c) authorises the Head of People to undertake a review of the Council's Human Resources Policies and Procedures, in consultation with the Head of Paid Service, to ensure they are up to date and consistent with the appeal process for Chief Officers as set out.

The meeting was declared closed at 8.43 pm

Chairman

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Motion to Council pursuant to Council Procedure Rule 12 submitted by Councillor Matthew Bensilum in relation to Planning Consents and Renewable Energy Stipulations

“(a) That Tendring District Council believes that:-

- (1) in principle, any development in the District of Tendring should only be granted planning consent if suitable renewable energy is installed at the time of development. This to include options such as solar, heating and other measures, and such that developers will no longer be able to place restrictive covenants to prevent purchasers from installing these measures when they are required, with a possible exemption for very small developments; and*
- (2) furthermore, that any developers who currently hold restrictive covenants preventing homeowners from the installation of renewable energy such as solar, should be encouraged by the Council in the strongest possible terms, to remove these restrictions, where appropriate, and allow property owners to install solar panels and other green measures without hinderance.*

(b) That Tendring District Council therefore notes:-

- (1) that there are numerous developments spread across the District, where developers, by way of restrictive covenants, are preventing residents who have purchased a property from installing solar energy or similar ‘green’ energy measures;*
- (2) that the Council already has a policy in Section 2 of its adopted Local Plan i.e. Policy PPL10: RENEWABLE ENERGY GENERATION AND ENERGY EFFICIENCY MEASURES which, amongst other things, states:*

“All development proposals should demonstrate how renewable energy solutions, appropriate to the building(s) site, and location have been included in the scheme and for new buildings, be designed to facilitate the retrofitting of renewable energy installations.

For residential development proposals involving the creation of one or more dwellings, the Council will expect detailed planning

applications to be accompanied by a 'Renewable Energy Generation Plan' (REGP) setting out the measures that will be incorporated into the design, layout and construction aimed at maximising energy efficiency and the use of renewable energy.

Planning permission will only be granted where the application can demonstrate that all reasonable renewable energy and energy efficiency measures have been fully considered and, where viable and appropriate, incorporated into the design, layout and construction. The Council will consider the use of planning conditions to ensure the measures are delivered."

(3) furthermore, that the supporting text within the Local Plan (paragraph 7.9.3) states, in respect of the Renewable Energy Generation Plan (REGP), that it - "must demonstrate how different measures have been considered and incorporated which could and should include:

- Triple Glazing;*
- Solar Roof Panels or Solar Tiles;*
- Air Source Heating Systems;*
- Ground Source Heating Systems;*
- Super Insulation (walls and loft void);*
- Rainwater Capture System;*
- Electric Vehicle Rapid Charging Points (provided to an individual dwelling or through an appropriate facility);*
- Superfast Broadband and a flexible space within each home to enable home working and a reduction in the need to travel;*
- Mechanical Heat Recovery Ventilation;*
- Solar Thermal Systems;*
- Solar Battery Storage Systems; and where appropriate*
- Any other newer or alternative technologies and measures aimed at maximising energy efficiency and the use of renewable energy."*

(4) that Paragraph 7.9.4 of that supporting text then states - "The Council is particularly supportive of the use of Solar Panels and will expect them to be incorporated into new development wherever possible and practicable";

(5) that through the review of the Local Plan, to be overseen by the Planning Policy and Local Plan Committee, the Council will be

revisiting Policy PPL10 – with the view to incorporating a new version that aligns with the substantial work carried out by Essex County Council and which is designed to strengthen councils’ ability to achieve high levels of energy efficiency and renewable energy provision – with the aim of achieving net zero carbon and which will be taken into account alongside the substantial changes coming through the amended Building Regulations in April 2025 which will mandate new development having to meet much higher levels of insulation, energy efficiency and net zero capability;

- (6) that if a development has already been granted planning permission with certain measures required (for example by planning condition) but those measures are not delivered, the Council can consider enforcement action to ensure compliance – and that a developer could not legitimately (or sensibly) prevent those measures from happening through the use of a covenant; and*
 - (7) that, however, if a development is not required under its planning permission to do certain things (for instance the installation of solar panels), the Council cannot stop a developer applying a covenant to a property to restrict the retrofitting of such things as it would be a private matter between the developer and the buyer of a property.*
- (c) That Tendring District Council, having duly noted the above, requests the Leader of the Council and the Portfolio Holder for Housing and Planning to encourage developers, on behalf of this Council, to cease using such restrictive covenants in the future and to further encourage that any developers who already hold restrictive covenants preventing homeowners from the installation of renewable energy measures, such as solar, to remove those restrictions, where appropriate, and to allow property owners to install solar panels and other ‘green’ energy measures without hinderance.”*

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COUNCIL

25 MARCH 2025

REFERENCE FROM CABINET

A.2 ADOPTION OF A PROCUREMENT STRATEGY

(Report prepared by Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The Council is asked to consider the recommendation submitted to it by the Cabinet in respect of the adoption of a Procurement Strategy for the Council.

EXECUTIVE SUMMARY

At its meeting held on 21 February 2025 (Minute 129 refers), the Cabinet had considered a report of the Assets and Community Safety Portfolio Holder (A.2) which had updated it on the progress of the collaboration procurement service, known as Essex Procurement Partnership and which sought its approval for the Collaboration Agreement to be entered into, replacing the arrangement directly with Essex County Council and endorsing the proposed Procurement Strategy for Essex Procurement Partnership (EPP), as the interim strategy for the Council.

In relation to the proposed Procurement Strategy Cabinet had been informed that the Procurement Strategy, provided as Appendix B to the Portfolio Holder's report (A.2), set out the rationale for the Collaboration, Vision, Goals, Scope and Remit, and Strategic Priorities and Actions of EPP for the next three years and would be expected to apply to procurement within the Council. This sought to deliver the agreed objectives as set out and, in particular, outlined how EPP would do so over the next three years in line with the Procurement Act 2023.

Cabinet Members were cognisant that current guidance documents produced by the Government highlighted the four stages of the commercial pathway being Plan, Define, Procure and Manage and the Strategy provided more detail on those stages, but all services across the Council would note that the procurement phase, was the third one out of four. More attention to preparation resources and groundwork being provided by the commissioning service area should be placed on the first two parts to ensure the Council could make the most of the flexibilities the new Act provided by being clear of the service's intentions through the required notices.

It was set out that EPP would review and update its Procurement Strategy annually to ensure that it remained relevant and responsive to the changing needs and circumstances of the Authorities including new legislation and national policy. EPP would monitor and report on the progress and performance of this Procurement Strategy to Members and stakeholders.

It was recognised that the new Act introduced a shift in procurement objectives, moving beyond the traditional focus on equal treatment and non-discrimination. Now, contracting authorities were mandated to deliver value for money, maximise public benefit and act with integrity throughout the procurement process.

Cabinet had been made aware that the Government's National Procurement Policy

Statement (NPPS) had been published on 13th February 2025 in readiness for the Act going live on 24th February 2025 and came into effect on the same date. The NPPS applied to all contracting authorities as defined in the Act. The Procurement Strategy supported the priorities of the NPPS.

Cabinet recognised that a number of benefits would be achieved to EPP members, so benefiting Essex residents which included:-

- *Increased resilience – through more resource, EPP was able to better flex to the peaks and troughs of each Authority and enabled effective delivery of projects in Districts improving the services residents received.*
- *Procurement Expertise – By operating across multiple authorities, staff were able to specialise in categories of spend, with more procurement activity in those categories. The result of this should be more informed procurements which in turn would deliver better value for money for the District's residents.*
- *Category Spend management and strategic oversight for consolidation opportunities – Ensuring the Council could have regard to the importance of achieving value for money, as this was always the overarching priority in public procurement. Government guidance (e.g. Managing Public Money and Best Value statutory guidance) set out how to use public money responsibly.*
- *Savings Opportunities & Increased Market Influence – Through a common forward plan of procurements required, and working as a team, the Member Authorities would be able to better identify collaborative procurement opportunities. This gave the opportunity to combine spend, creating economies of scale and so delivering contractual savings. Additional benefits would be achieved through efficiency in the resource model, with collaborative procurements enabling fewer tender processes to be undertaken. Over time, as the team developed, savings in the staff model would be enabled so reducing the overall cost of the team to member authorities.*
- *Reduced Duplication – Working together to have one common approach to procuring and social value would both create efficiencies for the procurement team and reduce the administrative burden to those bidding for procurements. Small to Medium Enterprises and Voluntary Sector Organisations who tended to have limited resources to bid, should be particularly advantaged by this approach.*
- *Staff Retention and Improved Practice – By collaborating together, efficiencies would be created to enable the delivery of professional procurement practice. The common approach to assessing Social Value was an example of this. Other examples included work to understand the market from which the Authorities were sourcing, introducing an industry recognised category management approach to drive better value for money in Districts and Boroughs.*
- *Governance – ensuring the Member Authorities had appropriate and proportionate controls, systems and standards to manage procurement risk and to comply with legal requirements.*

It was also felt that the adoption of the EPP Procurement Strategy for the Council to deliver in line with and publication on the Council's web page set a clear direction of the next three years, in line with the requirements of the Act and the National Procurement Policy Statement.

It had been "RESOLVED that Cabinet -

- (a) agrees to enter into a Collaboration Agreement for the delivery of joint procurement services for a three-year period on substantially the same terms as set out in Appendix A of the Portfolio Holder's report (A.2) with:

- Braintree District Council
- Castle Point Borough Council
- Epping Forest District Council
- Essex County Council

- (b) authorises the Director for Governance, being responsible for the Council’s corporate procurement function, to sign the final Collaboration Agreement on behalf of the Council;
- (c) agrees that Essex County Council should be the Accountable Body under the Collaboration Agreement acting as Lead Party, which includes responsibility for the day-to-day management of the service and its financial administration and managing seconded staff;
- (d) notes that the Collaboration Agreement provides for annual contributions from the Council, which can be met from within existing budgets, although subject to review as part of the annual budget setting cycle to respond to changes such as inflationary increases;
- (e) notes that further secondment or employment of staff to Essex County Council to support Essex Procurement Partnership, is fully and jointly funded by its Member Authorities;
- (f) supports exploration of additional resource to support the legal support to the Essex Procurement Partnership, in particular for procurement and contract legal advice;
- (g) endorses the continuous improvement approach as identified seeking views on the existing partnership and joint working through an internal questionnaire to feed into the arrangement for the next three years;
- (h) **approves the Procurement Strategy for recommendation onto Full Council for adoption as required by the Council’s Policy Framework;** and.
- (i) instructs Officers to regularly update the Portfolio Holder for Assets and Community Safety, as being responsible for procurement on the content and quality of the Council’s Contract Register and Procurement Project Pipeline ensuring it is kept up to date, enabling Council projects and business as usual can be delivered through the approved Essex Procurement Partnership Prioritisation Approach.”

Resolution (h) above is pertinent to this report.

A copy of the published Assets and Community Safety Portfolio Holder’s report (and its appendices) to the Cabinet meeting held on 21 February 2025 is attached to this report.

RECOMMENDATIONS

That Council, having considered this reference report from Cabinet, approves and adopts the Procurement Strategy, as set out in Appendix 1 hereto.

BACKGROUND PAPERS FOR THE DECISION

Published Minutes of the meeting of the Cabinet held on 21 February 2025.

APPENDICES

APPENDIX 1 = Procurement Strategy for Adoption

APPENDIX 2 = Published A.2 Report (and Appendix A) of the Assets and Community Safety Portfolio Holder for the meeting of the Cabinet held on 21 February 2025

Procurement Strategy for the Essex Procurement Partnership

Introduction

The Essex Procurement Partnership (EPP) is a collaboration of Local Authorities in Essex which has been formed with the aim to enable effective and professional procurement, maximizing the value for every pound spent by local authorities across Essex to the benefit of local residents.

EPP consists of the following Local Authorities (“the Authorities”):

- Braintree District Council
- Castle Point Borough Council
- Epping Forest District Council
- Essex County Council
- Tendring District Council

Through EPP the Authorities will work collaboratively to pool resources to deliver the day-to-day Procurement Activities and wider specialist procurement advice and support relating to policy development, category management, market management and sourcing.

EPP will work to deliver the objectives of the National Procurement Strategy for Local Government in England 2022 to ensure effective procurement practice is in place in line with the LGA toolkit to enable each member of EPP to deliver value for money through its third party spend.

EPP will ensure that procurements are undertaken compliantly and in line with the Procurement Act 2023 and Regulations and guidance, so mitigating the risk to the member Authorities and delivering against the objectives of the Act, namely:

- Delivering value for money
- Maximising public benefit
- Sharing information for the purpose of allowing suppliers and others to understand the Authority’s procurement policies and decisions; and
- Acting, and being seen to act, with integrity

The EPP operates under a Collaboration Agreement that sets out the principles, objectives, and governance arrangements of the partnership. The EPP also has a Steering Group that oversees the strategic direction and performance of the partnership.

The purpose of this procurement strategy is to define the EPP’s organisational approach to procurement and to support the EPP members in delivering their individual and collective objectives and outcomes.

Rationale for the Collaboration

This service has been formed because, following careful consideration, each of the participating Authorities has concluded that it will enable them collectively to achieve their corporate plans, visions, aims and objectives, as supported by procurement, more effectively than by each of them acting independently or by some other means. In particular, by collaborating, this will...

- a. **Create Resilience** - Increasing the core team supporting the councils, enabling the team to flex to demand. This resilience is increased further through access to support from the wider Essex County Council (ECC) team.
- b. **Increase Expertise** – A larger team enabling more effective preparation for the Procurement Act 2023 as well as focus on specific categories of spend, so understanding these markets and enabling better value. Access to the wider ECC team, will also enable access to significant category knowledge and skills.
- c. **Enable Collaborative savings** – By working together the team will be better able to access procurement forward plans and contract registers, analysing this across multiple organisations and identifying where procurement and supplier management opportunities exist.
- d. **Increase Market influence** – With a greater collaborative spend the team will have more market influence to achieve value. As a collaboration of five authorities, the collaborative procurement team will have a strong foothold as a collaborative function with the ability to grow. This also avoids the alternative i.e. competition between the two collaborative functions, leading to higher costs.
- e. **Reduce duplication** – Both in terms of procurement activities but also in documentation and adherence to procurement rules, allowing teams to focus on additional cost saving activity. This will also provide benefit to the entire supplier community, particularly Small to Medium Enterprises and Voluntary sector organisations, reducing the time to understand bid documents.
- f. **Staff Retention** – With access to a greater range of opportunities and links with the wider procurement team of the Lead Party (ECC) , this should aid staff retention and attractiveness to candidates.
- g. **Governance** - ensuring the member Authorities have appropriate and proportionate controls, systems and standards to manage procurement risk and to comply with legal requirements.

Vision and Goals

The vision of the EPP is to be a leading public sector procurement partnership which enables best in class procurement, maximizing the value for every pound spent by local authorities across Essex to the benefit of local residents.

The goals of the EPP are to:

- Ensure compliant and effective procurement practice in line with the National Procurement Strategy recommendations and the requirements of the Procurement Act 2023.
- Achieve savings and efficiencies through collaborative procurement.

- Improve the quality and outcomes of the services procured by the EPP members.
- Enhance the skills and capabilities of the EPP procurement staff and stakeholders.
- Foster a culture of continuous improvement and innovation in procurement.
- Promote ethical, sustainable, and inclusive procurement practices that support the environmental, social, and economic well-being for each Authority area.
- Strengthen the relationships and trust among the EPP members and with the suppliers and partners.

Scope and Remit

EPP will offer a comprehensive service with capability across Category Management, Market Shaping and Sourcing. Specifically the collaboration will

- Ensure a central professional procurement resource
- Develop and deliver procurement training and development programmes for the EPP procurement staff and stakeholders. The EPP also fosters a learning and sharing culture within the EPP and the EPP members.
- Develop and maintain a good understanding of partner spend and contractual commitment
- Develop a good understanding of the sourcing markets for key categories of spend for the parties through the undertaking of market analysis for sourcing projects
- Deliver effective sourcing support to each party
- Create mature procurement processes, procedures and approaches which deliver value to the Parties and the communities they represent

Strategic Priorities and Actions

This strategy acknowledges the changes implemented by the Procurement Act 2023. Where needed this strategy will be varied to meet any obligations of this Act as it is implemented.

The strategy and operation of procurement activity will have to adhere to Government's guidance addressing all aspects of the new regime, covering subjects from transitional arrangements and covered procurement through to premarket engagement, award rules, exclusions and contract modifications.

To aid navigation the Government have published guidance documents under the four stages of the commercial pathway being:

- Plan – Having clear and transparent commercial pipelines and a good understanding of the market to plan for the procurement process.
- Define – Achieving flexible, efficient procurement process that encourage broad participation and are open and accessible to all.
- Procure – Evaluating bidder compliance with exclusion grounds and selecting suitable suppliers for the contract.
- Manage – Working with suppliers and managing the contract to ensure successful achievement of the contractual outcomes.

The EPP will ensure procurement activity is delivered in line with the above objectives of the Procurement Act 2023, specifically:

- **Plan:** Having clear and transparent commercial pipelines and a good understanding of the market to plan for the procurement process. This will be achieved through:
 - Supporting the creation of detailed representative contracts registers and a combined forward plan of procurement activity to enable understanding of spend and ability to deliver the requirements around transparency as set out in the Procurement Act 2023
 - EPP, moving to a proactive model, supported by a forward plan, to work with colleagues in each Authority to develop a good understanding of the market and the most advantageous approach to tendering for each Authority.
- **Define** – Achieving flexible, efficient procurement process that encourage broad participation and are open and accessible to all. To enable this EPP will:
 - Ensure EPP is embedded as part of the team for each member authority to, in a phased manner, undertake sourcing activities above each Authority's tender threshold and provide a structured compliant approach to all procurements over £30,000.
 - Develop common procurement documentation which is easy for suppliers to understand and access through a common e sourcing platform, reducing barriers for SME and Voluntary sector organisations, in particular.
 - Understand and align procurements with the EPP members' service needs, expectations, and objectives.
 - Apply outcome-based and value-based procurement approaches to specify and evaluate the procurement requirements and bids maximising the increased flexibility brought by new procedures as set out within the Procurement Act 2023.
 - Identify and exploit opportunities for aggregation, standardisation, and rationalisation of procurement spend and contracts enabling members of EPP to push efficiency.
 - Negotiate and secure the best value for money and terms and conditions from the suppliers.
 - Optimise the use of existing frameworks and contracts, both internal and external to enable value and the ability to flex with organisation needs.
 - Leverage the economies of scale and the collective bargaining power of the the EPP members.
 - Embed a structured and robust approach to evaluating Social Value within each Authority's procurement approach enabling consideration of a range of factors which will best advantage the Authority as set out in the Ethics and sustainability section below.
- **Procure** – Evaluating bidder compliance with exclusion grounds and selecting suitable suppliers for the contract, EPP will:

- Ensure robust and effective evaluation methodologies are used to ensure the Most Advantageous Tender is chosen and that there is clear evidence for the decision to award, including a Procurement Report for those procurements above the Public Contract Threshold.
- Apply outcome-based and value-based procurement approaches to specify and evaluate the procurement requirements and bids using the new procedures as set out within the Procurement Act 2023.
- Ensure suppliers are checked against the exclusion grounds as part of the procurement process and suppliers are reviewed against the 'Excluded' and 'Excludable' suppliers list.
- **Manage** – Working with suppliers and managing the contract to ensure successful achievement of the contractual outcomes, EPP will
 - Incorporate quality assurance and improvement mechanisms into the procurement and contract management processes.
 - Work with the contract managers within each Authority to ensure the procurement includes quality assurance and contract management processes and they are able to be appropriately managed.
 - Contract Managers within each Authority will work with suppliers and manage in a robust manner to ensure services are delivered in line with the terms of the contract agreement.

In addition to delivering against the Procurement Act, the EPP will benchmark activity against the National Procurement Strategy and LGA toolkit, identifying areas of weakness and implementing actions plan to deliver against these. This will be reviewed on an annual basis, evaluating performance against the action plan and revising where needed.

In consideration of this, in consultation with members of EPP and in addition to delivery of the above activity in line with our obligations under the Procurement Act. EPP will deliver the following strategic priorities and actions for it's three year trial period.

- **Skills and capabilities:** The EPP will enhance the skills and capabilities of the EPP procurement staff and stakeholders by:
 - Conducting a skills and capability assessment and gap analysis for the EPP procurement staff and stakeholders
 - Developing and implementing a procurement competency framework and career development plan for the EPP procurement staff
 - Developing and delivering a procurement training and development programme for the EPP procurement staff and stakeholders
 - Providing coaching and mentoring support to the EPP procurement staff and stakeholders
 - Establishing and facilitating procurement communities of practice and networks within and across the EPP and the EPP members

- Improvement and innovation: The EPP will foster a culture of continuous improvement and innovation in procurement by:
 - Establishing and implementing a procurement performance management and improvement framework and plan
 - Setting and monitoring the key performance indicators and targets for the EPP and the EPP members
 - Measuring and reporting the impact and benefits of the procurement activities and contracts on the EPP members' service delivery and outcomes
 - Conducting regular procurement audits and reviews to identify and address the issues and risks
 - Soliciting and acting on the feedback and suggestions from the EPP procurement staff, stakeholders, suppliers, and partners
 - Encouraging and rewarding the procurement best practices and innovations within and across the EPP and the EPP members
- Ethics and sustainability: The EPP will promote ethical, sustainable, and inclusive procurement practices that support the environmental, social, and economic well-being of Essex by:
 - Developing and implementing a procurement social value policy and strategy for the EPP and the EPP members
 - Integrating social value criteria and measures into the procurement and contract management processes and decisions
 - Engaging and collaborating with the local communities, businesses, and organisations to identify and deliver the social value outcomes
 - Developing and implementing a procurement environmental policy and strategy for the EPP and the EPP members
 - Integrating environmental criteria and measures into the procurement
 - Implementing green procurement practices and initiatives to reduce the environmental impact and carbon footprint of the procurement activities and contracts
 - Developing and implementing a procurement diversity and inclusion policy and strategy for the EPP and the EPP members
 - Integrating diversity and inclusion criteria and measures into the procurement processes and decisions
 - Supporting and promoting the participation and representation of the underrepresented and disadvantaged groups in the procurement activities and contracts
- Relationships and trust: The EPP will strengthen the relationships and trust among the EPP members and with the suppliers and partners by:
 - Communicating and consulting with the EPP members and stakeholders on the procurement strategy, plans, and activities.

- Sharing and disseminating the procurement information, knowledge, and best practices among the EPP members and stakeholders.
- Resolving and managing the conflicts and disputes that may arise within or between the EPP members and stakeholders.
- Recognising and celebrating the achievements and successes of the EPP and the EPP members.
- Engaging and communicating with the suppliers and potential suppliers on the procurement opportunities, processes, and expectations.
- Providing fair and transparent procurement processes which are clear, open and transparent taking a whole contract lifecycle approach and setting out clear accountabilities.
- Collaborating and co-creating with the suppliers and partners to deliver innovation and social value.

Conclusion

This procurement strategy sets out the vision, goals, scope, and priorities of the EPP for the next three years. It also outlines the actions that the EPP will take to achieve its goals and to support the EPP members in their procurement activities.

The EPP will review and update this procurement strategy annually to ensure that it remains relevant and responsive to the changing needs and circumstances of the Authorities.

The EPP will also monitor and report on the progress and performance of this procurement strategy to members and stakeholders.

The EPP is committed to delivering efficient, effective, and sustainable procurement solutions for the benefit of the local community.

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CABINET

21 FEBRUARY 2025

REPORT OF PORTFOLIO HOLDER FOR ASSETS & COMMUNITY SAFETY

A.2 ESSEX PROCUREMENT PARTNERSHIP UPDATE & PROCUREMENT STRATEGY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To update Cabinet on the progress of the collaborative procurement service, known as Essex Procurement Partnership and the Collaboration Agreement due to be entered into, replacing the arrangement directly with Essex County Council and ensuring the necessary financial contributions are within the existing budget.

The report also seeks Cabinet approval for the Procurement Strategy for Essex Procurement Partnership to be recommended onto Full Council for adoption as part of the Council's Policy Framework in readiness to respond to the new Procurement Act 2003 and National Procurement Policy Statement.

EXECUTIVE SUMMARY

The collaborative partnership initially between Tendring District Council and Essex County Council for the delivery of procurement functions began on 1st October 2021 and continues until March 2025.

In March 2023, Cabinet approved Tendring District Council forming part of a wider partnership of Councils to explore the Shared Procurement Service for parts of Essex, now known as the Essex Procurement Partnership (EPP).

Since 2023, the Council has worked in collaboration with Braintree District Council, Castle Point Borough Council, Epping Forest District Council and Essex County Council (the EPP Member Authorities) with the purpose to enable effective and efficient procurement, maximising the value for every pound spent by these local authorities across Essex for the benefit of local residents.

The collaboration will achieve this through a shared procurement team, with:

- Pooled resource enabling a resilient procurement service.
- The combination of expertise enabling well informed procurement activity to maximise value from the market and better value for Essex residents.
- Shared procurement activity enabling savings through economies of scale and efficiencies in the use of the procurement team.
- Standardisation of processes and documentation to support local businesses and SMEs in bidding for Essex opportunities.

The Portfolio Holder for Assets and Community Safety being responsible for procurement represents the Council at the Member Advisory Group (MAG) with elected members from each

local authority. The MAG was established in September 2023 and provides executive member oversight of the EPP reviewing the performance of EPP in delivering against its objectives and acting as both critical friends and champions of the partnership.

Currently the EPP Member Authorities are taking the Collaboration Agreement, Procurement Strategy and Social Value Policy through their respective Cabinets. The concept of the collaborative procurement partnership and shared working approach has already been introduced and adopted through Cabinet. Whilst existing delegations are already in place to complete a partnership agreement, it was felt that in light of the substantial progress made through the collaboration, it was appropriate to seek full Cabinet's approval and present the proposed Procurement Strategy for consideration.

The core objectives of EPP, endorsed by the MAG are set out in Schedule 1 of the Collaboration Agreement provided at Appendix A, and transferred to Service Plan objectives, as follows:

- **Contract Liquidity** – To develop a clear contract register and forward plan to enable members to understand third party commitments and proactive procurement.
- **RFQ Process** – Provide the necessary template documentation and training to allow member authority staff to effectively undertake sourcing activity under the Party's tender threshold.
- **Sourcing Activity** – Undertake all procurement for the Members Authorities above the Party's tender threshold where placed on the pipeline 6 months ahead of requirement, with the exception of ECC where projects will be allocated by the Service Manager. This sourcing activity to be undertaken in line with the prioritisation approach set out in Schedule 3. Where projects are identified less than 6 months before needing to be procured the Lead Party will use best endeavours to undertake this procurement to support the requesting party.
- **Category Management** – Identify key categories of spend across member authorities and undertake review of this spend to identify savings opportunities, with the creation of a category strategy.
- **Collaboration** – Identify through category strategies and general procurement activity opportunities for collaborative procurement, create a plan for these projects and undertake sourcing activity to deliver benefits from this.
- **Frameworks** – Critically assess existing frameworks to understand income vs. effort and expertise to create. Focus on increasing income from existing frameworks and identifying new frameworks to increase income.
- **Social Value** – Introduce a common approach to social value/ climate agenda to sourcing activity for members.
- **Knowledge** – Provide business Parties and a supporting procurement team with the right knowledge and capabilities to deliver an effective and professional sourcing service to each member.

- **Development** – Undertake an assessment of procurement maturity and support in developing this level of maturity in line with the National Procurement Strategy.
- **Network** – enable access to wider expertise within the ECC team and wider authority network where resource is available.

The Collaboration Agreement sets out how EPP will deliver the objectives in detail and the governance structure which oversees its operation and further information is contained within the Background section of this report.

The Collaboration Agreement is proposed to be in place for a three-year trial period, during which time performance will be reviewed for all Member Authorities to consider whether it wishes to continue to participate in EPP and whether a longer-term position should be adopted. This timeline also accords with the potential Local Government Reorganisation programme and can be reflected upon as further information is known.

It is important that the Council responds proactively to the Prioritisation Approach and ensures that it maintains robust data to ensure the projects and services can be delivered by factoring the procurement activity and all 4 stages of the commercial pathway into their timelines. The Portfolio Holder for Assets and Community will have oversight of the Council's Procurement Project Pipeline to feed into the EPP workplan.

The Collaboration Agreement as set out in Appendix A, is still in draft form to be finalised for completion by the Member Authorities. The financial contributions can be met from existing budgets and any inflations through the normal budget setting cycles. As the level of procurement activity increases and the Procurement Act 2023 ("the Act") comes into force, with a revised National Procurement Policy Statement there is a need to review the legal resource and its capacity to support the partnership. There is a proposal to be explored with shared resources within the partnership and potentially funding additional capacity to provide procurement and contract legal advice.

The Procurement Strategy

The Procurement Strategy provided as Appendix B sets out the rationale for the Collaboration, Vision, Goals, Scope and Remit, and Strategic Priorities and Actions of EPP for the next three years and would be expected to apply to procurement within the Council. This seeks to deliver the agreed objectives as set out and in particular outlines how EPP will do so over the next three years in line with the Act.

Current guidance documents produced by the Government are highlighting the 4 stages of the commercial pathway being Plan, Define, Procure and Manage and the Strategy provides more detail on these stages, but all services across the Council should note that the procurement phase, is the 3rd one out of 4. More attention to preparation resources and groundwork being provided by the commissioning service area should be placed on the first two parts to ensure the Council can make the most of the flexibilities the new Act provides, by being clear of the service's intentions through the required notices.

EPP will review and update its Procurement Strategy annually to ensure that it remains relevant and responsive to the changing needs and circumstances of the Authorities including the new legislation and national policy. EPP will monitor and report on the progress and

performance of this Procurement Strategy to members and stakeholders.

The Procurement Act 2023 (“the Act”) introduces a shift in procurement objectives, moving beyond the traditional focus on equal treatment and non-discrimination. Now, contracting authorities are mandated to deliver value for money, maximise public benefit and act with integrity throughout the procurement process.

The Government’s National Procurement Policy Statement (NPPS) was published on 13th February 2025 in readiness for the Act going live on 24th February 2025 and comes into effect on the same date. The NPPS applies to all contracting authorities as defined in the Act. The Procurement Strategy supports the priorities of the NPPS, and further information is contained within the body of the report.

RECOMMENDATION(S)

It is recommended that Cabinet:

(a) Agrees to enter into a Collaboration Agreement for the delivery of joint procurement services for a three-year period on substantially the same terms as set out in Appendix A of this report with:

- **Braintree District Council**
- **Castle Point Borough Council**
- **Epping Forest District Council**
- **Essex County Council**

(b) agrees that the Director for Governance, being responsible for the Council’s corporate procurement function is authorised to sign the final Collaboration Agreement on behalf of the Council;

(c) agrees that Essex County Council should be the Accountable Body under the Collaboration Agreement acting as Lead Party, which includes responsibility for the day-to-day management of the service and its financial administration and managing seconded staff;

(d) notes that the Collaboration Agreement provides for annual contributions from the Council, which can be met from within existing budgets, although subject to review as part of the annual budget setting cycle to respond to changes such as inflationary increases;

(e) notes further secondment or employment of staff to Essex County Council to support Essex Procurement Partnership, is fully and jointly funded by its Members Authorities;

(f) supports exploration of additional resource to support the legal support to the Essex Procurement Partnership, in particular for procurement and contract legal advice;

(g) endorses the continuous improvement approach as identified seeking views on the existing partnership and joint working through an internal questionnaire to feed into the arrangement for the next three years;

(h) approves the Procurement Strategy for recommendation onto Full Council for adoption as required by the Council’s Policy Framework; and.

(i) instructs officers to regularly update the Portfolio Holder for Assets and Community Safety, as being responsible for procurement on the content and

quality of the Council's Contract Register and Procurement Project Pipeline ensuring it is kept up to date, enabling Council projects and business as usual can be delivered through the approved Essex Procurement Partnership Prioritisation Approach.

REASON(S) FOR THE RECOMMENDATION(S)

A number of benefits will be achieved to EPP members, so benefiting Essex residents. These benefits include:

- **Increased resilience** – through more resource, EPP is able to better flex to the peaks and troughs of each authority and enable effective delivery of projects in districts improving the services residents receive.
- **Procurement Expertise** – By operating across multiple authorities, staff are able to specialise in categories of spend, with more procurement activity in those categories. The result of this should be more informed procurements which in turn will deliver better value for money for the Tending residents.
- **Category Spend management and strategic oversight for consolidation opportunities** – Ensuring the Council can have regard to the importance of achieving value for money, as this is always the overarching priority in public procurement. Government guidance (e.g. Managing Public Money and Best Value statutory guidance) sets out how to use public money responsibly.
- **Savings Opportunities & Increased Market Influence** – Through a common forward plan of procurements required, and working as a team, the Member Authorities will be able to better identify collaborative procurement opportunities. This gives the opportunity to combine spend, creating economies of scale and so delivering contractual savings. Additional benefits will be achieved through efficiency in the resource model, with collaborative procurements enabling fewer tender processes to be undertaken. Over time, as the team develops, savings in the staff model will be enabled so reducing the overall cost of the team to member authorities.
- **Reduced Duplication** – Working together to have one common approach to procuring and social value will both create efficiencies for the procurement team and reduce administrative burden to those bidding for procurements. Small to Medium Enterprises and Voluntary Sector Organisations who tend to have limited resources to bid, should be particularly advantaged by this approach.
- **Staff Retention and Improved Practice** – By collaborating together, efficiencies will be created to enable the delivery of professional procurement practice. The common approach to assessing Social Value is an example of this. Other examples include work to understand the market from which we are sourcing, introducing an industry recognised category management approach to drive better value for money in Districts and Boroughs.
- **Governance** – ensuring the Member Authorities have appropriate and proportionate controls, systems and standards to manage procurement risk and to comply with legal requirements.

The adoption of the EPP Procurement Strategy for the Council to deliver in line with and publication on the Council's web page sets a clear direction of the next three years, in line with the requirements of the Act and the National Procurement Policy Statement.

ALTERNATIVE OPTIONS CONSIDERED

- (1) Not agree the Collaboration Agreement, with the Council undertaking resourcing and delivering procurement independently.
 - Benefits – Control over resource available.
 - Disbenefits – The efficiencies and benefits set out above will not be able to be delivered without additional investment. Procurement will remain reactive, and resource will need to be invested to prepare for the changes from the Procurement Act 2023. Recruitment and retention remain a concern and capacity to deliver the Council’s Corporate Plan and Priorities will be put at risk.
- (2) Carry on with the existing Service Level Agreement with Essex County Council – this is not the direction of pooled resources or government’s policy on local authorities working closer together through Local Government Reorganisation. The Council should remain at the heart of partnerships as they emerge and evolve.
- (3) Not agree the EPP Procurement Strategy, with the Council either creating its own Procurement Strategy or deciding not to implement one.

Disbenefits – Resource to create and deliver against the Procurement Strategy and if the Council failed to do so, we could be acting on old policies and strategies which are not consistent with new legislation and the NPPS. The Council would be failing in its responsibilities to deliver value for money and would not have the direction required to improve the professionalism of the service and meet the changing legislative demands of procurement.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Tendring District Council adopted its Corporate Plan 2024-28 (‘Our Vision’) at full Council in November 2023 (Minute No. 76 refers) with Community Leadership and listening to, and delivering for, our residents and businesses to be recognised as cross cutting elements of the Plan. The Corporate Plan Themes are:

- Pride in our area and services to residents
- Raising aspirations and creating opportunities
- Championing our local environment
- Working with partners to improve quality of life
- Promoting our heritage offer, attracting visitors and encouraging them to stay longer
- Financial Sustainability and openness

“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.”

A number of the Council’s priorities and statutory services rely on the procurement function to

deliver their objectives. From 24th February 2025, all contracting authorities are mandated to deliver the objectives as defined in the Act, being value for money, maximise public benefit and act with integrity throughout the procurement process.

The National Procurement Policy Statement (NPPS) is provided for at section 13 of the Act (coming into force on 24 February 2025). Contracting authorities are required to have regard to the policy objectives contained within the NPPS that is current at the time they are carrying out a procurement. The Act also specifies how the NPPS should be drafted, consulted upon and considered by Parliament. The NPPS has very recently been presented to Parliament and also comes into effect on the 24 February 2025.

There was no such statutory statement in the previous legislation. The first NPPS was released as PPN 06/21 and required, as a matter of policy, that contracting authorities take account of its specified priorities. The Act changes this so that contracting authorities are now under a statutory duty to have regard to the NPPS.

The new NPPS contains the following Priorities:

- **Delivering Value for Money:**

In carrying out a procurement covered by the Act, a contracting authority must have regard to the importance of delivering value for money. Achieving value for money is always the overarching priority in public procurement. This must include consideration of outcomes and quality to avoid waste from low value, poor quality bids. This means optimising the use of public funds by balancing effectiveness, efficiency and economy over the life cycle of a product, service or works to achieve the intended outcomes of the procurement. This includes wider socio-economic and environmental benefits and impacts. The Act will deliver a step change in the transparency of public procurement that will drive value for money, bringing greater visibility of pipelines of future opportunities through to individual contract performance. Contracting authorities will need to ensure they have the right capability to benefit from the new commercial tools and deliver greater value for money.

- **Driving economic growth and strengthening supply chains by giving small and medium-sized enterprises (SMEs) and voluntary, community and social enterprises (VCSEs) a fair chance, creating high quality jobs and championing innovation.**
- **Delivering social and economic value that supports the Government's missions including by working in partnership across organisational boundaries where appropriate.**
- **Ensuring the right commercial capability and standards are in place to procure and manage contracts effectively and to collaborate with other contracting authorities to deliver best value.**

OUTCOME OF CONSULTATION AND ENGAGEMENT

Consultation has taken place in the creation of the Essex Procurement Partnership with representation across the member Councils, at elected Member, senior officer and operational levels. Through the consultation it has been agreed to create one collaborative approach

and the officer team for undertaking of procurement for these operations with ECC as the operating as the Accountable Body given its position with regards to expertise, capacity and collaborative approach already in place over a number of Councils, in particular Tendring District Council through the initial joint service. The documents provided as Appendices A & B have been developed with these officers.

The EPP member authorities have been working together over the last 18 months to develop this collaborative approach to procurement and latterly to agree the collaboration agreement appended to this report. All partner authorities are now taking this proposal through their respective decision-making bodies.

A questionnaire is being developed for internal use to seek feedback on the collaborative working with Essex Procurement to date, to ensure that the future arrangements can be delivered with continuous improvement in mind reflecting on previous experiences. It is intended that feedback will also be sought from Essex Procurement on the way the Council approached the initiative, so that we too can also learn lessons for the future.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	YES	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input checked="" type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	Longer than 28 days

The Member Authorities have decided to work collaboratively together to pool resources to deliver day-to-day procurement activities and wider specialist procurement advice and support on behalf of each other.

The Collaboration Agreement will be entered into by the member authorities to document how the parties will work collaboratively.

ECC will be the 'Lead Party' under the Collaboration Agreement which means they will be responsible for the day-to-day management of the service. As the Accountable Body, they will also hold the financial contributions received from other member authorities and be responsible for the financial administration of the service.

The Collaboration Agreement will be made pursuant to the Local Authority (Goods and Services) Act 1970, Sections 101 and 113 of the Local Government Act 1972, Section 9EA of the Local Government Act 2000 together with the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2012 and all other enabling powers. Therefore, the Council is not commissioning the work of Essex Procurement Partnership but is forming a

shared service to deliver the functions in a collaborative manner, with Tendring Council still making the decisions as the Contracting Authority.

The Agreement as set out in Appendix A is currently in draft form (as different to document as attached to the Braintree and Essex Councils' reports, as it has been amended in format, but not the principles, which are the same). The Director for Governance has been working with EPP on the drafting of the legal agreement.

These arrangements will need to be reviewed and revisited as part of devolution and reorganisation and review mechanisms are built into the agreement. A review of contracts also forms a huge part of the work programme for EPP, and this work will also feed into the LGR workstreams.

Article 4 of the Council's Constitution sets out the Council's Policy Framework which includes the Procurement Strategy (including the Social Value Policy) (Part 2.7). Once approved by Cabinet the Procurement Strategy must be recommended to Full Council for approval and adoption as part of its Policy Framework.

PART 5 CONSTITUTION - PROCUREMENT PROCEDURE RULES

The Council's Procurement Procedure Rules (Part 5) are still fit for purpose, both in line with the principles of the Act and the objectives of the EPP, but it is recognised that these will require reviewing and collaborative work has already commenced. There maybe some additional steps as a result of the Act, which mainly cover openness and transparency with the publication of a range of notices on the national database called Central digital Purchasing Platform.

PROCUREMENT ACT 2023:

Public procurement under the previous legislation was subject to principles derived from the Treaty on the Functioning of the European Union that sought to create a single public procurement market in the EU and maximise cross-border procurement. The Act does replicate some significant aspects of those principles, namely those that ensure fairness, but it does so by introducing revised objectives for covered procurement at Section 12 that government considers better meet the UK's domestic needs.

These objectives set out the matters contracting authorities must give proper consideration to in the course of carrying out a procurement:

- value for money;
- maximising public benefit;
- transparency; and
- integrity.

With respect to equal treatment and non-discrimination, which were features of the previous regime, the Act provides, at sections 12(2) and (3), that contracting authorities must treat suppliers the same unless a difference between suppliers justifies different treatment (equal treatment).

Ensuring value for money in procurement is key to ensuring the optimum utilisation of limited

public resources. What is new in the Act is the explicit recognition (at section 12(1)(a)) that value for money is a key objective of public procurement.

Section 12(4) requires contracting authorities to have regard to the difficulties faced by small and medium-sized enterprises (SMEs) who wish to participate in public procurements and consider whether these can be mitigated. The definition of SMEs is found in section 123(1).

The objectives in section 12 provide signifiers as to what contracting authorities must do, and have regard to, in order to carry out fair procurements in a proportionate manner; but a noticeable difference from the previous legislation is that there is no underlying principle of proportionality in the Act. That is not to say that proportionality is not an important principle. Under the Act, where proportionality must be considered, this is expressly set out in the relevant sections.

The Procurement Review Unit (PRU) will manage the oversight regime on behalf of the government. The PRU will monitor compliance by contracting authorities, focusing mainly on investigations into contracting authorities who demonstrate 'institutional non-compliance' across its procurements (section 108 of the Act). Their role could be seen as similar to the Local Government and Social Care and Housing Ombudsmen but not to determine on the lawfulness of any particular activity. If an investigation is being conducted, the PRU may by notice require the contracting authority to provide relevant documentation as is reasonably required for the purposes of the investigation. It is an avenue, aggrieved suppliers can utilise, being able to raise queries akin to the current Ombudsman processes.

INFORMATION SHARING DUTY:

The Act creates an environment of 'transparency by default' by imposing procedural transparency obligations at each stage of the procurement so that contracting authorities are clear about exactly what they are required to publish.

The information-sharing objective at section 12(1)(c) complements these procedural transparency obligations by introducing an overarching, general requirement for contracting authorities to have regard to the importance of sharing information for the purpose of allowing suppliers and others to understand the authority's procurement policies and decisions.

This duty does allow the contracting authority some discretion in deciding what to share beyond the specific procedural transparency requirements although the purpose of the objective in its own right must be borne in mind.

Notices and Decisions made in respect of procurement activity will increase in scale and detail.

BEST VALUE DUTY:

The Best Value Duty relates to the statutory requirement for local authorities and other public bodies defined as best value authorities in the Local Government Act 1999 to "*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 Statutory Guidance issued in May 2024, makes reference to the procurement function in 4 of the Best Value Themes demonstrating how important it regards the process to

achieve value for money, and standards expected as characteristics of a well-functioning authority:

- **Governance** - *Effective procedures are in place and followed to ensure members and all officers comply with the Nolan Principles, relevant codes of conduct and policies, including procurement. This includes adequate protections and support for whistle-blowers and adherence to Contract Procedure Rules.*
- **Use of resources** - *Sustainable corporate functions including procurement and IT which deliver value for money.*
- **Service delivery** - *Procurement processes ensure economic, efficient and effective outcomes of contract procurement and management.*
- **Partnerships and community engagement** - *The authority drives social and environmental value in their place through mechanisms like procurement and employment.*

An indicator of failure is described as having inefficient or uncompetitive procurement arrangements that do not deliver value for money.

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

The Monitoring Officer is the author of this report.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Paragraph 2.3 of the Council's Procurement Procedure Rules as set out in Part 5 of the Constitution requires alternative delivery options for whole or part of services to be achieved in accordance with the Council's Procurement Strategy. The current Strategy (2012) expressly refers to '*Our Partners in Procurement*' and that the Council will seek to work with a number of partners to maximise any procurement opportunities and provide best practice. This includes other public bodies and shared services.

The current Service Level Agreement with Essex County Council has to date been funded primarily via 'holding' two in-house dedicated procurements posts vacant. This level of resource was increased in 2024/25 via an agreed contribution through the Housing Revenue Account due to the number of procurement activities directly related the Council's landlord function that have been supported within the current SLA arrangement with ECC.

Based on the above, the underlying budget available to support the current associated arrangement with ECC in 2024/25 totals £133,290, which increases to £142,440 in 2025/26.

An additional one-off sum of £45,000 also remains within the budget for 2024/25 that is available to support additional procurement activities if required.

In addition, funding for additional procurement capacity has been identified and approved by Cabinet in relation to the work required to support the Levelling Up Partnership although, the resource has not yet been recruited to, Essex County Council are providing the extra procurement support.

Other Member Authorities within the proposed collaboration do have some officers supporting

procurement activity within their Councils and therefore arrangements are being considered for secondments to Essex County Council, as the Lead Party and Accountable Body. Tendring District Council does undertake the client side of managing the existing Essex Procurement SLA and support to the lower threshold activity, providing governance and compliance advice, along with additional procurement advice and 'referral' to the EPP if it is tender appropriate or potential savings by collaboration. General administrative functions are also provided in-house such as contracts register data collation provided by services across the Council and the Procurement Pipeline of Projects, which assists with the prioritisation within the partnership. This resource will remain with Tendring as part of the Governance Directorate. Consequently, there are no employment issues to address for the Council, the current Public Contract Regulations 2015 permit public sector shared service and collaboration arrangements within certain criteria, which have been observed in the Service Level Agreement arrangement and will continue to do so under the wider collaboration. These principles also exist within the Act.

The Council's Procurement Procedure Rules are observed in any bids or tender exercises managed by ECC on behalf of TDC.

In terms of the EPP proposals, Essex County Council are funding £99,846 in 2025/26 for a Procurement Specialist which will lead the Essex Procurement Partnership for the three-year trial period. All other staff costs are covered by the other Member Authorities for EPP, alongside relevant organisational overheads as set out in Table A below.

This recognises that EPP staff will work flexibly across each organisation, but as capacity is funded via a contribution from the Housing Revenue Account, arrangements will be put in place to ensure that the associated ring-fencing arrangements are maintained.

Each Party will pay its Financial Contribution to ECC, the Financial Contribution will cover the staff costs and overheads associated with those staff. The contributions as shown in Table A. Braintree District Council will pay their contribution and will invoice back for the staffing cost of the seconded staff.

Time recording will be undertaken to baseline the resource time per Member Authority, where usage differs from this baseline, this will be discussed at Strategic Officer Group, with consideration given to the reason for this change and whether this is a temporary or long-lasting change. This will inform the decision of the Strategic Officer Group about how to alter future resources to reflect the change in usage. Financial Contributions will be updated to reflect the changes in resources.

Note that costs in Table A are for 2024/25 and will be subject to pay award and inflationary increases as with existing costs. The overhead charges can be revisited in the future if there are material changes to the assumptions behind the calculations. These costs will be picked up by each Member Authority for their individual payments and ensure the true costs will continue to be picked up through the term of the collaboration agreement.

ECC will maintain insurance for the activity undertaken by EPP, which does not carry any additional cost burden. The excess resulting from a claim where EPP is at fault will be paid by EPP, while any claim resulting from a procuring Council will be paid by that Council. Each Member Authority will maintain insurance for their input into the procurement process.

Essex Procurement Partnership – Member Authority	Staffing (based upon 2024/25 activity)	Overhead Charge	Financial Contribution
Braintree:	99,345	10,870	110,215
Castle Point	39,738	4,348	44,086
Epping Forest	59,607	6,522	66,129
Tendring	122,972	13,455	136,427
23/24 figures were	116,758 (as identified in the Collaboration Agreement)		
Total	321,662	35,194	356,856

Based on the underlying budgets highlighted earlier, the proposed contributions in the table above can be met from within existing budgets, which can be reviewed annually as part of the setting cycle.

Through EPP, additional income maybe charged for one off projects, which exceed the level of usage agreed with the Member Authority, these will be agreed with the procuring Council to be resourced separately, for example to support the additional procurement support required for the Levelling Up Fund, CRP and Partnership.

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

Although there are no significant comments over and above those set out elsewhere in the report, the proposed approach provides opportunities over the next three years to build on the current partnership agreement with ECC to support the Council's on-going best value / value for money arrangements.

USE OF RESOURCES AND VALUE FOR MONEY

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

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The concept of a wider Shared Procurement Service across Councils within Essex builds upon existing the Service Level Agreement to ensure the Council can continue perform its procurement functions, as required by legislation and internal governance.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	All procurement activity will continue to be in accordance with Tendring District Council's Procurement Procedure Rules, as contained with Part 5 of the Constitution which are still compatible with the new legislation. However, there will be additional requirements such as

	publishing notices and decisions providing more information which will be necessary. The report presents a new Procurement Strategy with recommendation onto Full Council, which supports the partnership approach.
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.	Throughout the report details are provided on how the 3 E's are improved with the collaborative approach.
MILESTONES AND DELIVERY	
<p>16 December 2024 – Braintree District Council Cabinet meeting (to establish the Essex Procurement Partnership, approval of the Procurement Strategy) and Social Value Approach.</p> <p>21 January 2025 – Essex County Council Cabinet meeting (as above)</p> <p>21 February 2025 – Tendring District Council's Cabinet meeting (as per the recommendations set out in this report)</p> <p>24 February 2025 – New Procurement Act 2023 & National Procurement Policy Statement comes into force.</p> <p>March 2025 – Epping and Castlepoint Cabinet meetings</p> <p>31 March 2025 – expiry of existing Service Level Agreement with Essex County Council for Procurement Services.</p> <p>31 March 2025 – Completion of the Collaboration Agreement – If approval is given by the participating Member Authorities, the final Collaboration Agreement will be signed with secondment of staff from other Member Authorities (not Tendring) to Essex County Council in line with a development mobilisation plan. The intention being that the service begins in April.</p> <p>Subject to Cabinet's decision - Procurement Strategy recommended to Full Council for adoption as part of the Council's Policy Framework – Full Council meeting on 25 March 2025.</p> <p>Raising awareness of the new Procurement Act requirements, Collaboration Agreement and Prioritisation Approach, Procurement Strategy with staff and stakeholders from March 2025 onwards.</p>	
ASSOCIATED RISKS AND MITIGATION	
<p>There is a risk that with a wider Essex Procurement Partnership, Tendring District Council's procurement activity is reduced in prioritisation however, this is mitigated through further development of the Procurement Project Pipeline for Tendring and referenced in the Collaboration Agreement (Schedule 3).</p> <p>The agreed Prioritisation Approach sets out the order in which sourcing projects of each Authority are undertaken. Projects will be evaluated in line with the Prioritisation Tool embedded within Schedule 3 as follows:</p>	

- a. Projects graded A-E will be placed on the forward plan.
- b. Projects with time limited funding or where the contract will expire will be prioritised in line with the parameters set out in sourcing grading tool.
- c. All other projects will be scheduled on the forward plan considering when the contract is required and in order of the grading i.e. Grade A first

Where a project not on the forward plan requires immediate resource, the grading will be assessed against projects currently being undertaken and where there is an opportunity to pause an existing project this will be done to enable the urgent project to be undertaken.

Where a project cannot go ahead due to resource not being available, discussions will be held with the member Authority affected to consider options for example a short exemption to enable a procurement to be undertaken. The Partners Working Group will be updated as part of the monthly reporting cycle.

Tendring has 134 (procurements identified, in progress, on hold, awarded, closed) on the Procurement Project Pipeline and further work is being undertaken to clarify numbers of each category). So far there are 9 projects identified for the Levelling Up Partnership although this requires updating.

The robustness of the Council's Procurement Project Pipeline is essential to fed into the Prioritisation Approach and to date the quality and timeliness of the information has put the procurement resources under particular strain. Further discipline is required across the Council's services to understand the importance of the data and the consequences of failing to keep the information up to date.

EQUALITY IMPLICATIONS

The Public Sector Equality Duty applies to the Council when it makes decisions.

The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

Essex County Council have undertaken an Equalities Impact Assessment for the Essex Procurement Partnership (referred to in their report to Cabinet on 21 January 2025) which indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

SOCIAL VALUE CONSIDERATIONS

One of the key objectives of the partnership between Tendring and Essex over the past 3

years has been to introduce a common approach to social value/climate agenda to sourcing activity for members.

At its meeting in November 2024 (Minute No. 82), Cabinet approved a Social Value Policy to demonstrate how the Council will deliver corporate priorities by achieving social value through procurement. Ensuring the additional benefit to the community which we can derive, over and above the direct purchasing of goods, services and outcomes, where these quality criteria are relevant and proportionate to the subject matter of the contract and non-discriminatory.

IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2050

Our Social Value Themes, Outcomes and Measures (TOMs) adopted in November 2024, have been agreed by our partners to directly contribute towards achieving each partner’s Corporate Priorities. TOMs will be used in the evaluation process and which ones are used will be dependent on the nature of the procurement. Tenderers will have to demonstrate they will achieve benefits in the TOM to score points. The Measures represent added value that we would like our suppliers to deliver locally to the respective Borough, City or District of the Contracting Authority and as a result of the contract being tendered unless otherwise stated in the tender documents.

Within the Policy: Priority 4 (**Theme**) ‘A high-quality environment’, **Outcome** – “Suppliers contribute to the delivery of net zero targets; reduced greenhouse gases; reduced waste; and strengthened climate resilience’. For an example “**Measure** - Saving car miles on the contract through green transport programmes such as cycle to work and car-pooling programmes or public transport’ (EPP23a)

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	There are no implications from the subject matter of this report, however each project and new procurement opportunity will consider these implications through the individual decision making.
Health Inequalities	
Area or Ward affected	None

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Collaboration Agreement sets out how EPP will deliver the objectives in detail and the governance structure which oversees its operation.

The Member Advisory Group will work closely with the Strategic Officer Group, consisting of Director level representation from each EPP Member Authority will have responsibility for:

- Setting the strategic direction of the collaboration, ensuring the service meets the defined service objectives.

- Agreeing the priorities of the collaboration within the resources available and supporting the process for ensuring sufficient resources are provided by each party to enable the objectives to be delivered.
- Monitoring the performance of the service delivered by the Lead Party (ECC) to ensure it is working effectively and in line with the work plan agreed by the parties.
- Agreeing to the growth of the collaboration with new Local Authorities joining.

The above groups will be supported by the Officer Operational Group and Partner Working Group with a greater operational focus to ensure confidence that sourcing activity is being done effectively and demands from each Member Authority are being effectively met.

These groups ensure that the work and strategic direction of EPP and procurement in the Member Authorities are set by the parties in partnership. It is a collaboration of resources from across these Member Authorities rather than a service being delivered by one Council on behalf of others although as the Lead Party, ECC will have some additional responsibilities as set out in this report.

The existing collaborative approach with shared procurement resources has already identified a number of specific activities that have been jointly delivered to Tendring District Council, such as:

- Ensure the Council's practices are up to date with legislation, both existing and emerging, national guidance and best practice.
- Commercial awareness in public law environment focusing on procurement opportunities.
- Developing and delivering training both on the existing regime and ensuring readiness for the implementation of the Act.
- Seek compliance with the regulatory framework and raising matters of probity and non-compliance with Senior Managers, Management Team and Internal Audit, where necessary.
- Incorporate Social Value opportunities through the production of a Social Value Policy for procurement purposes (adopted in November 2024).
- Develop a revised Procurement Strategy to be used across the Councils to enable wider collaboration and common approaches (as attached).
- Review of the Procurement Procedure Rules (currently in progress); and
- Contract management principles (developed but requires training and awareness).

The objectives of the new Act transform public sector procurement, driving innovation, delivering better outcomes and embedding transparency at each point of the procurement pathway. Crucially, it will let everyone access procurement data and understand how money has been spent.

In line with the above objectives, the Act sets out the following four stages, note the emphasis on pre procurement activity:

- Plan
- Define
- Procure
- Manage

The new act brings in considerable flexibility, but this requires planning and defining the route

to be taken ahead of procurement. EPP have undertaken a significant amount of training on the new Act and have worked with Essex County Council to develop procurement approaches, standard templates etc. for the new Act.

The Government's Commercial Function produced on 29 January 2025, an updated short guide for Senior Leaders on the Act, some extracts are included for reference.

It will create simpler, more flexible and effective procurement. The Procurement Act will bring a range of benefits, including:

- creating a simpler and more flexible commercial system that better meets our country's needs, while remaining compliant with our international obligations.
- opening up public procurement to new entrants, such as small businesses and social enterprises, so that they can compete for and win more public contracts.
- taking tougher action on underperforming suppliers and excluding suppliers who pose unacceptable risks.
- embedding transparency throughout the commercial lifecycle so that the spending of taxpayers' money can be properly scrutinised.

The Government Commercial Function has rolled out a comprehensive programme of learning and development for people whose work touches on procurement and who need to be aware of the changes - including contract managers, finance teams, service commissioners, legal advisers and reporting teams. Tending and Essex officers have undertaken the training. Further training will be delivered in-house to those involved in procurement activity.

In order to take full advantage of the new regime, organisations should treat this as an organisational change programme. This is a great opportunity to make procurement processes better to deliver outcomes for taxpayers - this needs support from budget holders and policy designers.

Go-live on 24 February 2025 will mark the beginning of the journey. Not all the benefits of the new regime will be available from Day 1. However, senior leaders can support the process as we approach go-live and beyond by:

- Checking in and offering support and encouragement for your commercial and procurement teams who are coordinating the change and championing their work across the wider organisational family.
- Encouraging early engagement by policy with commercial teams - this is key to delivering innovation and getting the most from the market.
- Using the new flexibilities in procurement when appropriate and championing this change across government and wider public sector - in order for this reform to be effective, we need to drive behavioural changes.

PREVIOUS RELEVANT DECISIONS

Cabinet Report 17 SEPTEMBER 2021 Minute No 42

[\(LINK: Agenda for Cabinet on Friday, 17th September, 2021, 10.30 am\):](#)

REPORT TEXT - OTHER EMERGING ISSUES:

Appendix B sets out a number of proposed budget adjustments that respond to other

emerging issues as at the end of July 2021. Following the recent retirement of the Council's Procurement Manager, discussions have commenced with ECC in terms of a shared service / collaborative approach as a way of providing a more comprehensive procurement service to our internal departments. This approach would involve the Council purchasing a range of procurement services from ECC on a proposed 'hourly rate' basis via a service level agreement. Although this remains subject to ongoing discussions, Appendix B sets out a proposed adjustment, which would see budgets transferred from direct employee costs to 'contract' payments to ECC. This approach would also support the accelerated delivery programme where the Council would have access to specialist / expert advice along with additional procurement capacity e.g. it could support the procurement of replacement cremators as set out elsewhere in this report. This arrangement will be kept under wider review as it may form part of a longer-term solution where the Council continues to have access to such advice as part of the future delivery of projects and activities along with 'usual' operational requirements expected of a procurement function / service.

Appendix B – relevant extract

Proposed Adjustments to the Budget as at the end of July 2021		
Description	Budget £	Reason for Adjustment
Direct budgets associated with the in-house procurement service	(67,790)	Work remains on-going to explore the opportunity to work with ECC on a shared service / collaborative approach to the provision of procurement services within the Council. This adjustment forms the basis of realigning the existing procurement services to support this proposed approach, with further details set out in the main body of the report.
Payment to ECC	67,790	

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

- (b) agrees the proposed in-year adjustments to the budget as set out in Appendix B;
- (c) agrees an exemption to the Council's procurement rules in order to enable a Service Level Agreement to be entered into with Essex County Council to enable the Council to 'buy in' various procurement services from them to support its day-to-day operational activities and the delivery of one-off projects, as necessary; and
- (d) authorises the Assistant Director (Finance and IT) and the Deputy Chief Executive to agree the terms of the Service Level Agreement, in consultation with the Portfolio Holder for Corporate Finance and Governance.

Following consultation with the Portfolio Holder for Corporate Finance and Governance, and an Officer Decision published on 24 August 2022, [Decision - Essex County Council Service Level Agreement with Tendring District Council](#)] a Partnership Agreement was completed in August 2022; the services however commenced in October 2021 and continued until October 2023 for an annual payment of £60,000. The agreement can be renewed annually for up to 5 years. The agreement included a clause that should a Party not wish to renew for the next financial year they must serve at least 3 months written notice.

Cabinet Decision March 2023 – Minute No. 137 ([Cabinet March 23 - Shared Procurement Update.pdf](#)) agreed the extension to the SLA with ECC for the procurement resources and welcomes the work identified for a joint approach to Social Value for procurement purposes, for a further report to be presented at a Cabinet meeting later in 2023.

The Report also highlighted that with an ongoing vacancy of a senior post at Tendering for Corporate Procurement and Contract Management, it was proposed that £45,000 be reinvested to contribute to the shared procurement service for 2023/24, to develop and deliver the above activities. This was confirmed within the decision:

(e) authorises the contribution of £45,000 from existing vacancies to the shared procurement project for the development of activities as set out in the report.

On 3 November 2023, Councillor Kotz made an Executive Decision, as Portfolio Holder responsible for procurement endorsing the work identified for a joint TOMs approach to Social Value for procurement purposes, for further development against the Council's Corporate Plan, with a report being presented at a later Cabinet ([Decision - Shared Procurement Service - SERVICE LEVEL PARTNERSHIP AGREEMENT - PROVISION OF PROCUREMENT SERVICES BY ESSEX COUNTY COUNCIL & SOCIAL VALUE MEASUREMENT](#)).

In October 2023, as part of a response to urgent essential issues emerging within the Council's Housing Revenue Account (HRA), the Leader made an Executive Decision, amongst other things, to approve an additional contribution of £60K to ECC to secure necessary procurement capacity to support delivery of a range of important HRA activity. The longer-term impact of these decisions was to be covered in the 30-year HRA business planning process for 24/25 and covered in the budget decisions in February 2024.

Officer Decision 4th March 2024 – To vary the Service Level Agreement for the delivery of procurement functions with Essex County Council to increase capacity and provide additional services. The cost of the extension was £31,997.50 from 1st October – 31st March 2024 and increased capacity for additional services is £52,763.62 for October 23-September 24. [Decision - Variation to Service Level Agreement for the delivery of procurement functions with Essex County Council.](#)

On 17 April 2024, Councillor Kotz made an Executive Decision agreeing to extend the existing Service Level Agreement with Essex County Council for a further 6 months to allow the Essex Procurement Partnership Agreement to be completed. [Decision - SERVICE LEVEL PARTNERSHIP AGREEMENT - PROVISION OF PROCUREMENT SERVICES BY ESSEX COUNTY COUNCIL extension for 6 months](#)

A decision was not published for October 2024 to March 2025, as we were due to take a report to Cabinet for the Partnership Agreement and Strategy, and to cover the additional support required for the Project Delivery Unit (see below). However, no payments have been made, and the agreement continues unless notice is given, and the funding the service level agreement is met through salaries budgets.

Cabinet were presented with a report at its meeting on 26 July 2024, regarding "Resources To Increase Project Delivery And Progress Levelling Up Partnership". Within the body of the report, it stated "*Levelling Up Fund, Capital Regeneration Projects and anticipated Levelling Up Partnership programmes, are outside the current resource allocation for Essex*

Procurement Service Level Agreement with the Council and so resources being allocated to deliver the schemes so far have been within the existing funding and therefore has had a significant impact on Council business as usual procurements. The Project Delivery Unit includes funding for additional procurement resource within Essex Procurement Service to support the implementation of these programmes”.

Funding was identified for additional procurement support however no decisions were made, and this was rectified in the FINANCIAL PERFORMANCE REPORT 2024/25: GENERAL UPDATE AS AT THE END OF SEPTEMBER 2024 report to Cabinet in November 2024 (minute. No 83).

The Portfolio Holder’s recommendations proposed delegations to enable the flexible use of funding previously set aside to support the development of the Council’s Project Delivery Unit along with a contribution to ECC for procurement support.

(e) in respect of the Project Delivery Unit budget:

- (i) authorises the Director for Governance and the Director for Finance & IT, in consultation with the Corporate Director (Place and Economy), to enter into an agreement with Essex County Council (ECC) to increase existing procurement capacity for Tendring District Council; and*
- (ii) agrees a sum of up to the value of £120,000 over two years from the associated approved budget to fund the additional procurement capacity from ECC.*

[Minutes Template](#) This decision still requires action for further resources to be allocated.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

APPENDIX A – Draft Collaboration Agreement
APPENDIX B – Procurement Strategy

REPORT CONTACT OFFICER(S)

Name	Lisa Hastings
Job Title	Director of Governance and Monitoring Officer
Email/Telephone	lhastings@tendringdc.gov.uk 01255 686561

A.2 APPENDIX A



Dated _____ 2025

- (1) **Essex County Council**
- (2) **Braintree District Council**
- (3) **Castle Point District Council**
- (4) **Epping Forest District Council**
- (5) **Tendring District Council**

Agreement for the collaborative delivery of joint procurement services through the Essex Procurement Partnership

THIS AGREEMENT dated [.....] 2025

is made **BETWEEN**:

- (1) **Essex County Council** whose administrative offices are at County Hall, Market Road, Chelmsford, CM1 1QH (Lead Party & EPP Member Authority);
- (2) **Braintree District Council**, whose administrative offices are at Causeway House, Bocking End, Braintree, Essex, CM7 9HB (EPP Member Authority);
- (3) **Castle Point District Council**, whose administrative offices are at Kiln Road, Thundersley, Benfleet, Essex, SS7 1TF (EPP Member Authority)
- (4) **Epping Forest Borough Council**, whose administrative offices are at Civic Offices, 323 High Street, Epping, CM16 4BZ (EPP Member Authority)
- (5) **Tendring District Council**, who administrative offices are at Town Hall, Station Road, Clacton-on-sea, Essex, CO15 1SE (EPP Member Authority)

Each a Party and together the Parties.

BACKGROUND

- (A) The Parties to this Agreement have decided to work collaboratively together, as Member Authorities of Essex Procurement Partnership, to pool resources to deliver day-to-day procurement activities and wider specialist procurement advice and support on behalf of each other. The Parties will be governed by the terms and conditions of this Agreement.
- (B) Through this collaboration, the Parties will create common procurement documentation including a common strategy. The Parties will adopt the Essex Procurement Partnership Procurement Rules where they are not in conflict with the Constitution of each Party. The Parties agree with the objective of moving to formal joint procurement procedure rules to be embedded within their organisations over the period of this Agreement.
- (C) The Parties will identify common procurement activities and work to jointly procure goods, services and works to the benefit of each Member Authority and in line with the objectives, rationale, values and principles as set out in schedule 1.
- (D) The Lead Party will operate the procurement function on behalf of the Parties, with oversight by the Strategic Officer Group and Member Advisory Group.
- (E) This Agreement governs the Parties collaboration in relation to the delivery of the procurement function, in line with (G) below.
- (F) This Agreement is therefore made pursuant to the Local Authority (Goods and Services) Act 1970, Sections 101 and 113 of the Local Government Act 1972, Section 9EA of the Local Government Act 2000 together with the Local Authorities (Arrangements for the discharge of functions) Regulations 2012 and all other enabling powers.
- (G) Regulation 12 (7) of the Public Contract Regulations permits a contracting Authority to enter into a contract to cooperate on the delivery of public services to achieve common objectives. The EPP Members authorities are cooperating with the Lead Party to deliver procurement services.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following expressions have the meaning set opposite:

Agreement:	means this Agreement, including its Schedules, as amended from time to time in accordance with clause 10.8.
Agreement Year:	a period of 12 months, commencing on the Commencement Date.
Announcement:	any public announcement, communication or circular in relation to this collaboration or the Agreement.
Authorised Representative	An individual designated by each Party to represent that Party and Member Authority on the Strategic Officer Group authorised to undertake actions as required by this Agreement.
Background:	any information, data, techniques, Know-how, inventions, software, discoveries and materials (regardless of the form or medium in which they are disclosed or stored) that are provided by one Party to another Party for use in the Service (whether belonging to that Party or to a third party, and whether before or after the date of this Agreement), except any Result.
Business Days:	Monday to Friday (inclusive) except bank or public holidays in England.
Chair	The Chair who has been nominated by the Strategic Officer Group to oversee the operation of the Strategic Officer Group and ensure it has the information required to assess the effective operation of the Essex Procurement Partnership.
Chartered Institute of Procurement and Supply	A professional body working for the procurement and supply profession promoting best practice.
Commencement:	1 st April 2025
Confidential Information:	each Party's confidential information is: any Background disclosed by that Party to any of the other Parties for use in the Service and identified as confidential before or at the time of disclosure; and any of the Results [in which that Party owns the Intellectual Property Rights] OR [in relation to which it has an exclusive licence]; and any other information disclosed by that Party to any of the other Parties for use in the Service or under this

Agreement and identified as confidential before or at the time of disclosure or which, by its nature or from the circumstances of its disclosure, should reasonably be presumed to be confidential including but not limited to the sourcing Services

Contracting Authority: The identified Member Authority for each procurement activity going through Essex Procurement Partnership, as defined in the Procurement Act 2023.

Data Protection Legislation: means all applicable data and privacy legislation in force from time to time in the UK including without limitation:

- (i) the UK GDPR;
- (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy;
- (iii) the Privacy and Electronic Communications Regulations 2003(SI2003/2426) as amended; and
- (iv) the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and which are applicable to a party.

Essex Procurement Partnership or EPP: The name of the collaborative working arrangement and Shared Service as set out in this Agreement.

drafting note – check schedules

Essex Procurement Partnership Procedure Rules: The rules by which EPP will undertake procurement activity

Financial Contribution: the financial contribution to be made by a Party Service, as set out in Schedule 2.

Intellectual Property Rights: patents, rights to inventions, trademarks, service marks, registered designs, copyrights, database rights, design rights, rights to use and protect confidential information, in each case whether registered or unregistered, including rights to apply for and be granted and applications for any of the above, and any continuations, continuations-in-part, divisional applications, renewals or extensions of,

and rights to claim priority from, those rights, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above;

Initial Term:	the period commencing on the Commencement Date and ending on the 3rd anniversary of the Commencement Date.
Key Personnel:	in the case of: Essex County Council: Melanie Evans Braintree District Council: Suzanne Bennett Castle Point District Council: Lance Wosko Epping Forest District Council: Samantha Preston Tendring District Council: Lisa Hastings
Know-how:	unpatented technical information (including information relating to inventions, discoveries, concepts, methodologies, models, research, development and testing procedures, the results of experiments, tests and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions) which is not in the public domain.
Lead Party	is Essex County Council as agreed between the Parties.
Member Authority	A local authority, named as a Party to this Agreement and a member of Essex Procurement Partnership.
Member Advisory Group	A group consisting of a Councillor representative nominated by each of the Parties in accordance with clause 2.7 acting in collaboration performing the role as set out in the terms of reference in Schedule 5. This group will meet every 6 months.
Partner Working Group	The individuals nominated by each Party who will liaise with the Lead Party to enable delivery of the strategic objectives as set out in Schedule 1 and oversee the prioritisation approach, as set out in Schedule 3,
Prioritisation Tool	means the approach to assigning resource to procurement projects in line with their relative importance to each Member Party.
Procurement Act	the relevant legislation applying to UK public procurement and sourcing activity by the Parties in force, as amended, from time to time, including secondary regulations, statutory guidance and national policy.

Results	all information, data, techniques, Know-how, results, inventions, discoveries, software and materials (regardless of the form or medium in which they are disclosed or stored) identified or first reduced to practice or writing in the course of the Service including but not limited to.
Shared Service:	the Service to undertake sourcing activity on behalf of each party as set out in the Service Plan (Schedule 1).
Shared Service Pipeline:	a list of procurement projects across the EPP Member Authorities which will require resource.
Service Manager	the service manager who is an authorised representative of the Lead Party will have responsibility for the operation of the sourcing activity as described within Schedule 1 (Service Plan) and the general operation of the collaboration.
Service Plan:	the Service Plan annexed to this Agreement as Schedule 1, as varied from time to time under the terms of this Agreement.
Staff	means all persons employed or engaged by a Party to this Agreement including servants, agents, suppliers and sub-contractors, with terms and conditions of hosting or secondment arrangements being confirmed in writing in accordance with section 113 of the Local Government Act 1972.
Strategic Officer Group:	the Key Personnel and Authorised Representatives acting in collaboration performing the role of oversight, steering group and to supervise the carrying out of the Service. This group will meet every three months.
Term:	the period of the Initial Term as may be varied by: <ul style="list-style-type: none"> (a) any extensions to this agreement which are agreed pursuant to clause 3; or (b) the earlier termination of this agreement in accordance with its terms.
Variation Agreement:	an agreement amending or varying this Agreement made in writing and executed by the Parties and any proposed new party joining this Agreement; and
VAT:	value added tax chargeable under the Value Added Tax Act 1994, or any tax replacing that tax.

- 1.2 The headings in this Agreement are for ease of reference only; they do not affect its construction or interpretation.
- 1.3 References in this Agreement to **a person** include a natural person, corporate or unincorporated body (whether or not it has a separate legal personality).
- 1.4 A reference in this Agreement to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and includes all subordinate legislation made from time to time under that statute or statutory provision.
- 1.5 A reference in this Agreement to **writing** or **written** includes email.
- 1.6 A reference in this Agreement to any other agreement or document is a reference to that other agreement or document as varied or novated (in each case, unless in breach of this Agreement) from time to time.
- 1.7 References in this Agreement to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.8 Any words in this Agreement following the expression **including, include or in particular**, or any similar expression are to be construed as illustrative and do not limit the sense of the words preceding that expression.
- 1.9 The acts and omissions of any agent, contractor, sub-contractor, or employee acting on behalf of the Party are deemed to be within the control of the relevant Party by which they were appointed.

COMMENCEMENT AND DURATION

2. Term

This Agreement shall take effect on the Commencement Date and shall continue for the Term.

3. Extending the initial term

- 3.1 The Parties may extend this agreement beyond the Initial Term by a further period or periods of up to two years (Extension Period). If the Parties wish to extend this Agreement, decisions to extend should be made by the Member Authorities at least six months' written notice of such intention before the expiry of the Initial Term or Extension Period.
- 3.2 If the Parties give such notice, then the Term shall be extended by the period set out in the notice.
- 3.3 If one Party or more does not wish to extend this Agreement beyond the Initial Term this Agreement will remain in full force and effect for the Term of the Service, but a Party may withdraw or may be deemed to have withdrawn from the Service in accordance with clause 8 or 10.

4. Collaboration and co-operation

- 4.1 The Parties shall co-operate and collaborate with each other to identify and deliver, in accordance with the terms of this Agreement, the services in line with the objectives, rationale, values and principles as set out in Schedule 1.
- 4.2 The Parties shall co-operate and collaborate in relation to the remaining Schedules.

5. Due diligence and warranty

Each Party warrants to the other Parties that it has full power and authority under its constitution and has taken all necessary actions and obtained all authorisations, governance, licences, consents and approvals, to allow it to enter into and perform this Agreement.

6. The Shared Service

Each of the Parties will carry out the tasks as defined in Schedule 1 and will provide the human and other resources, Financial Contributions, Background, materials, facilities and equipment which are designated as its responsibility in accordance with the terms and conditions of this agreement. The Shared Service will be carried out under the direction and supervision of the Lead Party as guided by the Strategic Officer Group and Member Advisory Group,

7. AUTHORISED REPRESENTATIVES & GROUPS

- 7.1 There will be a Strategic Officer Group whose Terms of Reference are set out in Schedule 4.
- 7.2. There will be Members Advisory Group whose Terms of Reference are set out in Schedule 5.
- 7.2 The Service Manager is appointed by the Lead Party and will sit on the Strategic Officer Group together with the Authorised Representatives and responsible for leading the operation of the Services as set out in Schedule 1 and reporting on that activity to the Strategic Officer Group and Members Advisory Group.
- 7.5 The Strategic Officer Group and Members Advisory Group have not been provided delegated authority to amend the terms of this Agreement except as may be expressly set out in those terms of reference.

8. ROLES AND RESPONSIBILITIES

drafting note – check everything covered in next review

8.1 The Lead Party will be responsible for:

- (i) the undertaking of the specific objectives as set out in 1.4 of Schedule 1.
- (ii) the day-to-day management of the Service.

- (iii) Ensuring a professional procurement service undertaken by staff MCIPS qualified or studying towards MCIPS.
- (iv) the financial administration of the Service
- (v) implementing decisions taken by the Strategic Officer Group.
- (vi) preparing progress reports and monitoring delivery of the Service.

3.2 Each Party will be responsible for:

- (i) Ensuring an Authorised Representative, at Director level attends the Strategic Officer Group and engages in discussion to enable the Strategic Officer Group to effectively define the way forward of the collaboration support the Lead Party to deliver in line with Schedule 1 the Service Plan by providing all necessary data and access to Staff.
- (ii) Ensuring all General Fund procurements above tender threshold as defined within the Procurement Rules of each party for the life of the proposed contract are allocated to EPP, with an agreed de minimis as agreed annually at the Strategic Officer Group. Non-General Fund procurements such as those funded by a Housing Revenue Account or Levelling Up funding will be funded and accounted for separately.
- (iii) Undertaking all reasonable steps to support the collaboration deliver in line with this Agreement and the procurement strategy agreed by the Strategic Officer Group.
- (iv) Give due consideration to another local authority joining the collaboration and a party to this Agreement and provide reasonable reasons why consent should not be given and not unnecessarily prevent the written agreement of all of the existing parties to this Agreement and execution of a Variation Agreement.
- (v) Give due consideration to another local authority joining the collaboration and a party to this Agreement and provide reasonable reasons why consent should not be given and not unnecessarily prevent the written agreement of all of the existing parties to this Agreement and execution of a Variation Agreement.
- (vi) obtaining and maintaining all regulatory and ethical licences, consents and approvals including each Parties internal approvals/governance (as per clause 2.6) necessary to allow it to carry out the tasks allotted to it in the Service Plan and will carry out the Service in accordance with all laws and regulations which apply to its activities under or pursuant to this Agreement.
- (vii) ensure that any Staff involved in the Service, observe the conditions attaching to any regulatory and ethical licences, consents and approvals; keep complete and accurate records of all research, development and other work carried out in connection with the Service and of all Results.

- (viii) ensure that any Staff involved in the Service, when working on or visiting the other Party's premises, comply with the other Party's health and safety and security policies and procedures and, when accessing or using the other Party's information systems, comply with the other Party's information security policies and procedures.
- (ix) acknowledge through this Agreement that the decision with regards to the specification details, procurement route, evaluation of the tenders, awards of contract rest with the individual Parties, as contracting authorities.

FINANCIAL CONTRIBUTION AND PAYMENT PLAN

- 9.1 Each Party will pay its Financial Contribution to the Lead Party in accordance with Schedule 1 within thirty (30) days after its receipt of an annual invoice to be issue on or around 1st October. The Financial Contribution will cover the Staff costs and overheads associate with those Staff, detailed of which are set out within Schedule 1. Where any Financial Contribution is being claimed against costs and expenses incurred by a Party, each invoice must be accompanied by a statement certified by an authorised officer of that Party.
- 9.2 Unless any VAT exemption applies, all amounts are exclusive of VAT which the Party making the Financial Contribution will pay at the rate from time to time prescribed by law.
- 9.3 If any Party fails to make any payment due to another Party under this Agreement, without prejudice to any other right or remedy available to that other Party, that other Party may charge interest (both before and after any judgement) on the amount outstanding, on a daily basis in accordance with the Late Payments of Commercial Debts (Interest) Act 1998 as amended by the Late Payment of Commercial Debts Regulations 2013. That interest will be calculated from the date of last date for payment to the actual date of payment, both dates inclusive, and will be compounded quarterly. The Party, which is late paying, will pay that interest on demand.
- 9.4 Where the Party does not pay at all the matter will be escalated to the Strategic Officer Group and if no resolution is found it is to be escalated to the Chief Executives for the Lead Party and late paying Party. Non-payment can result in the late paying Party being excluded from the collaboration and this Agreement, as agreed by the Strategic Officer Group, with the other Parties required to share these costs equally between them until the costs can be reduced to reflect the reduction in operating costs of the Services.
- 9.5 Except as set out in the Service Plan each Party shall:
 - 9.5.1 not be entitled to charge the other Party for the provision of anything it provides in connection with each Service and this Agreement; and
 - 9.5.2 be otherwise responsible for its own costs incurred in connection with each Service and this Agreement, including all Inputs it provides.
- 9.6 The Financial arrangements for the Service will be overseen by the Strategic Officer Group

- 9.7 The Lead Party will prepare and submit an account and financial forecast of all income and expenditure in connection with the Service every 6 months in September and March to the Strategic Officer Group and the Members Advisory Group, in line with table A within Schedule 2, as adjusted by pay awards and any other inflationary increases.
- 9.8 The Lead Party will ensure adequate accounts and records are maintained of all income and expenditure under this Agreement and that the Party is allowed to examine the accounts and records of the Lead Party relating to the Service provided.
- 9.8.1 at least 14 days written notice is given in advance to the Lead Party;
- 9.8.2 the inspection or examination takes place during the Lead Party's normal working hours; and
- 9.8.2 the Party appointing the accountant and the accountant will keep confidential any information which it may acquire in the exercise of its rights under this clause 3.10.
- 9.9 Rebate income is currently received and split according to the following proportions to Braintree District Council (50%), Epping Forest District Council (30%) and Castle Point Borough Council (20%) from the following frameworks:
- Playground, Gym and Urban Play- PROC20-0107
 - Footpaths and Road Repairs – EPHF21-001
 - In-Cab technology and Waste Services Consultancy – EPH21-004
 - Refuse Supplies – EPHF21-002
 - Construction Consultancy – EPHF21-001
 - Webcasting Services – EPHF001
 - Street Sweepings Arisings – EPH0005
 - Cleaning and Hygiene Supplies – EPP0006

The rebate income from these frameworks and any descendents of these frameworks will be reserved to these Councils in the same proportions for the duration of the trial period.

All Parties should benefit from new frameworks.

10. **USE AND EXPLOITATION OF INTELLECTUAL PROPERTY RIGHTS**

- 10.1 This Agreement does not affect the ownership of any Intellectual Property Rights in any Background or in any other technology, design, work, invention, software, data, technique, know-how, or materials which are not Results. The Intellectual Property Rights in them will remain the property of the Party which contributed them to the Service (or its licensors). No licence to use any Intellectual Property Rights is

granted or implied by this Agreement except the rights expressly set out in this Agreement.

- 10.2 Each Party grants each of the other Parties a royalty-free, non-exclusive licence to use its intellectual property developed during the course of performing the Services or for the purpose of carrying out the Service.
- 10.3 For the avoidance of doubt the Parties hereby confirm and acknowledge that any Intellectual Property Rights or use through a non-exclusive licence, that exist or arise from the Results of the collaboration through the Essex Procurement Partnership, including but not limited to any reports or conclusions drawn from the Service, shall belong exclusively to the Parties, whilst they remain Parties to this Agreement.
- 10.4 The Strategic Officer Group will direct how to utilise and dispose of any Intellectual Property Rights or non-exclusive licence, as they see fit, including but not limited to commercialisation of the Results of the Service. The Lead Party may take such steps as it may decide from time to time, at the Lead Party's expense, to register and maintain any protection for those Intellectual Property Rights, including filing and prosecuting patent applications for any of the Results, and taking any reasonable action in respect of any alleged or actual infringement of those Intellectual Property Rights.
- 10.5 Each of the other Parties will ensure that any Staff involved in the creation of the Results gives the Lead Party such assistance (except financial assistance) as the Lead Party may reasonably request in connection with the registration and protection of the Intellectual Property Rights in the Results, including filing and prosecuting patent applications for any of the Results, and taking any action in respect of any alleged or actual infringement of those Intellectual Property Rights.
- 10.6 Where any third party (such as a contractor) is involved in the Service, the Party engaging that third party will ensure that that third party has assigned to the Lead Party any Intellectual Property Rights (including making a prospective assignment where appropriate) which that third party has in the Results in order to be able to give effect to the provisions of this clause 4.
- 10.7 The Lead Party grants each of the other Parties a royalty free, non-exclusive licence to use the Results for the purpose of carrying out the Service None of the Parties (except the Lead Party under the instruction of the Strategic Officer Group) may grant any sub-licence to use any of the Results except that any Commercial Party may allow any of its Group Company and any person working for or on behalf of the Commercial Party or any of its Group Companies to use the Results for the purpose of carrying out the Service

11. **ANNOUNCEMENT AND PUBLICATION**

- 11.1 Subject to clause 11.2, no Party shall make, or permit any person to make, any Announcement concerning the existence, subject matter or terms of this Agreement, the Service, or the relationship between the Parties, without the prior written consent of the Lead Party (such consent not to be unreasonably withheld or delayed). The Parties shall consult with the Lead Party regarding the timing, contents and manner of release of any Announcement.
- 11.2 Where an Announcement is required by law or any governmental or regulatory

authority or by any court or other authority of competent jurisdiction, the Party required to make the Announcement shall promptly notify the other Parties. The Party concerned shall make all reasonable attempts to agree the contents of the Announcement before making it.

- 11.3 None of the Parties will use another Party's name or the name of any of the Key Personnel provided by another Party, or another Party's logo in any press release or product advertising, or for any other promotional purpose, without first obtaining that other Party's written consent.

12. CONFIDENTIALITY

- 12.1 Subject to **clause 5**, none of the Parties will either during the Service Period or for 10 years after the end of the Service Period disclose to any third party nor use for any purpose, except as expressly permitted by this Agreement, any other Party's Confidential Information.

- 12.2 None of the Parties (**the Recipient**) will be in breach of any obligation to keep any Background, Results or other information confidential or not to disclose it to any third party to the extent that:

12.2.1 if it is received from another Party, it is known to the Recipient (demonstrable by written records) before its receipt from another Party, and it is not already subject to any obligation of confidentiality to another Party;

12.2.2 it is or becomes publicly known without any breach of this Agreement or any other undertaking to keep it confidential;

12.2.3 it has been obtained by the Recipient from a third party in circumstances where the Recipient has no reason to believe that there has been a breach of an obligation of confidentiality to another Party;

12.2.4 it has been developed by the Recipient without reference to another Party's Confidential Information; or

12.2.5 it is disclosed pursuant to the requirement of any law or regulation (provided, in the case of a disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, none of the exceptions to that Act or those Regulations (as the case may be) applies to the information disclosed) or pursuant to the order of any Court of competent jurisdiction or the requirement of any competent regulatory authority and that, in each case where the law permits, and the Party required to make that disclosure has informed the Party whose information it is, within a reasonable time after being required to make the disclosure, of the requirement to make the disclosure and the information required to be disclosed; or

12.2.6 it is approved for release in writing by an authorised representative of the Party whose information it is.

- 12.3 None of the Parties will be in breach of any obligation to keep another Party's Background, or any of the Results or other information, confidential or not to disclose them to any third party, who needs to know the same in order to exercise the rights granted to it in this Agreement, provided they are not used except as expressly permitted by this Agreement and the recipient undertakes to keep that Background, those Results or that information confidential.

13 **FREEDOM OF INFORMATION ACT 2000 AND ENVIRONMENTAL INFORMATION REGULATIONS 2004**

- 13.1 All Parties are subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and should any Party receive a request under that Act or those Regulations to disclose any information which, under this Agreement, is the Confidential Information of another Party or within the terms of this Agreement, it will notify the Parties to undertake prompt consultation, before making any disclosure under that Act or those Regulations.
- 13.2 The Party in receipt of the request under the Freedom of Information Act 2000 or Environmental Regulations 2004 will take legal advice regarding the availability and applicability of any exemptions and any other options available and will notify the other Parties of the intended response to that request. The Parties will respond to the Party which received the request within 3 days after receiving the notice if that notice requests that other Parties to provide information to assist the Party which received the request to determine whether or not an exemption to the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 applies to the information requested under that Act or those Regulations. The Parties may make representations in relation to that request and the proposed response and may request amendments to the proposed response.
- 13.3 At the request of another Party, except in order to comply with any court order or any decision of the Information Commissioner's Office or the Information Tribunal, the Party which received the request under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 (**the Disclosing Party**) will not disclose any information which, under this Agreement, is that other Party's Confidential Information in response to a request under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 provided that:
- 13.3.1 that other Party makes that request in writing within 10 days after receiving notice from the Disclosing Party under this clause; and
- 13.3.2 that other Party provides the Disclosing Party and its Staff dealing with the request reasons in accordance with the Information Commissioner Office guidance relating to the Act and Regulations, applying the Public Interest Test where required.

14 **LIMITATION OF LIABILITY**

- 14.1 The Lead Party providing professional advice for the Service has obtained insurance cover in respect of certain aspects of its own legal liability for individual claims not exceeding £10,000,000 in the aggregate. The limits and exclusions in this clause reflect the annual insurance cover arranged (the Cap) and the other Parties are responsible for making its own arrangements for the insurance of any excess liability.
- 14.2 References to liability in this clause 8 include every kind of liability arising under or in connection with this agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 14.3 None of the Parties may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

14.4 Nothing in this clause 8 shall limit the Authority's financial contributions under this Agreement.

14.5 Nothing in this agreement limits any liability which cannot legally be limited, including for fraud or fraudulent misrepresentation, Death or personal injury caused by negligence.

14.6 The Lead Party's total aggregate liability to the Parties:

8.7.1 For loss arising from the Lead Party's failure to comply with its data processing obligations under schedule 6 shall not exceed £[AMOUNT];

8.7.2 In respect of all other claims, losses or damages arising in each financial year, shall not exceed the Cap.

14.7 Types of direct loss and specific losses not excluded:

(a) Wasted expenditure and losses incurred by the Contracting Authority arising out of or in connection with any third party claim against the Contracting Authority which has been caused by the negligence or omission of Lead Party. For these purposes, third party claims shall include demands, fines, penalties, actions, investigations or proceedings.

14.8 The Parties shall indemnify and hold harmless the Lead Party and its Staff with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the negligent actions and/or omissions of the other Parties in relation to the Service, the non-fulfilment of obligations of the Parties under this Agreement or their obligations to third parties.

14.9 The liability of each Party to the Lead Party under clause 7.1 in respect of any direct loss shall not exceed an amount equal £10,000,000. The Parties shall not in any event be liable to the Lead Party, whether in contract, tort, negligence, breach of statutory duty or otherwise for any indirect, consequential, or special damages including without limitation any loss of business, revenue, profit, anticipated savings or goodwill (whether direct or indirect).

14.10 The express undertakings and warranties given by the Parties in this Agreement are in lieu of all other warranties, conditions, terms, undertakings and obligations, whether express or implied by statute, common law, custom, trade usage, course of dealing or in any other way. All of these are excluded to the fullest extent permitted by law.

15 FORCE MAJEURE

If the performance by the Party of any of its obligations under this Agreement (except a payment obligation) is delayed or prevented by circumstances beyond its reasonable control, then that Party will not be in breach of this Agreement due to that delay in their performance. However, if the delay in performance lasts for more than 6 months, the other Parties may, if they unanimously agree to do so, give that Party notice treating it as having withdrawn from the Service and the provisions of clauses 11.4 - 11.9 (inclusive) will apply.

16. JOINING THE COLLABORATION

- 16.1 It is anticipated that through the term of this collaboration agreement other Local Authorities may wish to become a party to this Agreement. Any prospective member must issue a letter from their Chief Executive to the current Chair of the Strategic Officer Group requesting to join the Essex Procurement Partnership. This will be considered by the Strategic Officer Group within a formal meeting.
- 16.2 On receipt of the letter a meeting of the Strategic Officer Group will be held to consider the request to join the collaboration and vary this Collaboration Agreement. On unanimous agreement confirmed in writing the new party will be able to join the Collaboration through the execution of a Variation Agreement of this Agreement indicating acceptance to the terms and conditions contained herein and the Procurement Strategy.

17. TERMINATION AND WITHDRAWAL

- 17.1 Any Party may independently withdraw from the Collaboration and so this Agreement by providing 6 months written notice to all Parties.
- 17.2 All parties can agree by unanimous decision to dissolve the collaboration ahead of its expiry date. In such case the Intellectual Property Rights to documentation used by the Parties where not otherwise indicated as belonging to a Party, will be shared between the Parties to the collaboration at the time of dissolution in accordance with Clause 4 above.

Drafting Note: To check clause reference numbers throughout in last review

- 17.3 Each of the Parties will notify the Lead Party promptly if at any time an Authorised Representative appointed by that Party is unable or unwilling to continue to be involved in the Service. Within 1 month after the date of that notice, the Party which originally appointed that member of the Key Personnel will nominate a successor. The other Parties will not unreasonably refuse to accept the nominated successor, but if the successor is not acceptable this will be escalated in line with 10.11 below (escalation).
- 17.4 If a Party withdraws or is treated as having withdrawn from the Service, the other Parties will use reasonable endeavours to reallocate the obligations of that Party under this Agreement amongst themselves or to a third party acceptable to the remaining Parties, provided that that third party agrees to be bound by the terms of this Agreement.
- 17.5 If a Party withdraws or is treated as having withdrawn from the Service, the withdrawing Party will be required to pay to the Lead Party any expense incurred by the Lead Party as a result of the Party withdrawing this includes but is not limited to costs incurred from reduction of the workforce, licence cost. Such reasonable costs will be paid within 30 days of an invoice being issued by the Lead Party.
- 17.6 Clauses 1, 3, 4 (subject to the provisions of this clause 11) 5, 6, 7, 8, 11.4, 11.5, 11.6, 11.7, 11. 8, 11.9 and 12, will survive the completion or termination of the Service, the expiry of this Agreement, or the withdrawal or deemed withdrawal of any Party for any reason and will continue in force indefinitely or, in the case of clause 6, in accordance with clause 6.1.

- 17.7 Rights in respect of its Background granted under this Agreement by a Party which withdraws or is treated as having withdrawn will continue indefinitely and will be extended to any new party to this Agreement.
- 17.8 Rights in respect of its Results granted under this Agreement by a Party which withdraws or is treated as having withdrawn will continue indefinitely and will be extended to any new party to this Agreement.
- 17.9 All rights to use any other Party's Intellectual Property Rights granted under this Agreement to a Party which withdraws or is treated as having withdrawn will cease immediately on the expiry of the withdrawal notice given by or to that Party.

18. PREVENTION OF BRIBERY

The Parties shall comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and will comply with Schedule 5.

GENERAL

19. Assignment etc:

None of the Parties may assign or transfer this Agreement as a whole, or any of its rights or obligations under it.

20. Dispute Resolution and Escalation:

If the Key Personnel are unable to reach agreement on any issue ("the Dispute") concerning this Agreement or the Service within 30 days after one party has notified the Lead Party of that issue, they will refer the Dispute to the Strategic Officer Group who shall attempt in good faith to resolve it;

If the Authorised Representatives, through the Strategic Officer Group are for any reason unable to resolve the Dispute within 15 Business Days of the referral the Dispute will be escalated to the Chief Executives of the Parties, who shall attempt in good faith to resolve it; and

If the Chief Executives are for any reason unable to resolve the Dispute within 10 Business Days of it being referred to them, the Parties will attempt to settle it by mediation unless otherwise agreed between the Parties.

21. Rights and remedies

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

22. Severability

- (i) If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.
- (ii) If any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

23. Waiver of rights:

If a Party fails to enforce or delays in enforcing an obligation of any other Party, or fails to exercise or delays in exercising a right under this Agreement, that failure or delay will not affect its right to enforce that obligation or constitute a waiver of that right. Any waiver by a Party of any provision of this Agreement will not, unless expressly stated to the contrary, constitute a waiver of that provision on a future occasion.

24. No Partnership or agency:

24.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership between any of the Parties, constitute any Party, the agent of another Party, or authorise any Party to make any representation or enter into any commitments, or incur any liability, for or on behalf of any other Party, unless expressly provided for in writing.

24.2 Each party confirms it is acting on its own behalf and not for the benefit of any other Party.

25. Entire agreement:

This Agreement constitutes the entire agreement between the Parties relating to its subject matter. Each Party acknowledges that it has not entered into this Agreement on the basis of any warranty, representation, statement, agreement or undertaking except those expressly set out in this Agreement]. Each Party waives any claim for breach of this Agreement, or any right to rescind this Agreement in respect of any representation which is not an express provision of this Agreement]. However, this clause does not exclude any liability which any Party may have to any other (or any right which any Party may have to rescind this Agreement) in respect of any fraudulent misrepresentation or fraudulent concealment prior to the execution of this Agreement.

26. **Third parties:**

A person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

27. **Governing law:**

Drafting note – dispute resolution clause

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation are governed by, and this Agreement is to be construed in accordance with, English law.

The English Courts will have exclusive jurisdiction to deal with any dispute (including any non-contractual claim or dispute) which has arisen or may arise out of or in connection with this Agreement, except that a Party may bring proceedings to protect its Intellectual Property Rights or Confidential Information in any jurisdiction.

28. **Data Protection:**

Each Party will comply with the provisions set out in Schedule 6.

Each party shall, at its own expense, ensure that it complies with and assists the other Parties to comply with the requirements of all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including (i) the Data Protection Act 2018 and any successor UK legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK).

29. **Counterparts:**

This Agreement may be executed in any number of counterparts. Once it has been executed and each Party has executed at least one counterpart, each counterpart will constitute a duplicate original copy of this Agreement. All the counterparts together will constitute a single agreement.

Drafting note – formatting of attestation clause required

The Common Seal of

Essex County Council

Was hereunto affixed in the presence of

Solicitor for and on behalf of the Council

The Common Seal of

Braintree District Council

Was hereunto affixed in the presence of

Solicitor for and on behalf of the Council

The Common Seal of

Castle Point Borough Council

Was hereunto affixed in the presence of

Solicitor for and on behalf of the Council

The Common Seal of

Tendring District Council

Was hereunto affixed in the presence of

Solicitor for and on behalf of the Council

The Common Seal of

Epping Forest District Council

Was hereunto affixed in the presence of

Solicitor for and on behalf of the Council

SCHEDULE 1 “The Service Plan”

1. Service Objectives

- 1.1. The collaboration has been formed with the aim to enable best in class procurement, maximizing the value for every pound spent by local authorities across Essex to the benefit of local residents.
- 1.2. The Collaboration, through the Lead Party, will ensure sourcing activity is delivered in line with the requirements of the Procurement Act 2023 and work to ensure sourcing practice is delivered in line with the National Procurement Strategy for Local Government.
- 1.3. The Parties will work collaboratively to pool resources to deliver the day-to-day procurement activities and wider specialist procurement advice and support relating to policy development, category management, market management and sourcing.
- 1.4. The Service has the following specific objectives:
 - a. **Contract Liquidity** – To develop a clear contract register and forward plan to enable members to understand third party commitments and proactive procurement
 - b. **RFQ Process** – Provide the necessary template documentation and training to allow member authority staff to effectively undertake sourcing activity under the Party's tender threshold
 - c. **Sourcing Activity** – Undertake all procurement for the members authority's above the Party's tender threshold where placed on the pipeline 6 months ahead of requirement, with the exception of ECC where projects will be allocated by the Service Manager. This sourcing activity to be undertaken in line with the prioritisation approach set out in schedule 3. Where projects are identified less than 6 months before needing to be procured the Lead party will use best endeavours to undertake this procurement to support the requesting party.
 - d. **Category Management** – Identify key categories of spend across member authorities and undertake review of this spend to identify savings opportunities, with the creation of a category strategy
 - e. **Collaboration** – Identify through category strategies and general procurement activity opportunities for collaborative procurement, create a plan for these projects and undertake sourcing activity to deliver benefits from this.
 - f. **Frameworks** – Critically assess existing frameworks to understand income vs. effort and expertise to create. Focus on increasing income from existing frameworks and identifying new frameworks to increase income
 - g. **Social Value** – Introduce a common approach to social value/ climate agenda to sourcing activity for members.
 - h. **Knowledge** – Provide business Parties and a supporting procurement team with the right knowledge and capabilities to deliver an effective and professional sourcing service to each member

- i. **Development** – Undertake an assessment of procurement maturity and support in developing this level of maturity in line with the National Procurement Strategy.
- j. **Network** – enable access to wider expertise within the ECC team and wider authority network where resource is available

2. Rationale for the Collaboration

- 2.1. The Collaboration has been formed because, following careful consideration, each of the Parties have concluded that it will enable them collectively to achieve these aims and objectives more effectively than by each of them acting independently or by some other means. In particular, by collaborating, this will:
 - a. **Create Resilience** - Increasing the core team supporting the Parties, enabling the team to flex to demand. This resilience is increased further through access to support from the wider Lead Party team.
 - b. **Increase Expertise** – A larger team enabling focus on specific categories of spend, so understanding these markets and enabling better value. Access to the wider Lead Authority team, will also enable access to significant category knowledge and skills.
 - c. **Enable Collaborative savings** – By working together the Parties will be better able to access procurement forward plans and contract registers, analysing this across multiple organisations and identifying where procurement and supplier management opportunities exist.
 - d. **Increase Market influence** – With a greater collaborative spend the Parties will have more market influence to achieve value. As a collaboration of five authorities, the collaborative procurement team will have a strong foothold as a collaborative function with the ability to grow. This also avoids the alternative i.e. competition between the two collaborative functions, leading to higher costs.
 - e. **Reduce duplication** – Both in terms of procurement activities but also in documentation and adherence to procurement rules, allowing the Parties to focus on additional cost saving activity. This will also provide benefit to the entire supplier community, particularly Small to Medium Enterprises and Voluntary sector organisations, reducing the time to understand bid documents.
 - f. **Staff Retention** – With access to a greater range of opportunities and links with the wider procurement team of the Lead Party, this should aid staff retention and attractiveness to candidates.

3. Core Values

- 3.1. The Parties affirm that, in their work within and for the Collaboration, they, and individuals acting on their behalf, will uphold the following values:
 - a. work to build trust and understanding between the Parties;
 - b. actively work for and promote the aims of the Shared service.
 - c. abide by the terms of this Agreement

4. Principles

- 4.1. By signing this Agreement the Parties agree to
 - a. Commit resource, financial contributions or a combination of the two to the value provided within schedule 1 to sit within the structure of the Lead Party and work across the member organisations as directed by the Lead Party under the guidance of the Strategic Officer Group
 - b. Share spend/ contract data and commit to identify and deliver shared sourcing activity to the benefit of the Essex resident
 - c. Ensure all procurement activity over the Authority's tender threshold for the life of the proposed contract is undertaken by the Lead Party in an order determined by the Prioritisation approach as set out in schedule 3, with all procurement resource for the Collaboration to sit within the Lead Party (with the exception of Essex County Council who will work with the Parties to consider how best to integrate on the basis of category, spend and complexity)
 - d. Commit to commonality of documentation including but not limited to common tender documents, a shared set of procurement rules and procurement strategy.
 - e. Commit to active participation in each group and by staff working with Collaboration as if working with internal service.

5. Location

- 5.1. The Service will be performed remotely with staff attending the premises of each party as required to deliver the service.

6. Project Pipeline Management and Monitoring

- 6.1. To enable resource requirements to be determined and planned for in advance, at the start of each financial year, each party will ensure their staff engage with the Essex Procurement Partnership to provide projects for that financial year into the Shared Service pipeline. Enough information should be provided to populate all elements of the forward plan.
- 6.2. The Lead Party, with the Parties' support, will ensure this forward plan is kept up to date. Where issues are experienced with this, this will be escalated to the Strategic Officer Group.
- 6.3. Projects will be undertaken in line with the Prioritisation approach as defined in Schedule 3.
- 6.4. The Parties will throughout this Agreement work collaboratively together to ensure delivery of the public procurement function across members and keep each other informed through regular communication, with the method and frequency to be agreed on each project, adopting a 'one team' approach
- 6.5. Overall monitoring of this Agreement will be discussed at the Strategic Officer Group. Where improvements can be made on ways of working these will be

discussed in a constructive manner for the benefit of each Party, achieving value for money and effectiveness of service for both Parties.

7. Core Service

- 7.1. The Collaboration will be working to offer comprehensive sourcing service with capability across category management, market shaping and sourcing.
- 7.2. Working with the Parties and within the Financial Contributions agreed in Schedule 1, The Lead Party will:
 - 7.2.1. Provide a central professional procurement resource who
 - Are members of or studying to become a member of the Chartered Institute of Purchasing and Supply
 - Maintain procurement knowledge, understanding the latest procurement skills and techniques and able to articulate and implement this with Parties.
 - Effectively engage with all member authorities and have the right knowledge to deliver effective procurement support.
 - 7.2.2. Develop and maintain a good understanding of partner spend and contractual commitment through
 - Supporting each Party to develop a Contracts Register, working to ensure this is representative of each Party's spend and that details are published as necessary in line with legal commitments.
 - Creation of one procurement forward plan, with requirements from each partner represented with this and delivery priority informed by the Strategic Officer Group
 - Undertaking of analysis of spend as provided by each Party against the contracts register and other financial data to identify where procurement is necessary to manage uncontracted spend and protect the authority from unauthorised/non-compliant expenditure and risk.
 - Benchmarking of party contracts against contracts held by other Parties and external sources where possible.
 - Identifying key categories of spend for all Parties, defining opportunities to join up this spend and, where possible, deliver savings.
 - 7.2.3. Develop a good understanding of the sourcing markets for key categories of spend for the parties through the undertaking of market analysis for sourcing projects where sufficient time has been given by each party
 - 7.2.4. Deliver effective sourcing support to each party through:
 - Providing front line procurement advice and support to all partner employees, including for self-service request for quotations.

- Creation of quality tender documentation and undertaking of the sourcing process for requirements above the Party's tender threshold (total cost of the contract) using a defined e sourcing portal.
- Managing the liaison with external stakeholders such as suppliers, procurement framework organisations and Central Government on all procurement matters.
- Meeting and negotiating with suppliers' representatives as required and permitted

7.2.5. Creation of mature procurement processes, procedures and approaches which deliver value to the Parties and the communities they represent, through:

- Creation and implementation of common sourcing strategy, as agreed with Parties, setting out the Shared Service's approach to sourcing within partner authorities.
- Creation of common procurement policies, procedures and documentation, working with Parties to ensure their use across partner authorities to drive better value and improve access for SME and Voluntary Sector organisations
- Undertaking interpretation and implementation of technical procurement guidance, advice and legislation.
- Delivery of training to Parties on procurement process
- Introducing appropriate reporting processes and delivery of reports as required by the governance groups including the measurement and reporting of procurement risk.

8. Resources, facilities and equipment each Party is to provide

8.1. The following Staff will be seconded to the Lead Party by the Parties as set out in the table below for the duration of the agreement.

Authority	Human Resource
Braintree District Council	1 x Senior Procurement Consultant 1 x Procurement Consultant 1 x Procurement Officer

- The Lead party will facilitate access to its IT systems for all seconded Staff.
- Each party will ensure suitable work facilities for members of the shared service to utilise when work from that party's facilities including suitable internet access and parking where this is offered to existing staff.

A.2 APPENDIX A

SCHEDULE 2

The Financial Contributions

1. Finance Contributions

- 1.1. The current financial contributions from each party are set out below in Table A below. Contributions are based on the cost of usage, with current costs set as baseline with the addition of oncosts of the Lead Party
- 1.2. Usage is based on 202 working days per year (252 working days with additional 30 days for leave). Time recording will be undertaken to assess resource time per Authority and presented at each Strategic Officer Group Meeting. Where usage differs from this baseline level, this will be discussed at Strategic Officer Group every 6 months, with consideration given to the reason for this change and whether this is a temporary or long last change. This will inform the decision of the Strategic Officer Group about how to alter resource to reflect the change in usage.

Table A:

Model	Braintree District Council			Castle Point Borough Council			Essex County Council			Epping Forest District Council			Tendring District Council			Total Staff Costs	ECC Staff Overhead Cost
	Staffing	Overheads	Total	Staffing	Overheads	Total	Staffing	Overheads	Total	Staffing	Overheads	Total	Staffing	Overheads	Total		
1 - Payment by Staff Member (based on current model)	99,345	10,915	110,260	39,738	4,366	44,104	89,960	9,883	99,843	59,607	6,549	66,156	116,758	12,828	129,586	405,408	44,540

Drafting Note: check figures in next review

- 1.3 **Note that costs in Table A will be subject to pay award and inflationary increases as with existing costs.**
- 1.4 **In line with clause 3.1**, each Party will pay its Financial Contribution in line with the above table, as adjusted by any pay awards or inflation, to the Lead Party in accordance within thirty (30) days after its receipt of an annual invoice to be issue on or around 1st October by Essex County Council.

A.2 APPENDIX A

SCHEDULE 3 Prioritisation Approach

- 1.1. The Prioritisation Approach sets out the order in which sourcing projects of each Authority are undertaken.

Drafting Note – look at whether definition is required for Prioritisation

- 1.2. Projects will be evaluated in line with the Prioritisation Tool embedded within this Schedule 3 as object 1 as follows:
- a. Projects graded A-E will be placed on the forward plan.
 - b. Projects with time limited funding or where the contract will expire will be prioritised in line with the parameters set out in sourcing grading tool.
 - c. All other projects will be scheduled on the forward plan considering when the contract is required and in order of the grading i.e. Grade A first
- 1.3. Where a project not on the forward plan requires immediate resource, the grading will be assessed against projects currently being undertaken and where there is an opportunity to pause an existing project this will be done to enable the urgent project to be undertaken.
- 1.4. Where a project cannot go ahead due to resource not being available, discussions will be held with the member Authority affected to consider options for example a short exemption to enable a procurement to be undertaken. The Partners Working Group will be updated as part of the monthly reporting cycle.

Object 1



Prioritisation
Approach

SCHEDULE 4

Terms of Reference – Strategic Officer Group

1. Purpose

- 1.1. The Strategic Officer Group supports each Party by providing operational support and strategic direction for the collaboration work in accordance with the strategic aims and objectives as determined.
- 1.2. The Strategic Officer Group will support and challenge the Lead Party in the delivery of the collaboration work.

2. Responsibilities

2.1. The Strategic Officer Group is responsible for:

- Setting the strategic direction of the collaboration, ensuring the service meets the defined service objectives as set out in Schedule 2
- Agree the priorities of the collaboration within the resources available and supports the process for ensuring sufficient resources are provided by each Party to enable the objectives to be delivered.
- Monitoring the performance of the service delivered by the Lead Party to ensure it is working effectively and in line with the work plan agreed by the parties.
- Agreeing to the growth of the collaboration with new Local Authorities joining in accordance with the direction of the MAG.

2.2. The Strategic Officer Group will be supported by:

2.2.1. An **Officer Operational Group (OOG)** – This group will meet every two weeks. This supports day to day operation of shared service by...

- Reviewing Staff workloads
- Agreeing the prioritisation of projects in the forward plan
- Ensuring the strategic aims of the Strategic Officer Group are undertaken.

2.2.2. A Partner Working Group (PWG) – Chaired by the Lead Party and with representation from each party.

- Ensuring member authority compliance with procurement rules and principles of Parties agreement
- Ensuring procurement activity is being undertaken appropriately by the team, providing necessary assurance to member Authorities.
- Monitoring risks and issues.

2.3. The Strategic Officer Group will support the Members Advisory Group (MAG), with terms of reference provided as Schedule 5, consisting of representation from elected members for each shared service, will meet every six months, to:

- Review the performance of the Parties
- Promote approach to shared working to support growth

3. Agendas

3.1 All meetings of the Strategic Officer Group will have a written agenda that has been agreed by the Partner Working Group and circulated in advance to all Committee Members.

3.2 Any Parties may request the inclusion of an item on the Agenda for a Meeting of the Group. Such items may be included on the Agenda of the next available meeting, or deferred to the following meeting, at the Chair's discretion.

4. Records of Decisions

4.1. Minutes shall be kept of the Strategic Officer Group and shall include:

- details of the date, time and place of the meeting;
- the names of all Committee members, their substitutes present for all or part of the meeting;
- apologies given for absence;
- a list of the items on the agenda for the meeting;
- brief details of any written or oral report made under each item;
- the decision taken and whether it was taken unanimously or by a vote, in which case the numbers voting for, against and abstaining will be recorded.

5. Authority

5.1. The Authority for the actions of Strategic Officer Group derives from the Senior Leadership Teams of each Party and all officers within the Strategic Officer group must have the necessary internal approvals for their responsibilities within the Group.

5.2. The Chair of Strategic Officer Group or, in his absence, any other individual the members of the Strategic Officer Group may from time to time agree, will chair meetings of the Strategic Officer Group. The Chair will ensure effective operation of the Strategic Officer Group and oversee the development of the collaboration arrangements in line with the procurement strategy agreed by the Strategic Officer Group.

5.3. The Strategic Officer Group does not have delegated authority or decision-making authority through the Essex Procurement Partnership and consequently the Parties should ensure that their own internal governance procedures are followed for any decisions required **and before implementation.**

5.4. Each Party will, through its Authorised Representative or his alternate, have one vote in the Strategic Officer Group. Decisions will be taken by a simple majority except where a decision necessitates a change to the Service Plan or a change to the allocation of any funding. In either of those cases, any decision must be unanimous. The Chair will not have a casting vote. Where a unanimous decision cannot be reached, this will be escalated to the Chief Executives (from the Strategic Officers

Group in accordance with Clause 20) of each party with agreement on the way forward.

6. Composition

6.1. The Strategic Officer Group consists of

- Chair – As agreed by the Strategic Officer Group
- Shared Service Lead – The allocated lead by the Lead Party
- Representative of each party – a senior management representative from each party.

7. Performance Management

7.1. At each Annual Meeting, the Strategic Officer Group shall agree the key targets that the Parties will set in the coming year and the actions planned to achieve them. The targets should contribute to the achievement of the Parties's aims and objectives.

7.2. The Service Manager will provide quarterly reports summarising the progress of the Service and the Results, and the Lead Party will ensure that all the Parties are informed about the progress of the Service, and the Results are circulated to each member of the Strategic Officer Group with the written notice for the relevant meeting.

7.3. The Parties's Annual Report shall include a section describing how actual achievement compared with the adopted targets for the year concerned.

7.4. The Strategic Officer Group will carry out a general review of the Parties's purposes and effectiveness at least once a year and make any recommendations they consider necessary to the Parties, including any proposals to modify the terms of this Agreement.

7.5. In undertaking such general reviews, the Strategic Officer Group will consider:

- all relevant contextual developments, including changes in legislation, financial circumstances, and technical and operational methods;
- the extent to which the Parties's aims and objectives remain relevant to this changing context; and are being achieved.
- the nature and extent of opportunities for further development of the Parties's activities and funding
- any need to reduce the scope or scale of the Parties's activities.

8. Quorum

8.1. The Strategic Officer Group is quorate with the following members present:

- the chair (or a member nominated by the chair to act as chair) and

- at least three other members.

9. Information requirements

- 9.1. The Strategic Officer Group should ensure that arrangements are in place to enable it to discharge its responsibilities effectively, including the timely provision of information in an appropriate form and quality.

10. Budget

- 10.1. The Strategic Officer Group has no budget but plays an oversight and decision-making role in relation to the budget held by the Lead Party for the operation of the Essex Procurement Partnership

11. Meetings

- 11.1. The Parties will ensure that the Strategic Officer Group meets at least every 3 months at venues to be agreed, and in default of agreement at Causeway House, Braintree District or at any other time at the request of any of the Parties. Meetings of the Strategic Officer Group will be convened with at least fifteen (15) Business Days written notice in advance. That notice must include an agenda. Actions from the Strategic Officer Group will be prepared by the chair of the meeting and sent to each of the Parties within fourteen (14) days after each meeting.
- 11.2. Any member of the Strategic Officer Group or Member Advisory Group may participate in the relevant meetings by tele-conference, videoconference or any other technology that enables everyone participating in the meeting to communicate interactively and simultaneously with each other.

SCHEDULE 5

Terms of Reference – Members Advisory Group

1. Role

- 1.1 The Member Advisory Group (MAG), consisting of the relevant portfolio holder from each Local Authority Partner, will provide member oversight of the Essex Procurement Partnership (EPP) acting as both a critical friend and champion of the partnership.

2. Term

- 2.1 The MAG was formally established following the first meeting of the group on the 26th September 2023 and will continue until the end of the trial period of EPP as defined within the collaboration agreement, unless extended or the MAG agrees to disband the group by unanimous decision.

3. Membership

- 3.1 The MAG is a Member Group supported by Officers. The Board consists of elected Members put forward by and representing their respective partner councils.
- 3.2 The Chair of MAG will serve for one year, with that Chair chosen and agreed by MAG
- 3.3 If a new organisation is invited to join the partnership, an elected member representing that organisation will be invited by the Chair to join the MAG at the next available meeting following the signing by the new partner of the partnership agreement.
- 3.4 The Officer representative of the Strategic Officer Group will service the MAG and attend meetings in an advisory capacity.
- 3.5 Other Officers will be invited to attend as appropriate for specific items, as confirmed with the Chair.

4. Responsibilities

- 4.1 The MAG is an advisory group and therefore decision-making powers are not devolved from each Partner Authority.
- 4.2 The MAG will hold responsibility for reviewing the performance of the partnership, providing insight and challenge to the delivery by EPP of its core objectives over the life of the partnership.
- 4.3 The core objectives of EPP, in priority order, are as follows:
- **To understand contract liquidity** – Through development of a clear contract register and forward plan enabling partners to understand third party commitments, providing transparency in line with legal requirements.
 - **Undertake sourcing activity** – Undertake all procurement for the members authority's above the tender threshold of that Authority, meeting legal obligations and delivering value for money.

- **Introduce category management** – Identifying key categories of spend across member authorities and undertaking review of this spend to identify collaborative procurement and savings opportunities.
- **Create frameworks** – Creating robust and effective frameworks to support partners in delivery of services whilst also creating income opportunities through the introduction of rebates.
- **Develop the professionalism of procurement in each partner** – Undertake an assessment of procurement maturity and support in developing this level of maturity in line with the National Procurement Strategy.
- **Grow procurement and market knowledge** – Provide business partners and a supporting procurement team with the right knowledge and capabilities to deliver an effective and professional sourcing service to each member.
- **Support robust contract management** – Introduce a new contract management approach for partner authorities to embed with guidance to enable consistent and effective management of contracts and suppliers across partners.
- **Develop social value** – Introduce a common approach to social value/ climate agenda to sourcing activity for members.

4.4 The MAG will hold further responsibility for promotion of the EPP. Through member networks the MAG will champion the shared approach to procurement being undertaken by EPP with the purpose of supporting the sustainable growth of the partnership.

4.5 The MAG will work closely with the Strategic Officer Group (SOG) with information flows between the two Groups enabled by senior officers. The SOG Consisting of senior management representation from partner authorities holds responsibility to

- Set the strategic direction of the partnership
- Agree the priorities of the shared service
- Monitor performance of the partnership

4.6 The agenda and information for the MAG meetings will be considered and put forward by the SOG.

5. Authority

5.1 The Chair of Members Advisory Group or, in his absence, any other individual the members of the Members Advisory Group may from time to time agree, will chair meetings of the Members Advisory Group. The Chair will ensure effective operation of the Member Advisory Group and oversee the development of the collaboration arrangements in line with the procurement strategy agreed by the Members Advisory Group.

5.2 The Member Advisory Group does not have delegated authority or decision making through the Essex Procurement Partnership and consequently the Parties should ensure that their own internal governance procedures are followed for any decisions **required.**

- 5.3 The Service Manager will provide six monthly reports summarising the progress of the Service and the Results, and the Lead Party will ensure that all the Parties are informed about the progress of the Service and the Results are circulated to each member of the Member Advisory Group with the written notice for the relevant meeting.
- 5.4 Each Party will, through its Authorised Representative or his alternate, have one vote in the Members Advisory Group. Decisions will be taken by a simple majority except where a decision necessitates a change to the Service Plan or a change to the allocation of any funding. In either of those cases, any decision must be unanimous. The Chair will not have a casting vote. Where a unanimous decision cannot be reached, this will be escalated to the or Leaders (from the Members Advisory Group) of each party with agreement on the way forward.

6. Meetings

- 6.1 The Parties will ensure that the Members Advisory Group meets every 6 months at venues to be agreed with representation from elected members, ideally the relevant Cabinet member responsible for the procurement function within each Party's respective organisation, to review the performance of the Essex Procurement Partnership, in oversight of the Strategic Officer Group, and to promote the approach of shared working to support growth and deliver efficiencies. Meetings of the Members Advisory Group will be convened with at least 15 Business Days written notice in advance. That notice must include an agenda. Actions from the Member Advisory Group will be prepared by the Service Manager and approved by the Chair of the meeting and sent to each of the Parties within 10 Business Days (10) days after each meeting.
- 6.2 Any member of the Strategic Officer Group or Member Advisory Group may participate in the relevant meetings by tele-conference, video-conference or any other technology that enables everyone participating in the meeting to communicate interactively and simultaneously with each other. The quorum for a meeting of the Strategic Officer Group and Members Advisory Group will be one representative of at least 75% of the Parties,
- 6.3 Additional meetings may be called by the Chair as appropriate. Reports and supporting documentation will be circulated at least five working days in advance of the meeting.

SCHEDULE 6

Data Protection

Part 1

Drafting Note to be reviewed by Information Governance Teams

Where one or more Parties Processes any Personal Data for the purpose of the Service on behalf of any other Party, the provisions of Part 1 this Schedule will apply to them.

1. The Parties will determine the purpose(s) of the Processing of the Personal Data Processed for the purposes of the Service (the Service Personal Data) and each of them will be **the Controller**, and each Party will be **the Processor**.
2. The Appendix to this Schedule lists the subject matter of the Processing, the duration of the Processing, the nature and purpose of the Processing, the types of Personal Data Processed and the categories of Data Subjects to whom the Service Personal Data relate.
3. Each Party's obligations under this Schedule are in addition to, and do not relieve, remove or replace, its obligations under the Data Protection Legislation.
4. Each Party will, where required by the Data Protection Legislation, appoint a Data Protection Officer, provide details of that person to the other Party and notify the other Party as soon as reasonably possible of any changes in that person or his or her details.
5. The Processor will:
 - 5.1 Process the Service Personal Data only in accordance with the Controller's written instructions from time to time, including with regard to transfers of the Service Personal Data to a country outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) or to an International Organisation, unless required to do so by any law to which the Processor is subject; in such a case, the Processor will inform the Controller of that legal requirement before Processing the relevant Service Personal Data, unless that law prohibits such information on important grounds of public interest;
 - 5.2 as soon as reasonably possible inform the Controller if the Processor thinks that any instruction to hand information to the Controller is in breach of the Data Protection Legislation;
 - 5.3 Process the Service Personal Data only for the purpose of carrying out the Service;
 - 5.4 ensure that all persons authorised by it to Process the Service Personal Data, before they have access to the Service Personal Data, have received appropriate training in relation to data protection and the protection and use of Personal Data and have committed themselves to keep the Service Personal Data confidential (at least to the same standard of confidentiality as is required by this Agreement) or are under an appropriate statutory obligation of confidentiality;

- 5.5 maintain a written record of all categories of Processing activities carried out on behalf of the Controller, containing:
 - 5.5.1 the name and contact details of the Processor and its Subprocessors and of the Controller, and, where applicable, of the Processor's and its Subprocessors' Data Protection Officers and any Representative;
 - 5.5.2 the categories of Processing of Personal Data carried out on behalf of the Controller;
 - 5.5.3 where applicable, transfers of any of the Service Personal Data outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) or to an International Organisation, including the identification of that country or International Organisation and documentation of suitable safeguards adopted in connection with that transfer; and
 - 5.5.4 a general description of the technical and organisational security measures taken in respect of the Service Personal Data.
 - 5.6 provide the Controller, on request, with a copy of the records referred to in paragraph 5.5;
 - 5.7 make the records referred to in paragraph 5.5 available to any competent Supervisory Authority on request and will, as soon as reasonably possible, notify the Controller that it has done so; and
 - 5.8 all other respects, comply with all the duties and obligations imposed from time to time on Processors by the Data Protection Legislation.
6. Without prejudice to paragraph 5, the Processor will take appropriate technical and organisational measures:
- 6.1 in such a way that the Processing of the Service Personal Data will meet the requirements of the Data Protection Legislation and will ensure the protection of the rights of Data Subjects and allow the Controller to fulfil its obligations to Data Subjects, including the Controller's obligations to respond to requests by Data Subjects to exercise their rights of access, rectification or erasure, to restrict or object to the processing of their Personal Data, or to data portability;
 - 6.2 to ensure a level of security appropriate to the risk, including amongst other things, as appropriate:
 - 6.2.1 the encryption of the Service Personal Data;
 - 6.2.2 the ability to ensure the on-going confidentiality, integrity, availability and resilience of systems and services Processing the Service Personal Data;
 - 6.2.3 the ability to restore the availability and access to the Service Personal Data in a timely manner in the event of a physical or technical incident;

- 6.2.4 having and implementing a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing of the Service Personal Data; and
- 6.3 to ensure the security of the Service Personal Data and the reliability of the Processor's personnel who may have access to, or be involved in, the Processing of the Service Personal Data, including by carrying out appropriate verification checks.
- 7. Without prejudice to the provisions of paragraph 6, the Processor will keep all of the Service Personal Data secure from any unauthorised or accidental use, access, disclosure, damage, loss or destruction.
- 8. The Processor will take steps to ensure that any natural person acting under its authority who has access to any of the Service Personal Data does not Process them except on instructions from the Controller, unless he or she is required to do so by applicable law.
- 9. The Processor will not transfer any of the Service Personal Data outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) or to an International Organisation, even if in response to a legal requirement outside Europe without first obtaining the written consent of the Controller and, notwithstanding the Controller giving any such consent, the Processor will not make any such transfer except in accordance with the Data Protection Legislation.
- 10. Without prejudice to paragraph 9:
 - 10.1 if the Processor Processes any of the Service Personal Data in, or transfers any of it to, a country or territory outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) which does not ensure an adequate level of protection for the rights and freedoms of Data Subjects in relation to the Processing of Personal Data, the Processor will first enter into the standard contractual clauses for the transfer of personal data from the EU to third countries (controller-to-processor transfers) contained in the Annex to the Commission Decision of 5 February 2010 (Decision 2010/87/EU) amending Decision 2002/16/EC (or any standard or model clauses or agreement replacing the same) (**the Standard Contractual Clauses**) with the Controller; and
 - 10.2 without prejudice to paragraph 10.1, if the Processor is in the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) but will use a Subprocessor in, or will transfer any of the Service Personal Data to a Subprocessor in, a country or territory outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) which does not ensure an adequate level of protection for the rights and freedoms of Data Subjects in relation to the Processing of Personal Data, the Processor will first enter into the Standard Contractual Clauses with that Subprocessor on behalf of, and in the name of, the Controller.
- 11. The Processor will, on the Controller's request:

- 11.1 comply with any request from the Controller to amend, rectify, transfer, block or destroy any of the Service Personal Data;
 - 11.2 securely destroy and permanently delete from the Processor's and its Subprocessors' systems (including back-up and archive systems) all copies of any of the Service Personal Data held by the Processor or any of its Subprocessors and in any case on the termination or expiry of this Agreement (except any of the Service Personal Data which any law to which the Processor is subject requires the Processor to continue to store that Personal Data);
 - 11.3 provide the Controller with such information about the Processor's and its Subprocessors' Processing of the Service Personal Data and such assistance as the Controller may request from time to time to allow the Controller to meet its obligations under the Data Protection Legislation, including the Controller's obligations to Data Subjects and in relation to data security and Data Protection Impact Assessments, and to allow the Controller to be able to demonstrate compliance with the Data Protection Legislation;
 - 11.4 take such other action or refrain from taking any action necessary to comply with, or to allow the Controller to comply with, the Data Protection Legislation or the order of any competent Supervisory Authority or court of competent jurisdiction; and
 - 11.5 co-operate with any competent Supervisory Authority.
12. The Processor will notify the Controller as soon as reasonably possible if the Processor becomes aware of any of the following: any breach of this Schedule, any breach of any of the Data Protection Legislation, and any Personal Data Breach. That notice must (at least):
- 12.1 describe the nature and facts of the breach including, where possible, the categories and approximate number of Data Subjects (if any) concerned and the categories and approximate number of data records concerned;
 - 12.2 communicate the name and contact details of the Data Protection Officer or other contact point where more information can be obtained;
 - 12.3 describe the likely consequences of the breach; and
 - 12.4 describe the measures taken or proposed to be taken by the Supplier to address and remedy the breach, including, where appropriate, to mitigate its possible adverse effects.
13. The Processor will give written notice to the Controller, as soon as reasonably possible, should the Processor or any Subprocessor receive any request, complaint, notice, order or communication which relates directly or indirectly to the Processing of the Service Personal Data or to compliance with the Data Protection Legislation and, at the same time, will forward that request, complaint, notice, order or communication to the Controller. The Processor will co-operate with the Controller and give it such information and assistance as the Controller may reasonably require in relation to that request, complaint, notice or communication to enable the Controller to respond to the same in accordance with any deadline and any requirement to provide information. The Processor will not act on any such request, complaint, notice, order or communication without first obtaining the Controller's written consent.

14. The Processor will allow the Controller (or its representatives) at reasonable times and from time to time, to inspect and review the Processor's and its Subprocessors compliance with this Schedule and the Data Protection Legislation and the Processor will give the Controller any assistance which the Controller may reasonably require in connection with that inspection and review. The Processor will ensure that its Subprocessors will give the Controller any assistance the Controller reasonably requires to carry out that inspection and review.
15. The Processor will, as quickly as possible, rectify any and all security weaknesses and vulnerabilities reported to it by the Controller and will confirm to the Controller in writing when this has been done.
16. In the event of an unexpected even which affects the Processor's ability to process the Service Personal Data in accordance with this Schedule, including any storm, fire, flood, telecommunications failures, IT systems failures and breaches of security, the Processor will invoke and implement a recovery plan so that the Processor is still able to provide and does Process the Service Data in accordance with this Schedule.
30. The Processor will comply with [BS ISO/IEC 27001:2013, the Information Security Management System Standard published by the International Organization for Standardization and 27002:2014, the Code of Practice for Information security Controls, each as amended from time to time or, in each case, any higher standard published from time to time by the relevant authority (ISO 27001)] and will provide to the Controller, at least once every 12 months, a report or certificate by an independent third party qualified to give that report or certificate of the Processor's and its Subprocessors' compliance with this Schedule and [ISO 27001]. [The Processor will neither do, nor omit to do, anything which places the Controller in breach of ISO 27001. The Processor will promptly supply any and all information and will complete any and all questionnaires which the Controller reasonably requests to allow the Controller to obtain or maintain certification under ISO 27001 and to allow the Controller to comply with ISO 27001.]
18. The Processor will not appoint any Subprocessor without first obtaining the Controller's written consent. Notwithstanding the Controller giving any consent to the Processor appointing any Subprocessor, Processor will:
 - 18.1 impose on each Subprocessor obligations equivalent to or at least as onerous as those imposed on the Processor in this Schedule;
 - 18.2 monitor each Subprocessor's compliance with those obligations and ensure that each Subprocessor complies with those obligations; and
 - 18.3 be liable to the Controller for the acts and omissions of the Processor's Subprocessors as though they were the Processor's own acts and omissions.
19. This Schedule will, at the request of either Party, be amended from time to time insofar as is necessary or desirable to achieve any or all of the following:
 - 19.1 to bring this Schedule or either Party's or both Parties' obligations in respect of the Service Personal Data into line with the Data Protection Legislation; or
 - 19.2 to allow either Party or both Parties to comply with the Data Protection Legislation and the requirements and recommendations of any competent Supervisory Authority.

20. The Controller will comply with all the duties and obligations imposed from time to time on Controllers by the Data Protection Legislation and, without prejudice to the foregoing, the Controller will:
- 20.1 establish and document the legal basis or bases on which the Controller Processes any and all of the Service Personal Data;
 - 20.2 where any Special Category Personal Data is Processed, establish and document the condition which justifies the Processing of that Special Category Personal Data for the purposes of the Service;
 - 20.3 provide Data Subjects with all information necessary to, and obtain any and all Consents from Data Subjects necessary to, allow the Controller to: Process their Personal Data in accordance with this Schedule; transfer their Personal Data to the Processor; and have the Processor Process their Personal Data in accordance with this Schedule, including (without limitation) any automated decision making or profiling carried out by the Processor on the Controller's instructions or at the Controller's request;
 - 20.4 at the Processor's request, provide the Processor with details of the legal basis on which any the Service Personal Data are Processed and the condition which justifies the Processing of any Special Category Personal Data, and with copies of any Consent obtained from any Data Subject;
 - 20.5 if the legal basis for Processing any of the Service Personal Data or the condition to be met to justify the Processing of any Special Category Personal Data for the purposes of the Service is the Data Subject's Consent, and that Consent is withdrawn, or if any Data Subject objects to any Processing of his or her Personal Data carried out by the Processor for the Controller or exercises his or her right to erasure or restriction or any other right under the Data Protection Legislation, as soon as possible, give notice of that withdrawal, objection or the exercise of that right and of the Service Personal Data affected to the Processor. (The Processor may stop Processing that Service Personal Data and delete it from its systems unless the Controller demonstrates that there is another legal basis for Processing that Service Personal Data, or that the Processing meets any other condition which justifies the Processing of Special Category Personal Data for the purposes of the Service, or that there are compelling legitimate grounds for the Processing which override the interests, rights and freedoms of the Data Subject, or that the Processing is necessary for the establishment, exercise or defence of legal claims.);
 - 20.6 provide the Processor with such instructions regarding the Processing of the Service Personal Data as may be necessary to allow the processor to Process the Service Personal Data for the purposes of the Service and not give the Processor any unlawful instruction;
 - 20.7 not instruct the Processor to transfer any of the Service Personal Data outside the European Union (including for these purposes the UK, even though the UK may have ceased to be a member state of the European Union) or to an International Organisation unless: i) the European Commission has made a Decision of Adequacy; or ii) the Controller has provided appropriate safeguards and has provided the Processor with details of any safeguards

which the Controller has implemented to ensure that the transfer is not in breach of the Data Protection Legislation;

- 20.8 carry out any Data Protection Impact Assessments in respect of the Processing of the Service Personal Data necessary to comply with the Data Protection Legislation
21. All expressions used in this Schedule beginning with a capital letter (and not defined in this Schedule or elsewhere in this Agreement) have the meaning given to them in the Data Protection Legislation.
22. The provisions of this Schedule will continue in full force and effect for so long as the Processor Processes any Personal Data on behalf of the Controller, notwithstanding the termination of this Agreement or the completion of the Service.
23. The Processor will indemnify the Controller and keep the Controller fully and effectively indemnified on demand against any and all costs, claims, demands, damages, expenses and liabilities of any nature and against any and all fines and penalties arising out of or in connection with any breach by the Processor or any of its Subprocessors of this Schedule. This paragraph will survive the termination of this Agreement, the completion of all Processing of the Service Personal Data by the Processor and its Subprocessors and the completion of the Service, and will continue in force without limit in time.

The Appendix

The Subject Matter of the Processing
[insert details]

The Duration of the Processing
[insert details]

The Nature and Purpose of the Processing
[insert details]

The Types of Personal Data Processed
[insert details]

The Categories of Data Subjects to whom the Service Personal Data relate
[insert details]

Part 2

Where more than one of the Parties determine the purpose of the Processing in respect of any Personal Data which is Processed for the purpose of the Service, the provisions of Part 2 of this Schedule will apply to them.

1. The Parties (**the Controllers**) will be a Controller in relation to Personal Data Processed for the purposes of the Service (**the Service Personal Data**).
2. The Appendix to this Schedule lists the subject matter of the Processing, the duration of the Processing, the nature and purpose of the Processing, the types of Personal

Data Processed, the categories of Data Subjects to whom the Service Personal Data relate, and the retention periods for the Service Personal Data.

3. Each Controller's obligations under this Schedule are in addition to, and do not relieve, remove or replace, its obligations under the Data Protection Legislation.
4. Each Controller will, where required by the Data Protection Legislation, appoint a Data Protection Officer, provide details of that person to the other Controller(s) and notify the other Controller(s), as soon as reasonably possible, of any changes in that person or his or her details.
5. Each Controller will:
 - 5.1 Process the Service Personal Data only for the purpose of carrying out the Service;
 - 5.2 ensure that all persons authorised by it to Process the Service Personal Data, before they have access to the Service Personal Data, have received appropriate training in relation to data protection and the protection and use of Personal Data and have committed themselves to keep the Service Personal Data confidential (at least to the same standard of confidentiality as is required by this Agreement) or are under an appropriate statutory obligation of confidentiality;
 - 5.3 maintain a written record of all categories of Processing activities carried out by it, containing:
 - 5.3.1 the name and contact details of any Processor (which for the purposes of this Schedule includes, where the context permits, any Subprocessor) used by it to Process any of the Service Personal Data and, where applicable, of the any Processors' Data Protection Officers and any Representative;
 - 5.3.2 the categories of Processing of Personal Data carried out by it or any Processor used by it to Process any of the Service Personal Data;
 - 5.3.3 where applicable, transfers of the Service Personal Data outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) or to an International Organisation, including the identification of that country or International Organisation and documentation of suitable safeguards adopted in connection with that transfer; and
 - 5.3.4 a general description of the technical and organisational security measures taken in respect of any of the Service Personal Data.
 - 5.4 provide the other Controller(s), on request, with a copy of the records referred to in paragraph 5.3; and
 - 5.5 make the records referred to in paragraph 5.3 available to any competent Supervisory Authority on request and will, as soon as reasonably possible, notify the other Controller(s) that it has done so.
6. Without prejudice to paragraph 5, each Controller will take appropriate technical and organisational measures:

- 6.1 in such a way that its Processing of the Service Personal Data will meet the requirements of the Data Protection Legislation and will ensure the protection of the rights of Data Subjects and allow it and the other Controller(s) to fulfil its obligations to Data Subjects;
- 6.2 to ensure a level of security appropriate to the risk, including amongst other things, as appropriate:
 - 6.2.1 the encryption of the Service Personal Data;
 - 6.2.2 the ability to ensure the on-going confidentiality, integrity, availability and resilience of systems and services Processing the Service Personal Data;
 - 6.2.3 the ability to restore the availability and access to the Service Personal Data in a timely manner in the event of a physical or technical incident;
 - 6.2.4 having and implementing a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing of the Service Personal Data; and
- 6.3 to ensure the security of the Service Personal Data and the reliability of its personnel who may have access to, or be involved in, the Processing of the Service Personal Data, including by carrying out appropriate verification checks.
7. Without prejudice to the provisions of paragraph 6, each Controller will keep all of the Service Personal Data secure from any unauthorised or accidental use, access, disclosure, damage, loss or destruction.
8. Each Controller will take steps to ensure that any natural person acting under its authority who has access to any of the Service Personal Data does not Process them except on its instructions, unless he or she is required to do so by applicable law.
9. No Controller will transfer any of the Service Personal Data outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) or to an International Organisation, even if in response to a legal requirement outside Europe without first obtaining the written consent of the other Controller(s) and, notwithstanding any other Controller giving any such consent, the Controller(s) will make any such transfer except in accordance with the Data Protection Legislation.
10. Without prejudice to paragraph 9:
 - 10.1 if any Controller Processes any of the Service Personal Data in, or transfers any of it to, a country or territory outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) which does not ensure an adequate level of protection for the rights and freedoms of Data Subjects in relation to the Processing of Personal Data, it will first enter into the standard contractual clauses for the transfer of personal data from the EU to third countries (controller-to-controller transfers) contained in the Annex to the Commission Decision of 27

December 2004 (Decision 2004/915/EU) amending Decision 2001/497/EC (or any standard or model clauses or agreement replacing the same) with the other Controller(s); and

- 10.2 without prejudice to paragraph 10.1, if any Controller is in the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) but will use a Processor in, or will transfer any of the Service Personal Data to a Processor in, a country or territory outside the European Union (which, for these purposes, includes the United Kingdom, even if it is no longer a member of the European Union) which does not ensure an adequate level of protection for the rights and freedoms of Data Subjects in relation to the Processing of Personal Data, it will first enter into the standard contractual clauses for the transfer of personal data from the EU to third countries (controller-to-processor transfers) contained in the Annex to the Commission Decision of 5 February 2010 (Decision 2010/87/EU) amending Decision 2002/16/EC (or any standard or model clauses or agreement replacing the same) with that Processor on its own behalf and on behalf of, and in the name of, the other Controller(s).
11. Each Controller will, on the request of any other Controller:
 - 11.1 comply with any request from that other Controller to amend, rectify, transfer, block or destroy any of the Service Personal Data;
 - 11.2 provide the other Controller(s) with such information about its and its Processors' Processing of the Service Personal Data and such assistance as any other Controller may request from time to time to allow each of the other Controller(s) to meet its obligations under the Data Protection Legislation, including the other Controller's obligations to Data Subjects and in relation to data security and Data Protection Impact Assessments, and to allow the other Controller to be able to demonstrate compliance with the Data Protection Legislation;
 - 11.3 take such other action or refrain from taking any action necessary to comply with, or to allow the other Controller(s) to comply with, the Data Protection Legislation or the order of any competent Supervisory Authority or court of competent jurisdiction; and
 - 11.4 co-operate with any competent Supervisory Authority.
12. Each Controller will notify the other Controller(s) as soon as reasonably possible if it becomes aware of any of the following: any breach of this Schedule, any breach of any of the Data Protection Legislation, and any Personal Data Breach. That notice must (at least):
 - 12.1 describe the nature and facts of the breach including, where possible, the categories and approximate number of Data Subjects (if any) concerned and the categories and approximate number of data records concerned;
 - 12.2 communicate the name and contact details of the Data Protection Officer or other contact point where more information can be obtained;
 - 12.3 describe the likely consequences of the breach; and

- 12.4 describe the measures taken or proposed to be taken by the Controller(s) to address and remedy the breach, including, where appropriate, to mitigate its possible adverse effects.
13. Each Controller will give written notice to the other Controller(s), as soon as reasonably possible, should it or any of its Processors receive any request, complaint, notice, order or communication which relates directly or indirectly to the Processing of the Service Personal Data or to compliance with the Data Protection Legislation and, at the same time, will forward a copy of that request, complaint, notice, order or communication to the other Controller(s). Each Controller will cooperate with the other Controller(s) and give them such information and assistance as any other Controller may reasonably require in relation to that request, complaint, notice or communication to enable the other Controller(s) to respond to the same in accordance with any deadline and any requirement to provide information. None of the Controllers will act on any such request, complaint, notice, order or communication without first consulting the other Controller(s).
14. Each Controller will allow any other Controller (or its representatives) at reasonable times and from time to time, to inspect and review its and its Processors' compliance with this Schedule and the Data Protection Legislation and will give any other Controller any assistance which it may reasonably require in connection with that inspection and review. Each Controller will ensure that its Processors will, give any other Controller any assistance the other Controller reasonably requires to carry out that inspection and review.
15. Each Controller will, as quickly as possible, rectify any and all security weaknesses and vulnerabilities reported to it by any other Controller and will confirm to the other Controller(s) in writing when this has been done.
16. In the event of an unexpected even which affects any Controller's ability to process the Service Personal Data in accordance with this Schedule, including any storm, fire, flood, telecommunications failures, IT systems failures and breaches of security, that Controller will invoke and implement a recovery plan so that it is still able to provide and does Process the Service Data in accordance with this Schedule.
17. Each Controller will comply with [BS ISO/IEC 27001:2013, the Information Security Management System Standard published by the International Organization for Standardization and 27002:2014, the Code of Practice for Information security Controls, each as amended from time to time or, in each case, any higher standard published from time to time by the relevant authority (ISO 27001)] and will provide to the other Controller(s), at least once every 12 months, a report or certificate by an independent third party qualified to give that report or certificate of its and its Processors' compliance with this Schedule and [ISO 27001]. [No Controller will do, nor omit to do, anything which places any other Controller in breach of ISO 27001. Each Controller will promptly supply any and all information and will complete any and all questionnaires which any other Controller reasonably requests to allow that other Controller to obtain or maintain certification under ISO 27001 and to allow that other Controller to comply with ISO 27001.]
18. No Controller will appoint any Processor without first obtaining the written consent of the other Controller(s). Notwithstanding any other Controller giving any consent to the appointment of any Processor, each Controller will (as a minimum):
- 18.1 impose on each Processor those obligations which Controllers are obliged to impose on Processors under the Data Protection Legislation;

- 18.2 monitor each Processor's compliance with those obligations and ensure that each Processor complies with those obligations; and
 - 18.3 be liable to the other Controller(s) for the acts and omissions of its Processors as though they were its own acts and omissions.
19. This Schedule will, at the request of any Controller, be amended from time to time insofar as is necessary or desirable to achieve any or all of the following:
- 19.1 to bring this Schedule or any Controller's obligations in respect of the Service Personal Data into line with the Data Protection Legislation; or
 - 19.2 to allow any Controller to comply with the Data Protection Legislation and the requirements and recommendations of any competent Supervisory Authority.
20. Each Controller will comply with all the duties and obligations imposed from time to time on Controllers by the Data Protection Legislation and, without prejudice to the foregoing, each Controller will:
- 20.1 establish and document the legal basis or bases on which it Processes the Service Personal Data;
 - 20.2 where any Special Category Personal Data is Processed, establish and document the condition which justifies the Processing of that Special Category Personal Data for the purposes of the Service;
 - 20.3 provide Data Subjects with all information necessary to, and obtain any and all Consents from Data Subjects necessary to, allow it: to Process their Personal Data in accordance with this Schedule; transfer their Personal Data to the other Controller(s); and allow the other Controller(s) to Process their Personal Data in accordance with this Schedule, including (without limitation) any automated decision making or profiling;
 - 20.4 at the request of any other Controller, provide the other Controller's with details of the legal basis on which any the Service Personal Data are Processed and the condition which justifies the Processing of any Special Category Personal Data, and with copies of any Consent obtained from any Data Subject;
 - 20.5 if the legal basis for Processing any of the Service Personal Data or the condition to be met to justify the Processing of any Special Category Personal Data for the purposes of the Service is the Data Subject's Consent, and that Consent is withdrawn, or if any Data Subject objects to any Processing of his or her Personal Data carried out for the purposes of the Service or exercises his or her right to erasure or restriction or any other right under the Data Protection Legislation, as soon as possible, give notice of that withdrawal, objection or the exercise of that right and of the Service Personal Data affected to the other Controller(s). (The other Controller(s) may stop Processing that Service Personal Data and delete it from its systems unless there is another legal basis for Processing that Service Personal Data, or the Processing meets any other condition which justifies the Processing of Special Category Personal Data for the purposes of the Service, or there are compelling legitimate grounds for the Processing which override the interests,

rights and freedoms of the Data Subject, or the Processing is necessary for the establishment, exercise or defence of legal claims.);

- 20.6 carry out any Data Protection Impact Assessments in respect of the Processing of the Service Personal Data necessary to comply with the Data Protection Legislation.
21. All expressions used in this Schedule beginning with a capital letter (and not defined in this Schedule or elsewhere in this Agreement) have the meaning given to them in the Data Protection Legislation.
22. The provisions of this Schedule will continue in full force and effect for so long as any of the Service Personal Data is Processed, notwithstanding the termination of this Agreement or the completion of the Service.
23. Each Controller will indemnify the other Controller(s) and keep them fully and effectively indemnified on demand against any and all costs, claims, demands, damages, expenses and liabilities of any nature and against any and all fines and penalties arising out of or in connection with any breach by it or any of its Processors of this Schedule. This paragraph will survive the termination of this Agreement, the completion of all Processing of the Service Personal Data and the completion of the Service and will continue in force without limit in time.
24. The Parties will [securely destroy and permanently delete from its and its Processors' systems (including back-up and archive systems)] all copies of any of the Service Personal Data held by it or any of its Processors at the end of the relevant retention period in the Annex to this Schedule and in any case on the termination or expiry of this Agreement (except any of the Service Personal Data which any law to which the parties is subject requires it to continue to store the Service Personal Data).

The Appendix

The Subject Matter of the Processing
[insert details]

The Duration of the Processing
[insert details]

The Nature and Purpose of the Processing
[insert details]

The Types of Personal Data Processed
[insert details]

The Categories of Data Subjects to whom the Service Personal Data relate
[insert details]

The Retention Periods
[insert details]

COUNCIL

25 MARCH 2025

JOINT REPORT OF THE MONITORING OFFICER AND THE CABINET

A.3 AMENDMENTS TO TENDRING DISTRICT COUNCIL'S MEMBERS' PLANNING CODE & PROTOCOL FOLLOWING A REVIEW

(Report prepared by Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable Council to consider proposed amendments to the Members' Planning Code & Protocol following a review carried out by the Standards Committee and consideration by the Cabinet.

EXECUTIVE SUMMARY

The Standards Committee, at its meeting held on 5 February 2025 (Minute 34 refers), considered a report of the Monitoring Officer (A.1) which presented the updated revised version of the Planning Probity Protocol, following consultation with the members of the Planning Committee, the Portfolio Holder for Housing and Planning, Planning Officers and the Independent Persons.

It had been reported that some themes emerging from the consultation were:

- *the concept of Bias needed to be stronger.*
- *stronger links to the Members' Code of Conduct, declarations of interest and the impact of participation at meetings.*
- *importance of seeking advice earlier.*
- *a determination should be made as to which Planning Applications submitted by Officers of the Council in their personal capacity should be submitted to the Planning Committee for determination i.e. Senior Officers above a certain grade and all Officers employed within Planning Services and Legal Services.*
- *the importance of Member Training needed to be stressed within the Planning Probity Protocol.*
- *stronger details needed around Planning Committee Members attending public meetings with applicants, developers and objectors, and*
- *site visits section needed to be stronger relating to the exceptional circumstances.*

Members had been made aware that the outcome of the consultation had been set out in detail in Appendix B of the Officer report. In addition, it had been considered necessary to include some text around the Protocol on Member and Officer Relations, as that had been omitted in the first review and was relevant.

It had been RESOLVED that the Standards Committee –

- (a) notes the outcome of the consultation with the members of the Planning Committee, the Portfolio Holder for Housing and Planning, Planning Officers and the Independent Persons;
- (b) endorses the revised Planning Probity Protocol (subject to tracked changes being accepted as well as the typing errors being amended) and **recommends to Full**

Council that it be adopted and incorporated into the Council's Constitution;

- (c) subject to (b) includes **an additional recommendation to Full Council that the Planning Committee's Terms of Reference be amended to reflect the proposed seniority of Officers and all Officers within Planning and Legal Services personal planning applications to be referred to the Planning Committee;** and
- (d) **subject to Full Council's approval of the Planning Probity Protocol, that training on the Protocol forms part of the Mandatory Training as required by Council Procedure Rule 33.3 for Members of the Planning Committee.**

Resolutions (b), (c) and (d) above are pertinent to this report.

The Cabinet, at its meeting held on 17 March 2025 (Minute 143 refers), considered the recommendations put forward by the Standards Committee.

Cabinet decided to recommend to Full Council that:-

- (1) the revised Planning Probity Protocol be adopted and incorporated into the Council's Constitution;
- (2) the Planning Committee's Terms of Reference be amended to reflect that personal planning applications submitted by the proposed seniority level of Officers plus all Officers within Planning and Legal Services will be referred to the Planning Committee; and
- (3) training on the Planning Probity Protocol forms part of the Mandatory Training as required by Council Procedure Rule 33.3 for Members of the Planning Committee.

The revised Planning Probity Protocol is attached as the Appendix to this joint report.

RECOMMENDATIONS

That Council, having considered this joint report, approves that –

- (1) **the revised Planning Probity Protocol be adopted and incorporated into the Council's Constitution;**
- (2) **the Planning Committee's Terms of Reference be amended to reflect that personal planning applications submitted by the proposed seniority level of Officers plus all Officers within Planning and Legal Services will be referred to the Planning Committee; and**
- (3) **training on the Planning Probity Protocol forms part of the Mandatory Training as required by Council Procedure Rule 33.3 for Members of the Planning Committee.**

BACKGROUND PAPERS FOR THE DECISION

Published Decisions of the meeting of the Cabinet held on 17 March 2025.

APPENDICES

Revised Planning Probity Protocol

**CONSTITUTION OF THE
DISTRICT OF TENDRING**

Part 6 – Planning Probity Protocol

Contents:

- 1 Introduction
- 2 General role and conduct of Members and Officers
- 3 Relationship to Members' Code of Conduct
- 4 Applications submitted by the Council, Members or Officers
- 5 Member training
- 6 Predisposition, predetermination and bias
- 7 Contact with Applicants, Developers and Objectors
- 8 Lobbying of and by Members
- 9 Site Visits/Inspections
- 10 Post-submission discussions
- 11 Public Speaking at Meetings
- 12 Reports and Decision Making
- 13 Planning appeals
- 14 Planning enforcement

1 INTRODUCTION

- 1.1 This Planning in Probity Protocol ("Protocol") has been prepared using the advice in the Local Government Association's revised guidance note on good planning practice for Members and Officers dealing with planning matters – Probity in Planning: the Role of Councillors and Officers (December 2019).
- 1.2 **The aim of this Protocol:** To ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.3 **The key purpose of planning:** "*the purpose of the planning system is to contribute to the achievement of sustainable development*" (para 7 of the National Planning Policy Framework (NPPF)). Planning matters have a significant impact on our lives and the area where we live, work or play. Consequently, planning attracts a great deal of public and media interest. It is important that the system operates, and is seen to be operated, in an honest, open and transparent manner.
- 1.4 **Your role as a Member of the Planning Committee:** To make planning decisions openly, impartially, with sound judgement and for justifiable planning reasons.
- 1.5 **When the Protocol applies:** This Protocol applies to Members at all times they are involved in the planning process. This includes, where applicable, when part of decision-making meetings of the Council, exercising the functions of the planning authority or when involved on less formal occasions, such as meetings with Officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications. If you have any doubts about the application of this Protocol to your own circumstances you should seek advice early, and preferably well before any action is taken, site visits undertaken or formal committee meeting takes place, from the Monitoring Officer.
- 1.6 In this Protocol when the term "Councillor" or "Member" is used it means that the advice is applicable to all Members of the Council. The term "Planning Committee

A.3 APPENDIX

Member” means a Member or a substitute Member of the Council’s Planning Committee.

- 1.7 **Relationship to the Members' Code of Conduct:** Members are reminded that the Planning Probity Protocol is designed primarily for Members of the Council’s Planning Committees and Members who, for whatever reason, find themselves involved in the planning process. Whilst the Protocol interprets the Members’ Code of Conduct with respect to planning matters, it is subordinate to the Members’ Code of Conduct and in the event of any inconsistencies arising between this Protocol and the Members’ Code of Conduct, the Members’ Code of Conduct shall prevail.

2 GENERAL ROLE AND CONDUCT OF MEMBERS AND OFFICERS

Introduction:

The Council has adopted a Protocol on Member and Officer Relations, which is contained within the Constitution in Part 6. The success of the Council is greatly dependent upon the positive nature of the working relationship between Members and Officers. Mutual trust and respect between both Members and Officers are essential to good local government.

The purpose of the **Protocol on Member and Officer Relations** is to provide a guide to good working relationships between Members and Officers, defining their respective roles and outlining the principles that underpin their relationship.

The protocol also builds on the respective Codes of Conduct for both Members and Officers and through this promotes the maintenance of integrity, both real and perceived, of the Council as well as very high standards of personal conduct.

The Underpinning Principles of working relationships are set out below and to be followed by both Members and Officers in fulfilling their duties:

- Mutual respect and courtesy between Officers and Members;
- An awareness of each other’s responsibilities and duties;
- No inappropriate criticism, intimidating behaviour, or the creation of a threatening work environment of any kind from either Members or Officers;
- Any appropriate challenges are to be conducted in a professional and respectful manner;
- Equal treatment, regardless of personal or political opinion (actual or perceived);
- An adherence to the law and the lawful instructions and advice of others; and
- An avoidance of close personal familiarity.

The above principles are designed to foster the good working relationships between Officers and Members that are essential to effective decision making and the delivery of services.

OFFICERS:

- 2.1 The function of Officers is to support and facilitate the Councillors in their work and to ensure that robust and lawful decisions are made. Planning decisions must be made

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in accordance with the Local Plan and other material planning considerations (section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004).

- 2.2 The Director of Planning & Communities makes decisions on the majority of planning applications under delegated powers and makes recommendations on more significant and contentious applications and other planning matters for decision by the Planning Committee.
- 2.3 Planning Officers will provide professional advice and must provide Planning Committee Members with an Officer's recommendation on whether or not planning permission should be granted, based on the Planning Officer's assessment.
- 2.4 In considering applications and in advising members of the public on planning policy, the determination of planning applications, enforcement and other planning matters, Officers must:-
 - act fairly and openly and avoid any actions that would give rise to an impression of bias;
 - avoid inappropriate social contact with applicants and their agents, objectors and other interested parties;
 - approach each planning application or issue with an open mind, avoiding preconceived ideas;
 - carefully weigh up all relevant planning issues before making a decision;
 - make decisions and recommendations purely on planning grounds having regard to the Local Plan and other material considerations;
 - give professional, objective and consistent advice; and,
 - carry out the decisions of the Committee insofar as they relate to the completion of any legal agreement, or instigation or defence of proceedings.

PLANNING COMMITTEE MEMBERS:

- 2.5 In return Planning Committee Members must adhere to paragraph 1.2 of the Members' Code of Conduct and treat local authority employees (officers) and representatives of partner organisations and those volunteering for the Council with respect and respect for the role they play.
- 2.6 The Code of Conduct states "*Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack*".
- 2.7 The relationship between officers and members during the Planning Committee meeting should be based on mutual respect and courtesy, recognising that Officers are in attendance to assist Planning Committee Members answering questions, to enable them to make their decision. Officers are not in attendance to be cross examined or subject to inappropriate criticism.

3 RELATIONSHIPS TO MEMBERS' CODE OF CONDUCT

- 3.1 The rules contained in the Members' Code of Conduct must always be complied with first. These are both the rules on Disclosable Pecuniary Interests (DPIs) and any other interests identified by the Council, and the general rules and obligations giving effect to

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the Seven Principles of Public Life: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

3.2 **Do** then apply the rules in this Protocol, which seek to explain and supplement the Members' Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this Protocol, you may:

- put the Council at risk of proceedings on the legality of the related decisions or maladministration;
- undermine the integrity of such important decision making and reduce public trust and confidence; or
- put yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011, a complaint being made to the Police to consider criminal proceedings.

3.3 **DECLARATIONS OF INTERESTS & IMPACT ON PARTICIPATION**

The Council's Members' Code of Conduct sets out requirements for Members on declaring Disclosable Pecuniary Interests, Other Registerable Interests and Non-Registerable Interests and the consequences on participation of having such an interest. These must be followed scrupulously, and Members should review their situation regularly and ensure they understand their requirements under the Code of Conduct with regards to the provisions on Interests. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct.

A Planning Committee Member with a Disclosable Pecuniary Interest (as described in Appendix B to the Members' Code of Conduct), in respect of a particular planning matter must declare it and take no part in the discussion or the determination of the proposal. He or she should leave the room before the item is considered. Failure to do so could result in a criminal offence being committed.

The responsibility for this rests with each Planning Committee Member, who should understand if they have an Interest before the Planning Committee meeting takes place. Advice can be obtained in advance from the Monitoring Officer or their Deputy if required, in advance of a Planning Committee meeting. Ideally advice should be requested in good time, and not just before the start of the Committee meeting, as it may not be possible to provide a response immediately before the meeting is due to start. It is considered unsatisfactory if a Planning Committee Member asks for guidance in the course of a debate.

3.4 **Do** disclose the existence of the Interest providing a full explanation of its nature and impact; and

3.5 **Do take into account when approaching a decision that the principle of Integrity (one of the Nolan Principles in Public Life) is defined as**

*"Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. **They must declare and resolve any interests and relationships**".*

3.6 It is therefore advisable that Members:

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- (i) Note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate Officer, in person or in writing, but that your role as a Councillor and/or Planning Committee Member may place additional limitations on you in representing the proposal in which you have an interest.
- (ii) Notify the Monitoring Officer in writing where it is clear to you that you have a Disclosable Pecuniary Interest, Other Registerable Interest, Non-Registerable Interest or other personal conflict of interest and note that:
 - you should send the notification no later than submission of that application where you can;
 - the proposal will always be reported to the Planning Committee as a main item and not dealt with by Officers under delegated powers;
 - you must not get involved in the processing of the application; and
 - it is advisable (but not mandatory) that you employ an agent to act on your behalf in respect of the proposal when dealing with Officers and in public speaking at Planning Committee.

4 APPLICATIONS SUBMITTED BY THE COUNCIL, MEMBERS OR OFFICERS

4.1 The Planning Committee Terms of Reference (as set out in Part 3 of the Constitution)

requires that the following Planning Applications are referred to the Planning Committee for determination:

- a) 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; and
- b) the applicant is a Member of the Council, or a member of permanent staff employed by TDC and there is an Officer recommendation for approval.

4.2 In respect of Officers, it is suggested that this should apply to the Council's Senior Managers, as determined by the individual services, and all Officers within Planning and Legal Services.

5 MEMBER TRAINING

5.1 A Member (or designated named Substitute Member) cannot sit as a member of the Planning Committee unless they have received specific training with regard to the determination of planning applications (Part 4 of the Constitution - Council Procedure Rules). This training is essential for both exercising committee functions and also complying with this Protocol.

5.2 Being a member of the Planning Committee can be a difficult role to carry out. The Council provides training for Councillors on the determination of planning applications at least once a year, and this is a mandatory requirement to sit as a member of the Planning Committee (Council Procedure Rules). The Council also aims to provide more specialist training throughout the year to update knowledge, cover specific topics, appeal decisions, new legislation, guidance and policy, and to generally look at matters in greater depth. Current Planning Committee Members (which includes designated named Substitute Members, see paragraph 1.6) should attend all planning training events arranged by the Council. It is open to all other Councillors to attend these training sessions however, where places are limited, current Planning Committee Members and named Substitute

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Members of the Planning and/or Planning Policy and Local Plan Committees will take priority.

- 5.3 **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- 5.4 **Do** attend all planning training including specialised training sessions provided and arranged by the Council under a continuing programme either because the topic has been designated mandatory for Planning Committee Members (and designated named Substitute Members) or to assist you in the functions of the Planning Committee. This training is designed to extend your knowledge of planning policy, law, regulations, procedures, Codes of Practice and the Development Plans and thus assist you in carrying out your role properly and effectively.
- 5.5 Organised training provides opportunities to review a sample of planning decisions as to ensure that Planning Committee Members' judgements have been based on proper planning considerations.

6 FETTERING DISCRETION IN THE PLANNING PROCESS PREDISPOSITION, PREDETERMINATION AND BIAS

- 6.1 In addition to declaring Disclosable Pecuniary interests, Other Registerable Interests and Non-Registerable Interests, members of a Planning Committee need to avoid any appearance of bias or of having predetermined their view at the time of making a decision on a planning application.
- 6.2 The law on **bias and predetermination** (which is a particular form of bias) is part of the general legal obligations on public authorities to act fairly and the existence of such can result in an unlawful decision being made and subject to judicial review. Decision makers are entitled to be **predisposed** to particular views.

PREDISPOSITION

- 6.3 A distinction is drawn by the Courts between a Councillor having clearly expressed an intention to vote in a particular way before a meeting (pre-determination) and a predisposition to an initial view. Where the Councillor is clear they have an open mind and are willing to listen to all the material considerations presented at the Planning Committee before deciding on how to exercise their vote, there is no predetermination.

BIAS

- 6.4 Councillors should not participate in the consideration of a planning application if to do so would give the appearance of bias (actual or perceived), and the decision may be challenged on the grounds of bias in the High Court. **The test for bias is: "Would the fair-minded observer, knowing the background, consider that there was a real possibility of bias?"**

It is not the Councillor's view of whether they are biased that is relevant but the view of the independent observer. Perception is important and can lead a fair-minded observer to consider that there is a real possibility of bias, they should not participate in making the decision and should withdraw from the room (or virtual meeting where appropriate). Further, Councillors do not have to have a

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personal interest in order to come within the definition of bias. The Courts have held that it is primarily a matter for the Councillor to judge whether to withdraw but given the scope for challenge the Councillor should always err on the side of caution. Whilst not every application will raise the question of bias, there will be occasions when a member of the public in possession of all facts might consider that there is a real risk of bias. In these circumstances, the Councillor should seek advice from the Monitoring Officer, their Deputy or a legal adviser to the Planning Committee.

PREDETERMINATION

- 6.5 **Predetermination occurs where someone closes their mind to any other possibility beyond that predisposition**, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision. The leading case on local authority bias and predetermination acknowledges the difference between Judges sitting judicially and Councillors making decisions in a democratic environment. Given the role of Councillors, there must be ‘clear pointers’ before predetermination is established. Where there is predetermination, the Councillor should not participate in the consideration of a planning application.
- 6.6 The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a “closed mind” and likely to leave the Planning Committee’s decision susceptible to challenge by Judicial Review. The latter is the perfectly normal process of someone making up their mind.
- 6.7 **EXAMPLE:** a Councillor who states, “Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee” will be perceived very differently from a Councillor who states, “Many people find windfarms ugly and noisy, and I will need a lot of persuading that any more windfarms should be allowed in our area”. The former has a closed mind and is predetermined, whereas the latter is predisposed but is maintaining an open mind.
- 6.8 The following diagram is produced to help Councillors appreciate the range of circumstances (the following is guidance only; any specific questions should be raised with the Council’s Monitoring Officer):

Lawful	No view	
	Predisposition	<ul style="list-style-type: none"> ● Manifesto pledges/commitments ● Policy making and setting
Unlawful	Predetermination	<ul style="list-style-type: none"> ● Clearly expressed intention to vote in a particular way on an individual application whatever the information provided
	Bias	<ul style="list-style-type: none"> ● Membership of an organisation that supports or opposes particular developments or development types

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PARTICIPATING IN DECISION MAKING

6.9 Councillors are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under Section 25 of the Localism Act 2011. The Section provides

(1) Subsection (2 - below) applies if—

(a) as a result of an allegation of bias or predetermination, or otherwise, there is an issue about the validity of a decision of a relevant authority, and

(b) it is relevant to that issue whether the decision-maker, or any of the decision-makers, had or appeared to have had a closed mind (to any extent) when making the decision.

(2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—

(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and

(b) the matter was relevant to the decision.

The Section makes it clear that if a Councillor has given a view on an issue, this, considered in isolation, does not show that the Councillor has a closed mind on that issue. So, the mere fact that a Councillor has campaigned on an issue or made public statements about their approach to an item of council business does not prevent that Councillor from being able to participate in discussion of that issue and to vote on it.

6.10 However, decision-makers must not fetter their discretion by approaching the decision to determine a planning application with a closed mind or exhibiting bias. It is a legal requirement to approach the determination of a planning application with an open mind to prevent a legal challenge for pre-determination or bias (both being judicial review grounds in administrative law).

6.11 When Planning Committee Members come to make the decision, they:

- should not take part if they are biased or to take part would give the appearance of bias (see paragraph 6.4 for an explanation of bias),
- are entitled to have and to express their own views on the matter, provided they are prepared to reconsider their position in the light of all the evidence and arguments;
- must keep an open mind and hear all of the evidence before them, both the Officers' presentation of the facts and their advice as well as the arguments from all sides;
- are not required to cast aside views on planning policy held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
- are only entitled to take account of material planning considerations and must disregard considerations irrelevant to the question and legal context at hand;

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- must be prepared to change their view right up to the point of making the decision; and
 - come to a decision after giving what they feel is the right weight to those material planning considerations.
- 6.12 Councillors can listen to applicants and objectors, and indicate their view, but must not give the perception that they are biased in their consideration of their issues. Councillors can support or oppose an application and represent the views of their residents in their role as a Ward Councillor. To do so as a Planning Committee Member MIGHT compromise their role on the Committee and Councillors must seek advice from the Monitoring Officer, their Deputy or the legal adviser to the Planning Committee.
- 6.13 A Planning Committee Member should take the opportunity to exercise their separate speaking rights as a Ward Member where you have represented your views or those of local electors and fettered your discretion, but do not have a Disclosable or other personal conflict of interest (see paragraph 6.14 in respect of Interests). Where you do:
- advise the Committee Officer or the Chairman that you wish to speak in this capacity at the Declaration of Interests part of the agenda and before commencement of the item and in accordance with the Public Speaking Scheme;
 - remove yourself from the seating area for Members of the Planning Committee for the duration of that item;
 - take a seat in the public gallery and address the Members of the Planning Committee when invited to in accordance with the Public Speaking Scheme
 - you may remain in the public gallery for the duration of the item as you are representing the Ward; and
- ensure that your actions are recorded within the minutes.
- 6.14 If a Planning Committee Member has a Disclosable or other personal conflict of interest under the Members' Code of Conduct, they may exercise their speaking rights as a Ward Member only with a dispensation from the Council's Monitoring Officer. In these circumstances, all of the bullet points in paragraph 6.13 apply however, in respect of bullet point 4, they must withdraw from the meeting room once they have addressed the Planning Committee in accordance with the Public Speaking Scheme.

7 CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

- 7.1 Planning Committee Members must refer those who approach them for planning, procedural or technical advice to Officers.
- 7.2 Planning Committee Members must only attend private meetings organised in accordance with this Protocol and must not attend private meetings with applicants, developers or groups of objectors. To do so could result in a finding of bringing the Council into disrepute and breaching paragraph 5 of the Members' Code of Conduct.
- 7.3 Where you feel that a formal (private meeting) would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the

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Director of Planning and Communities or Head of Planning and Building Control to organise it. The Officer(s) will ensure that those present at the meeting are advised from the start that the discussions will not bind the Authority to any particular course of action, that the meeting is properly recorded on the public file at the earliest convenience. In all cases, the involvement of Councillors will be recorded in any subsequent planning application, whether in any delegated report or in any Committee report.

7.4 **Do otherwise:**

- follow the Authority's rules on lobbying (see Section 8 of this Protocol);
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the Head of Planning and Building Control any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

IN ADDITION, IN RESPECT OF PRESENTATIONS BY APPLICANTS/DEVELOPERS

7.5 A public presentation arranged by the applicant/developer is not part of the formal process of debate and determination of the subsequent planning application. However, where an applicant has arranged a public presentation for a proposal (prior to or following the submission of an application), a Planning Committee Member may attend that public meeting if they consider that they would find this helpful to understand the proposal.

In attending a public presentation, Planning Committee Members must be careful with behaviors and not place themselves in a situation which could be perceived as giving a view on the application (or proposed application).

If they wish to subsequently take part in the decision making of the application for the proposal, they must not enter into any discussions with the applicant, their agent or any member of the public present at the meeting to avoid being lobbied and to avoid allegations of pre-determination and/or bias. When attending, the Planning Committee Member must adhere to the general rules and obligations as set out in their Members' Code of Conduct, giving effect to the Seven Principles of Public Life (Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership), and the rules on lobbying set out in Section 8 of this protocol.

If you decided to attend a public presentation you must declare this at the meeting for openness and transparency, explain the purpose of your attendance and what action was taken, including if you were approached as this would be regarded as lobbying. This information will be recorded in the minutes and acts as a record.

7.5 **Don't** attend a planning presentation without requesting an Officer to be present.

7.6 **Do otherwise:**

- ask relevant questions for the purposes of clarifying your understanding of the proposals.
- remember that the presentation is a form of lobbying and not part of the formal process of debate and determination of any subsequent application; this will be carried out by the Planning Committee of the Planning Authority.

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- be aware that as the presentation is a form of lobbying so avoid placing yourself in a situation which could be perceived as giving a view on the application, or enter into any discussions with the applicant, their agent or any member of the public present at the meeting to avoid being lobbied and to avoid allegations of pre-determination and/or bias.
- follow the Authority's rules on lobbying.
- report to the Head of Planning and Building Control any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file;
- when the application is being considered under the Declaration of Interests item on the agenda and in the interest of openness make the necessary declarations at the Planning Committee that you have been lobbied on a particular matter by attending a presentation and state whether you are pre-determined or not

8 LOBBYING OF AND BY COUNCILLORS

- 8.1 Lobbying is a normal and perfectly proper part of the political process. Members of the public, applicants or local interest groups will often seek to influence a decision through an approach to their Ward Member. In the case of a Planning Committee Member, care needs to be taken to avoid the perception of bias or predetermination of any planning matter.
- 8.2 A Planning Committee Member should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said (or read what is put in writing and sent to them), it may subsequently prejudice their impartiality and ability to participate in the Committee's decision-making, if they are asked to express either an intention to vote one way or another or such a firm point of view that amounts to the same thing.
- 8.3 Planning Committee Members should ensure that it is made clear to any lobbyists that they will only be in a position to reach a final decision on any planning matter after they have heard all of the relevant arguments and looked at the relevant information during the sitting of the determining Committee.
- 8.4 Planning Committee Members should therefore:
- suggest to lobbyists that they write to the Director of Planning and Communities in order that their views can be included in the Officer reports prepared for determination under delegated powers or by Committee;
 - pass on any lobbying correspondence received (including plans, data, correspondence etc. in respect of an application) to the Director of Planning and Communities or email PlanningSupport&Development@tendringdc.gov.uk as soon as practicably possible so that it can be taken into account and included in the report on the application;
 - remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and, taking account of the need and duty to make decisions impartially, and should not improperly favour, or appear to improperly favour, any person, company, group or locality;
 - not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is entirely unavoidable, ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality; and,
 - inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches including inappropriate offers of gifts

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or hospitality), who will in turn advise the appropriate Officers to follow the matter up where necessary.

- 8.5 Planning Committee Members should note that, subject to the requirements to ensure that Members comply with the Members' Code of Conduct and the rules regarding bias and pre-determination and ensure that they take appropriate action in relation to Disclosable Pecuniary Interests, Other Registerable Interests and Non-Registerable Interests, they are not precluded from:
- listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, or other Members or appropriate Officers, provided they do not consist of or amount to predetermination or bias and they can make clear they are keeping an open mind when it comes to making the decision;
 - seeking information through appropriate channels; or,
 - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided that under the Declaration of Interests item on the agenda they explain their actions and make it clear that, either (a) having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate (they are not pre-determined); or (b) state that they wish to exercise their separate speaking rights on the application as a Ward Member, following the procedure set out in paragraphs 6.13 or 6.14 as appropriate.
- 8.6 In the interest of openness, it is recommended that Planning Committee Members must make the necessary declarations that they have been lobbied on any particular matter at the Committee when the application is being considered under the Declaration of Interests item on the agenda.
- 8.7 Planning Committee Members should not become a member of, lead or represent a national or local organisation whose primary purpose is to lobby to promote or oppose planning proposals. If a Planning Committee Member does, he/she may appear to be biased
- 8.8 Whilst Planning Committee Members may be able to address the Committee as a Ward Member or an objector, they are not able to participate or vote on any matter in respect of which they have a disclosable pecuniary interest unless they have received a dispensation for this purpose (see paragraph 6.14).
- 8.9 Planning Committee Members can join general groups which reflect their areas of interest, and which concentrate on issues beyond particular planning proposals, but they should disclose a personal interest where that organisation has made representations on a particular proposal. A Planning Committee Member should make it clear to that organisation and the Planning Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.
- 8.10 Members should not excessively (*) lobby Planning Committee Members regarding their concerns or views on a planning application, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

(*) Members are entitled to lobby however, this should not be more than is necessary or normal to make the points/views known. Members should not use access to Council resources, including fellow Councillors to seek an advantage or to compromise the impartiality of the decision making.

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- 8.11 Planning Committee Members must not decide or discuss how to vote on any application at any sort of political group meeting or lobby any other Member to do so.
- 8.12 Members should avoid any direct contact with consultees and instead work with Planning Officers to resolve any concerns or arrange contact (not least as some of the Consultees charge for time).

9 SITE VISITS/INSPECTIONS

CONDUCT AT THE SITE VISIT

- 9.1 Officers will arrange the site visit in advance with relevant parties. There is no right to enter on private land without permission of the landowner. Where appropriate, Officers will obtain permission from the landowner or his/her agent for those invited to attend the site visit to enter the land. If permission is not given for the Planning Committee Members and Officers and other interested parties to enter, or exceptional circumstances exist and advice has been given, the site will have to be viewed from the public highways/areas where this is possible.
- 9.2 Prior to attending site visits Planning Committee Members must familiarise themselves with the Council's Health and Safety Risk Assessment document for site visits which they must adhere to. Failure to adhere to the guidance contained in the Risk Assessment during a site visit arranged for an application will result in the Planning Committee Member not being permitted to take part in the determination of that application at the Planning Committee.
- 9.3 The Chairman (or Vice-Chairman) will control proceedings throughout.
- 9.4 The Chairman (or Vice-Chairman) will explain to all those present that the purpose of the site visit is to obtain information relevant to the determination of the application and how the site visit will be conducted. The Chairman will make it clear to interested parties who are in attendance (including the applicant/agent, supporters, objectors, Ward Members and Parish or Town Councillors) that they are not permitted to question or lobby the Planning Committee Members. If attempts to question and/or lobby persist, the site visit will be stopped, and all Planning Committee Members and Officers will leave the site.
- 9.5 The Chairman (or Vice Chairman) will introduce the Planning Officer who will describe the proposals to the Planning Committee Members with reference to matters of fact and features on the land and the submitted plans/drawings and summarise the relevant issues and material considerations. It is expected that the Planning Committee Members will already be familiar with the Planning Officer's report where one has been provided.
- 9.6 The Planning Committee Members may ask the Planning Officer for factual clarification of any planning matter relating to the proposal or surrounding land, for example, distances to adjoining or objectors' properties or the location of the planned development.
- 9.7 Other Officers may be present to provide other specialist/expert advice/information where relevant/required (e.g. Highways Engineers, Tree Officers or Environmental Health Officers etc.)
- 9.8 Planning Committee Members will be invited through the Chairman (or Vice-Chairman) to ask any questions of fact or seeking clarification from the Officers

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present. Planning Committee Members must not direct these questions to the applicant or others present. Any matters not to hand will be reported at the Planning Committee meeting. Discussion on the merits of the application will not be permitted, and Planning Committee Members should refrain from making comments on the proposal.

- 9.9 Representatives of objectors and/or supporters may be invited/allowed to attend the site visit as interested parties. However, the right of a representative to address the Planning Committee does not arise until this item is reached on the agenda during the relevant meeting of the Planning Committee. Presentations from interested parties should on no account be made, interested parties will have the opportunity to address the Planning Committee through the Public Speakers Scheme. Occasionally it may be appropriate for interested parties to be asked, through the Chairman (or Vice-Chairman), to point out important or relevant site features. At no point during the site visit will debate or comment on the planning merits or otherwise of the proposal be permitted, as the proper time for such debate/comment is at the relevant meeting of the Planning Committee.
- 9.10 A Ward Councillor(s) may attend the site visit; however, any Ward Councillor(s) must refrain from debating or commenting on the planning merits or otherwise of the proposal. Ward Councillors will be permitted to make representations at the relevant meeting of the Planning Committee.
- 9.11 During the site visit, no separate discussions regarding the application must take place with Officers or Planning Committee Members and either applicants, objectors or supporters. In order to assist in ensuring that Planning Committee Members receive the same information, they are required to keep together in one group at all times with the Chairman (or Vice-Chairman) and the Planning Officer during the entirety of the accompanied site visit. It is vital that Planning Committee Members do not break-off either as individuals or into smaller groups thereby leaving Planning Committee Members vulnerable to for example, lobbying, and physical or verbal threats, and to ensure that there are no discussions about the proposal separately with residents or the applicant
- 9.12 During the site visit, Officers and Planning Committee Members will not accept any representations (including verbal presentations, documents, letters or petitions) from applicants, objectors or supporters. Any representations should be sent to the Planning Department, and these will be reported to the relevant meeting of the Planning Committee.
- 9.13 No hospitality will be accepted by Officers and/or Planning Committee Members from the applicant or any other interested party present at the site visit.
- 9.14 The Planning Committee Members present at the site visit will sign an attendance sheet. Planning Committee Members failing to attend the site visit will not be considered to have sufficient knowledge of the site and the issues arising from the site visit to enable them to take part in determining the application when it is presented to the Planning Committee for consideration. As such, they will not be permitted to take part in the determination of the planning application at the Planning Committee.
- 9.15 The Chairman (or Vice-Chairman) will conclude the site visit. The Planning Committee Members will leave the site promptly, as a group, and refrain from talking to the applicant, objectors or other interested parties. No indication of the views of Planning Committee Members or the likely outcome of the Planning

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Committee's deliberations on the application will be given. To do so might imply that a Planning Committee Member's mind is already made up. If attempts are made to speak to the Planning Committee Members they should politely decline to engage in conversation, and bring this to the attention of the Chairman (or Vice-Chairman) and the Planning Officer before leaving the site so that it can be recorded. Should the Chairman (or Vice-Chairman) consider it appropriate to do so, following seeking Officers advice, reference to these events may be raised in the formal Planning Committee meeting for the public record.

- 9.16 If Planning Committee Members require further information or clarification of any aspect of the development, the Officer(s) attending the site visit will be asked to ensure that such information is available by the time the application is considered by Planning Committee Members at the relevant meeting of the Planning Committee.
- 9.17 The Practice of the Council is to visit application sites prior to their consideration at Planning Committee. The Head of Planning and Building Control will identify which sites will need to be visited. If the Planning Committee have visited a site recently then this site will not be visited again.
- 9.18 The purpose of the site visit is for Planning Committee Members to gain factual knowledge of a site and make a visual assessment of the proposal and its relationship with adjoining development.
- 9.19 The Planning Committee Members will be provided with a "Member Pack" which includes a selection of the PowerPoint slides that will be displayed at the Planning Committee. These describe the application proposal and summarise the main issues.
- 9.20 Officers will arrange with the developer/landowner, where possible, for the Planning Committee Members to gain access to the site.
- 9.21 Before the Planning Committee Members get on the bus, the Chairman (or Vice-Chairman), will ask the Planning Committee Members whether they need to declare an interest in an application. When the bus arrives at each site Planning Committee Members will be reminded again of their need to declare any interest they may have, as it may only become apparent to Planning Committee Members that they have an interest when they arrive at a site. The Head of Planning and Building Control will record any interests that are declared
- 9.22 If a Planning Committee Member declares a Disclosable Pecuniary Interest, an Other Registerable Interest or Non-Registerable Interest, then they should remain on the bus and not take part in the site visit. If a Planning Committee Member is in doubt as to whether they have an Interest in a particular matter they should take advice from the Council's Monitoring Officer (or Deputy Monitoring Officer) before attending the arranged site visit (see paragraph 3.3). If a Planning Committee Member declares an Interest then they are not able to take part in the visit. It is incumbent upon the Planning Committee Member to ensure the impact of their interest before taking part in the site visit and that they do not seek to compromise the decision making process.
- 9.23 Planning Committee Members also need to consider whether they have an open mind or if there is bias or the perception of bias about the application before taking part in a site visit.

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- 9.24 Where a Planning Committee Members does not take part in the site visit having declared an Interest or due to pre-determination or bias, they must not discuss the application with the other Planning Committee Members at any point prior to the determination of that application by the Planning Committee.

EXCEPTION TO THE COUNCIL'S LOCAL PRACTICE OF UNDERTAKING SITE VISITS

- 9.25 Whilst it is the Council's standard local practice to undertake site visits, there will be exceptional circumstances where an organised site visit is not possible.
- 9.26 Site visits are not legally required for the determination of planning applications but forms part of local practice, which protocols must clearly set out. If a site visit cannot be organised, **due to exceptional circumstances**, a planning application can still be determined by the Planning Committee, so long as the guidance issued by the Council is adhered to.
- 9.27 Should circumstances prevail where the Council has had to determine if it is not possible to organise a site visit, Members of the Planning Committee will be issued with guidance by the Monitoring Officer, which is relevant to the particular situation arising. Such guidance will take into account health and safety risk assessments, current legislation and central government guidance, including that issued by the Planning Inspectorate and/or the Chief Planning Officer.

10 POST-SUBMISSION DISCUSSIONS

- 10.1 Members should not encourage appealing, JR or complaint against the Council without speaking to the Council Officer first.
- 10.2 Members should not pass on any known details of the case, including any individual names or details that may be known to them, and should instead direct to the Report and Council Officers for assistance as needed.
- 10.3 Members should not visit the site within a week of the decision to ensure no perception of bias, this would avoid heighten tension with applicant/neighbours not please by the decision.

11 PUBLIC SPEAKING AT MEETINGS

- 11.1 **Don't** allow members of the public to communicate with you before the opening, during the proceedings, during breaks or immediately after the close of the Planning Committee meeting (orally or in writing) other than through the scheme for Public Speaking or through the Chairman, as this may give the appearance of bias.
- 11.2 **Do** ensure that you comply with the Council's procedures in respect of public speaking.
- 11.3 Members of the public are not permitted to communicate with Planning or Legal Officers immediately before, during or after the Planning Committee meeting proceedings.

12 REPORTS & DECISION MAKING

- 12.1 In coming to a decision on a **Page 200** application, a Planning Committee Member must:

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- come to the meeting with an open mind;
 - Comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Council's Local Plan and Development Plan Documents unless material considerations indicate otherwise;
 - not communicate with anyone (except Officers and other Planning Committee Members) orally, electronically, in writing or by any other means during the proceedings of the Planning Committee (which includes before the opening of the meeting, during any breaks, and immediately after the close of the meeting);
 - come to a decision only after due consideration of all the information reasonably required to base a decision upon;
 - refrain from expressing personal views, opinions or emotions and instead restrict themselves to matters of planning law, policy and all relevant material planning considerations when exercising your planning judgment;
 - not vote on a proposal unless they have been present to hear the whole debate including the Planning Officer's presentation and any public speaking (and where applicable, attended the site visit), where an application has been deferred they must also have been present at the original meeting when the application was first considered; and
 - ensure that if they are proposing, seconding or supporting a decision contrary to the Officer's recommendation or the Local Plan, that they can identify, understand and articulate the **planning reasons they wish to rely on**, leading to their conclusion. Any professional advice given by Officers present at the Planning Committee must be taken into account and considered. Reasons must be given before a Secunder to the proposal is sought and the vote is then taken and recorded. The Chairman (or Vice-Chairman) or Officers will remind the Planning Committee that this is legally required before a decision can be made, if necessary.
- 12.2 Reports to the Planning Committee will normally be available at least five working days to the meeting. Presentations to the Planning Committee and update sheets are uploaded onto the Council's website, as this is additional material taken into account through the decision-making process.
- 12.3 All applications submitted to the Planning Committee will have a full written report from Planning Officers including a reasoned assessment of the proposal, reference to relevant policies and a justified recommendation and analysis of available options. Reports will cover the substance of any objections and the views of people and bodies that have been consulted.
- 12.4 Any oral presentations raising new matters and updates by Planning Officers to the Planning Committee will be minuted.
- 12.5 Planning Committee Members must ensure that they are present for the whole presentation by Officers and subsequent debate on a particular matter and do not attend or leave part way through, this includes where an application is deferred. This is to ensure that they are able to hear all the relevant evidence and debate in relation to a proposal. In the event that a Planning Committee Members is not present for the whole of the debate and consideration of the application (including an arranged site visit) they will not be permitted to take part in the decision making. The Chairman and/or Officers will be able to offer advice on this point.
- 12.6 Where an application is recommended for refusal the reasons will be set out in full in the Planning Officer's report.

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DECISIONS CONTRARY TO THE OFFICER RECOMMENDATION

- 12.7 Planning Committee Members must indicate the planning reasons at the Planning Committee meeting for approval or refusal of applications determined contrary to Officer advice, including identifying relevant policies. Pressure must never be put on Officers to “go away and sort out planning reasons”.
- 12.8 Where an application is being considered at the Planning Committee for refusal contrary to Officer advice, the proposed reasons for refusal will be agreed at that Planning Committee meeting. The reasons will be recorded in the minutes and be based on material planning considerations and the relevant policies supporting the refusal. An opportunity will be given to the Officer to explain the implications of the contrary decision. If a successful planning appeal follows a refusal contrary to Officer advice, clear identification of good planning reasons for refusal will reduce the chance of a cost award.

FREE FROM POLITICAL INSTRUCTION

- 12.9 Members of the Planning Committee must make planning decisions on planning grounds. “Whipping” is inappropriate, and decisions must not be taken in party grounds on how to vote on particular applications prior to the Planning Committee meeting.

DECLARATIONS OF INTERESTS

- 12.10 The Council’s Code of Conduct sets out requirements for Members on declaring pecuniary and non-pecuniary interests and the consequences of having such an interest. These must be followed scrupulously, and Members should review their situation regularly. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct.
- 12.11 A Planning Committee Member with a pecuniary interest in respect of a particular planning matter must declare it and take no part in the discussion or the determination of the proposal. He or she should leave the room before the item is considered. The responsibility for this rests with each Planning Committee Member. Advice can be obtained from the Council’s Monitoring Officer or where appropriate the Deputy Monitoring Officer if required, well in advance of a Planning Committee meeting. It is unsatisfactory if a Planning Committee Members asks for guidance in the course of a debate.

REQUESTS BY MEMBERS FOR INFORMATION

- 12.12 Wherever possible, Members should give advance notice of additional information they intend to request, or information they intend to contest, at the Planning Committee meeting so that Officers can be in a position to assist and avoid the unnecessary deferral of a decision.

PUBLIC PARTICIPATION

- 12.13 In order to give greater opportunity to applicants and objectors to express their respective points of view, the Planning Committee operates a scheme of public participation.

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13 PLANNING APPEALS

- 13.1 Appeals into the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Members are able to attend. Members are encouraged to attend such hearings, as they can be a good learning experience. This part of the code is concerned with Members who wish to actively participate in these appeals.
- 13.2 If a Member wishes to attend a public inquiry or informal hearing as a Ward Member or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the Director of Planning to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Member of the Council or brings the Council into disrepute or puts the decision made at risk of challenge.
- 13.3 A Member cannot attend an appeal on behalf of the Council's Planning Committee, even if they sat on that Committee, unless this is as part of the Council's case as decided by the Director of Planning. The decision of the Planning Committee will be documented in the minute and set out in the decision notice. The Planning Officer will present the Council's case of its planning merits, in accordance with the Planning Committee's decision. The inspector is required to determine the appeal on its planning merits and therefore all representations should be so directed.
- 13.4 Where the appealed decision was contrary to the Officer's recommendation, Officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant employed by the Council.

14 PLANNING ENFORCEMENT

- 14.1 Under the scheme of delegation, all planning and conservation matters are delegated except for the determination of certain planning applications that are specified in the constitution. As decisions on planning enforcement matters are not planning applications, they are delegated decisions to Officers and are therefore dealt with by Officers.
- 14.2 However, principles around such decisions apply as set out in Part 3.6 (paragraph 7) of the constitution. This provides that the delegation of powers to Officers is underpinned by the principle of culture of consultation and liaison with Members, as appropriate, and the ability of Officers to refer matters to the relevant decision-making body, where it is felt that this is appropriate due to the nature of an issue.
- 14.3 So Officer's may decide to refer a planning enforcement matter to the Planning Committee for determination where consultation with Members is deemed necessary given the nature of issues involved.
- 14.4 The Members' Referral Scheme only relates to planning applications and not decisions on planning enforcement cases, so cannot be used by Members to refer a planning enforcement matter to the Planning Committee.
- 14.5 There are a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way. Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. This includes a local enforcement plan, where it is not part of the development plan.

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- 14.6 In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular paragraph 60 which provides; *‘Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.’*
- 14.7 The Council’s current local enforcement plan for breaches of planning control is the ‘Local Planning Enforcement Policy (v.2: September 2022), which will be updated from time to time.’

COUNCIL

25 MARCH 2025

JOINT REPORT OF THE MONITORING OFFICER AND THE CABINET

A.4 ANNUAL REVIEW OF THE COUNCIL'S CONSTITUTION

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report asks Council to approve the Cabinet's recommended changes to the Constitution which followed a review undertaken by the Portfolio Holder for Corporate Finance and Governance through a Working Party constituted for that purpose.

The main proposals cover several miscellaneous amendments to the Articles of the Constitution, Council Procedure Rules and the Overview and Scrutiny Procedure Rules, in order to ensure the Council's Constitution remains effective, efficient and consistent at an operational level. The key changes to each of these documents are highlighted within the body of this Report.

EXECUTIVE SUMMARY

The Review of the Constitution Portfolio Holder Working Party (CRWP) met on 19 February 2025 and the meeting was attended by its Chairman, the Corporate Finance & Governance Portfolio Holder (Councillor M E Stephenson) as well as Councillors Guglielmi, Kotz, Talbot and Wiggins.

The recommendations arising from that meeting of the CRWP were then submitted to the meeting of the Cabinet held on 17 March 2025, together with some additional minor amendments that were required for clarity highlighted by the Section 151 Officer and the Monitoring Officer and the Leader of the Council who is proposing to amend the responsibilities for Cabinet and an individual Portfolio Holder, in one area.

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

RECOMMENDATION

1. That Council approves that:

- (a) the Council's Constitution be amended to reflect the proposed changes as set out in Appendices A to J attached hereto this report; and
- (b) the membership of the Audit Committee be increased to seven (from five) with effect from the Annual Meeting of the Council on 29 April 2025.

2. That Council endorses the intention to introduce from April 2025 a new box within the standard template for Cabinet and Committee reports and that the new box will be headed "Devolution and Local Government Reorganisation Implications".

3. That Council notes the Leader of the Council's intention to amend the Scheme of Delegation to Portfolio Holders, especially in relation to the process regarding Traffic Regulation Orders, as set out in Appendix K.

REASON(S) FOR THE RECOMMENDATION(S)

Having considered the outcome of the annual review of the Constitution carried out by the Review of the Constitution Portfolio Holder Working Party, together with the additional items put forward by the Section 151 Officer, the Monitoring Officer and the Leader of the Council and the Cabinet's recommendations arising from its consideration of the aforementioned matters, and to enable those recommendations to be approved and adopted.

ALTERNATIVE OPTIONS CONSIDERED

- (1) Not to approve some or all the Cabinet's recommendations; or
- (2) To amend or substitute some or all 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 and reported to Cabinet is set out elsewhere within this report.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

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

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

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.

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.

All comments within the Monitoring Officer's responsibility are picked up throughout the content of the report, where the principles around Officers exercising delegated powers is being emphasised. This is also to reflect the requirements of the revised Best Value Statutory Guidance issued in May 2024.

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:

Any additional amendments required to the Constitution arising through operational matters, have been raised with the Monitoring Officer and captured within the body of the report.

USE OF RESOURCES AND VALUE FOR MONEY

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

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Best value authorities must demonstrate good governance, including a positive organisational culture, across all their functions and effective risk management.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The Constitution sets out the Council's standing orders and associated scheme of delegation, policies and procedures for decision making.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Governance is a theme of the Best Value Duty and is described (amongst other things) as ensuring decision-making processes, within clear schemes of delegation, should be transparent, regularly reviewed, clearly followed and understood, enabling decision-makers to be held to account effectively. There should also be evidence of the decisions following good public law decision making principles (reasonableness, rationality, proportionality,

	legality, fairness etc).
MILESTONES AND DELIVERY	
Annual review of the Constitution carried out by the Review of the Constitution Portfolio Holder Working Party – February 2025.	
Submission of Corporate Finance & Governance Portfolio Holder’s recommendations to formal Cabinet meeting – 17 March 2025.	
Submission of Cabinet’s recommendations to Full Council for approval and adoption – 25 March 2025.	
Implementation of approved changes to the Constitution (where they do not have an immediate effect) – from commencement of the 2025/2026 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:	
<ol style="list-style-type: none"> 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	
There are none associated with this report however, the Council’s Procurement Procedure Rules make reference to the Public Services Social Value requirements.	
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 CRWP reviewed various areas of the Constitution, and the following changes are now recommended by Cabinet (please note that any references to Part numbers relate to the Constitution prior to any amendments now submitted):

1. **Article 2 – Members of the Council (Part 2): (Part 2.3 to 2.4)**

Article 2.03(b) (Roles and Functions of all Councillors – Rights and Duties)

To include that it is a duty of Councillors to undertake all relevant training and to keep themselves up to date on such training.

New Article 2.06 (Training/Development Records of Members)

To set out that the training/development records of Members will be centrally held by the Monitoring Officer through the Leadership Support Team and that Members' training/development would be organised/facilitated through that Team.

*The proposed changes to Article 2 are shown in **RED** in **Appendix A**.*

2. **Article 3 – Citizens and the Council**

Article 3.01(c) (Participation)

To include a reference to the public's right to submit a petition under the Council's Scheme for Dealing with Petitions. This would correct an omission.

*The proposed changes to Article 3 are shown in **RED** in **Appendix B**.*

3. **Section 4.2.2 (Role of Leader and individual Portfolio Holders) – Schedule 3 (Responsibility for Executive Functions) – Part 3 of the Constitution**

To make reference to training and development for Cabinet Members.

*The proposed changes to Section 4.2.2 of Schedule 3 of Part 3 of the Constitution are shown in **RED** in **Appendix C**.*

4. **Council Procedure Rule 11 – Questions by Members**

Minor correction to Rule 11.5(e) (Reasons for rejection of Questions). Change reference to "Members' Code of Conduct~~or~~" to read "Members' Code of Conduct".

*The proposed change to Council Procedure Rule 11 is shown in **RED** in **Appendix D**.*

5. **Council Procedure Rule 16.6 (Alteration of Motion)**

For the avoidance of doubt, to make clear that this rule applies to any amendment made at the meeting by another Member.

*The proposed changes to Council Procedure Rule 16.6 is shown in **RED** in **Appendix E**.*

6. **Council Procedure Rules 33.3, 34.2 and 34.3 – Training Members of the Audit,**

Human Resources and Council Tax, Licensing and Registration, Overview and Scrutiny, Planning and Standards Committees; Eligibility and Effect (Appointment of Substitute Members; and Training Substitute Members of the Audit, Human Resources and Council Tax, Licensing and Registration, Overview and Scrutiny, Planning and Standards Committees

Following amendments to Rules 33.3 and 34.3 (where relevant):-

- Deletion of the sentence relating to the Monitoring Officer's definition of what is meant by the word "mandatory" and whether the training offered/provided was "sufficient and fit for purpose".
- That this needs to be linked to the following paragraphs in Rule 33.3.
- That a provision for the Monitoring Officer to be able to approve alternative arrangements for training to enable Members to attend and take part in the business of the agenda for a particular meeting should be included.
- References to Licensing and Registration Committee should be amended to include its Sub-Committees.
- An expansion of the section concerning training content for Councillors to determine matters on a range of Committees (and Cabinet).

Following amendment to Rule 34.2 to avoid any uncertainty or doubt:-

"In those circumstances where the Member who wishes to be substituted has recently left one political group and joined another or if they move to a non-aligned position and, in the absence of a review of the allocation of seats to political groups, the seat remains within the control of the Member's previous Group then it shall be for the Leader of that Group to appoint a substitute."

The proposed changes to Council Procedure Rules 33 and 34 are shown in **RED** in **Appendix F**.

7. Overview and Scrutiny Procedure Rules (Part 5)

The Working Party considered and Cabinet endorsed the proposed amendments to Overview & Scrutiny Procedure Rules 16 and 18. The proposed changes relate to:-

- (i) Rule 16 (Attendance by Others) = include within that Rule that Ward Members would be invited to attend before the Committee if there was an item on the agenda that was specific to their Ward and to have the facility to address the Committee and/or answer Members' questions.
- (ii) Rule 18 (Exceptions to Call-In) = to be amended, for the avoidance of doubt, by the addition of a new paragraph (g) as follows:-

"(g) Appointment by the Leader of the Council of Members to serve on the Cabinet as Portfolio Holders."

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

8. Membership of the Audit Committee

At its meeting held on 19 February 2024 (Note 13 refers) and at the request of the Monitoring Officer, the Review of the Constitution Portfolio Holder Working Party

considered, inter alia, whether the size of the Audit Committee should be raised back up to seven members to match the size of the Standards Committee. 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 the membership of the Audit Committee be increased to seven Members.

Cabinet concurred with that recommendation at its meeting held on 17 March 2025.

OTHER MATTERS CONSIDERED:

1. Planning Committee: Terms of Reference and Members' Referral Scheme for Planning Applications and Order of Agenda Items – Proposed Amendments by Members

The CRWP was informed that, at the meeting of the Full Council held on 19 March 2024 (Minute 139 referred), Members had considered in accordance with the provisions of Article 15.02 (a) and (c) of the Council's Constitution, 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 that purpose.

During the debate on this matter Councillor Harris had moved and Councillor Alexander had seconded the following amendment:-

“(d) that the terms of reference of the Planning Committee and the Members' Referral Scheme for Planning Applications be amended to allow the relevant Ward councillor(s) (or in exceptional circumstances, a member of the Planning Committee with the approval of the Chairman of the Planning Committee) to 'call-in' to the Planning Committee any planning application submitted to remove a Tree Preservation Order.”

Following a debate on Councillor Harris' amendment and pursuant to the provisions of Council Procedure Rule 16.5(e), and following an undertaking given by the Monitoring Officer that the purpose of his amendment would be considered, in due course, by the Review of the Constitution Portfolio Holder Working Party, Councillor Harris had withdrawn his amendment with the consent of his seconder.

Councillor Bray had then referenced a further amendment that he had intended to move in relation to the order of business on Planning Committee Agendas. However, in the light of the above, Councillor Bray had informed Council that he would now pursue that intention via the Review of the Constitution Portfolio Holder Working Party.

The text of Councillor Bray's putative amendment had been as follows:-

“That Council Procedure Rule 35.1 be amended to include the following sentence:

That, (notwithstanding the prerogative of the Chairman of the Planning Committee), for all future meetings of the Planning Committee, any planning application whereby Tendring District Council is the applicant or has a material interest (e.g. it is the landowner/landlord) will normally be heard first ahead of any other planning applications on the Agenda.”

The CRWP AGREED that:-

“(1) the Working Party, having considered the text of Councillor Harris’ amendment, as set out above, does not wish, at this time, to request the Corporate Finance & Governance Portfolio Holder to recommend to Full Council (via the Cabinet) that Councillor Harris’ proposed changes to the terms of reference of the Planning Committee and the Members’ Referral Scheme for Planning Applications, as contained within the Members’ Planning Code & Protocol, be approved and implemented. This is because of the imminent national review of planning delegations that is due to take place. However, Officers should be reminded of the principles underpinning working relationships as set out within the Protocol on Member and Officer Relations and the application of those principles to delegations to Officers.

(2) the Working Party, having considered the text of Councillor Bray’s amendment, as set out above, does not wish to request the Corporate Finance & Governance Portfolio Holder to recommend to Full Council (via the Cabinet) that Councillor Bray’s proposed changes to the order of business on Planning Committee agendas be approved and implemented. This is because the Chairman of the Committee already has the prerogative to change the order of business on the agenda if it will assist in the efficient conduct of the meeting.”

Cabinet endorsed the CRWP’s decision at its meeting held on 17 March 2025.

2. Planning Committee: Terms of Reference and Members’ Referral Scheme for Planning Applications – Further Matters

The Working Party was informed that, at its meeting held on 21 October 2024 (Minute 65 referred) Cabinet had considered a detailed report of the Housing and Planning Portfolio Holder (A.3), which had sought its agreement to adopt a policy statement on ‘Biodiversity Net Gain’ (BNG) which would serve as the Council’s interim corporate position on the subject, pending detailed consideration as part of the forthcoming Local Plan review. Having an interim policy would enable the Council to respond positively and constructively in its consideration of BNG as part of the planning process; and in the consideration of proposals to set up ‘Habitat Banks’ by Tendring landowners and, potentially, on Council-owned land.

It had RESOLVED that Cabinet –

- 1) *notes the contents of this report which, amongst other things, explains the Council’s obligations around Biodiversity Net Gain (BNG), the role of Habitat Banks and the potential consideration of Council-owned land for BNG purposes;*
- 2) *agrees that proposed ‘Policy on Biodiversity Net Gain (BNG)’ (attached as Appendix 1 to the Portfolio Holder’s report (A.1)) is adopted as the Council’s interim corporate position pending the outcome of the Local Plan review, for the purposes of dealing with matters relating to BNG;*
- 3) *refers the aforementioned policy to the Planning Policy and Local Plan Committee for its consideration for inclusion in the Tendring District Local Plan as part of its current review;*
- 4) *invites the Planning Committee, at its earliest convenience, to consider and determine how it will exercise its power in respect of Council decisions on entering*

into legal agreements with landowners under Section 106 of the Town and Country Planning for the purposes of setting up Habitat Banks, guided by the aforementioned policy and the advice of Officers – including the extent to which the Committee deems it appropriate for such decision-making powers to be delegated to Officers; and any arrangements for public consultation on specific proposals; and

- 5) *notes that the Portfolio Holder responsible for Housing and Planning in liaison with Officers will, in due course, consider and publish details of the fees to be charged to developers and landowners to cover the Council's costs in respect of monitoring BNG in line with its statutory obligations."*

It was hoped that the Planning Committee would carry out its considerations (as detailed in 4) above) at a meeting in March 2025.

It was also reported that several Members had requested to the Monitoring Officer that the Members' Referral Scheme for Planning Applications be extended to apply to householder applications, in exceptional circumstances, which currently were excluded. A Householder application was defined by TDC as follows:-

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

Examples of certain householder planning applications that the Members concerned would have wished to have been referred to the Planning Committee for its determination were relayed at the meeting.

The Working Party had AGREED:-

"(1) in principle, that the decision making powers in respect of Council decisions on entering into legal agreements with landowners under Section 106 of the Town and Country Planning for the purposes of setting up Habitat Banks under the Council's Biodiversity Net Gain (BNG) Policy should be delegated to Officers and that should any proposals forthcoming from the Planning Committee in due course, as to how it will exercise its powers and delegations et cetera in relation to BNG applications concur with the Working Party's view then the Corporate Finance & Governance Portfolio Holder will be authorised to submit those proposals to Full Council (via the Cabinet) for approval; and

- (2) that it does not wish, at this time, to request the Corporate Finance & Governance Portfolio Holder to recommend to Full Council (via the Cabinet) that the Members' Referral Scheme for Planning Applications, as contained within the Members' Planning Code & Protocol, should now also apply to 'householder applications' but instead requests the Director (Planning and Communities) to consider the representations made by Members and to produce and circulate for comment to the Working Party pragmatic wording that would see Officers submitting certain 'householder applications' to the Planning Committee in very exceptional circumstances following representations from Members."

The Cabinet endorsed the decisions of the CRWP at its meeting held on 17 March 2025.

3. Planning Committee: Standard Template for Reports

The Working Party had been informed that the Head of Planning and Building Control had unilaterally proposed that the standard template used for reports to the Planning Committee be reviewed.

The Working Party had completely endorsed the Monitoring Officer's premise that any proposed changes to any Cabinet / Committee report template must go through the proper corporate review process.

To that end the Working Party had NOTED that any such revised Planning Committee report template arising from that review would be submitted to the Working Party for its consideration in due course.

4. Procurement Procedure Rules

The CRWP was made aware that the Cabinet was due to consider, at its meeting to be held on 21 February 2025, a report of the Assets and Community Safety Portfolio Holder which would update Cabinet on the progress of the collaboration procurement service, known as the Essex Procurement Partnership and which would seek approval for the Collaboration Agreement to be entered into, replacing the arrangement directly with Essex County Council and endorsing the proposed Procurement Strategy for the Essex Procurement Partnership, as the interim strategy for the Council.

Once the interim Procurement Strategy had been formally adopted by this Council, work would commence on a full-scale review. As part of that review the Procurement Procedure Rules would be revised. Those revised Procedure Rules would be submitted to the Working Party for its consideration in due course.

It was AGREED that –

- (1) the Working Party notes that, as part of the review of the Council's Procurement Strategy, revised Procurement Procedure Rules will be produced; and
- (2) the Working Party further notes that the above-mentioned revised Procurement Procedure Rules will be submitted to it for its consideration in due course.

Cabinet noted and endorsed the CRWP's stance at its meeting held on 17 March 2025.

5. Financial Procedure Rule 18 (State Aid)

The Working Party had been informed that Financial Procedure Rule 18 (State Aid) would be replaced in its entirety.

It was reported that the heading would be changed to "Subsidy Control" and the wording of that Procedure Rule would reflect the statutory provisions of the Subsidy Control Act 2022. That Act had introduced subsidy control regimes that set rules, procedures and processes that allowed public authorities to award subsidies to achieve public policy objectives, whilst also limiting the negative effects of subsidies on domestic and international competition and investment.

The Working Party had NOTED the foregoing as did Cabinet at its meeting held on 17 March 2025.

6. Audit Committee – Independent Person

At the request of the Monitoring Officer, the CRWP had considered, inter alia, whether an Independent Person on the Audit Committee (once appointed) should be appointed as its Chairman.

The CRWP had been informed that CIPFA Guidance stated -

- *“The audit committees of local authorities should include co-opted independent members in accordance with the appropriate legislation. Where there is no legislative direction to include co-opted independent members, CIPFA recommends that each authority audit committee should include at least two co-opted independent members to provide appropriate technical expertise.*
- *When selecting elected representatives to be on the committee or when co-opting independent members, aptitude should be considered alongside relevant knowledge, skills and experience.*
- *The appointment of co-opted independent members on the committee should consider the overall knowledge and expertise of the existing members.”*

It had been reported that the Audit Committee, at its meeting held on 25 July 2024 (Minute 40 referred), had resolved inter alia:-

“in noting the action set out in Appendix A relating to the appointment of Independent Persons to the Audit Committee, endorses the approach of appointing at least two such people and requests Officers to review the arrangements necessary and presents an associated plan to the next meeting of the Committee;”

The Working Party was informed that the Audit Committee, at its meeting held on 26 September 2024 (Minute 47 referred), had resolved inter alia:-

- “b) in respect of the appointment of an Independent Person(s) to the Audit Committee, the Committee:-*
- i) notes and agrees the actions set out in this report;*
 - ii) requests Officers to finalise a draft role / person specification and to make the necessary arrangements to consult with members of the Audit Committee as highlighted in the plan; and*
 - iii) that the outcome of the above be presented to the meeting of the Committee due to be held in January 2025.”*

Members had been made aware that the draft role / person specification would now be presented to the Audit Committee in March 2025. Based on the outcome of the actions above, the Audit Committee’s recommendation would then be presented to Full Council in May 2025 (including, if necessary, to include a delegation to the Chief Executive to undertake any associated appointment process in consultation with the Audit Committee’s Chairman).

The Working Party had AGREED, inter alia, that it did not wish to request the Corporate Finance & Governance Portfolio Holder to recommend to Full Council (via the Cabinet) that an Independent Person (once appointed) should be appointed to serve as the Chairman of the Audit Committee and, accordingly, the current position whereby the Chairman of that Committee is a Member of the Council be continued.

The Cabinet endorsed the Working Party's stance at its meeting held on 17 March 2025.

7. Article 10 (Area Committees and Forums)

The Monitoring Officer gave a verbal update to the CRWP on the changes being made to Article 10 in accordance with the outcome of the last review of the Council's Constitution and the delegated power that had been granted to her by Full Council.

The Monitoring Officer had informed the Working Party that she was no longer comfortable with exercising that delegated power in view of the passage of time that had elapsed. The Monitoring Officer would therefore submit the revised Article 10 in due course for the Working Party's consideration.

The Working Party was made aware that Article 10 was being revised to take into account matters such as:-

- (1) changed titles of bodies;
- (2) newly formed bodies e.g. the Clacton Town Board; and
- (3) the rectification of any previous omissions.

The CRWP had also been advised that, when receiving the revised details for Article 10 Forums. Consideration should also be given to the application of the principles from the Council's Community Engagement Strategy and the extent to which the article 10 arrangements met the expectations of that Strategy.

The Working Party had NOTED the foregoing as did Cabinet at its meeting held on 17 March 2025.

8. Members' Allowances Scheme – Increase in Amounts Payable

The Working Party was informed that the amounts payable under the Council's adopted Members' Allowances Scheme would increase in April 2025 by 4.2% [provisional figure] in accordance with the Public Sector Pay Position at December 2024 compared with December 2023, which was the Council's adopted Index for such matters.

The CRWP NOTED the foregoing as did Cabinet at its meeting held on 17 March 2025.

9. New Box within the standard template for Cabinet and Committee reports

The Working Party had been made aware that it was intended to introduce from April 2025 a new box within the standard template for Cabinet and Committee reports. That new box would be headed "Devolution and Local Government Reorganisation Implications".

The Working Party had ENDORSED the foregoing as did Cabinet at its meeting held on 17 March 2025.

MATTERS ARISING SINCE THE MEETING OF THE CRWP

Three separate matters that require amendments to the Constitution have arisen since the meeting of the CRWP namely:-

10. Amendments suggested by the Monitoring Officer and the Section 151 Officer

Financial Procedure Rules 6 and 16

Two technical amendments suggested to the Financial Procedure Rules by the Section 151 Officer:-

- (i) **Part 5.39 – Paragraph 6.14 No specific supplementary estimate approval is required at any time for the following (a)** to include the words “*or associated reserve*” following “*in advance holding account*”.
- (ii) **Part 5.61 – External Funding, include a new paragraph 16.5** with the additional wording “*Should an application for External Funding be successful, a separate recorded decision is required relating to acceptance of the funding, the terms and conditions and how the funding will be used. Such decision will take into consideration all the necessary implications in the required format.*”

*The proposed changes to the Financial Procedure Rules are shown in **GREEN** in **Appendix I**.*

Overview and Scrutiny Procedure Rules (Part 5.31)

To ensure the exemption to Call-in (as set out in Rule 18) applies to the executive decisions taken at Cabinet meetings, or by individual Cabinet Members or by Officers (who are making a Key Decision as defined in Article 13.03), as defined in Rule 17.

Rule 18 - EXCEPTIONS TO CALL-IN

To be amended as shown below in italics:

The call-in procedure set out above shall not apply in respect of ~~Cabinet decisions~~ “*executive decisions taken at Cabinet meetings, or by individual Cabinet Members or by Officers (who are making a Key Decision as defined in Article 13.03), as defined in Rule 17*”.

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

Scheme of Delegated Powers – Schedule 2 – Responsibility for Council (Non-Executive) Functions – GENERAL MATTERS/PRINCIPLES (Part 3.6)

Consistency on the principles applying to Officers exercising delegated powers for both Executive (Part 3.46) and Non-Executive functions (ensuring the same wording is used and emphasising the discharge of these functions by Officers is subject to criteria); and

Extend the wording in paragraph 7, to include “*in addition, to the legal obligations to record the decision in the required format.*”

*The proposed changes to the Scheme of Delegated Powers – Schedule 2 – Responsibility for Council (Non-Executive) Functions – GENERAL MATTERS/PRINCIPLES (Part 3.6) are shown in **GREEN** in **Appendix J**.*

11. Minor clarification required to Officers exercising an discretion on the Members' Referral Scheme under the Planning Committee's Terms of Reference

(viii) The Director (Planning), or other authorised Officer, **following** consultation with the Chairman of the Planning Committee and the Planning Solicitor, **can 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.

(NOTE: an Officer decision will be required in exercising this discretion to allow or refuse with reasons being produced and published to the Council's website.)

*This change is set out in **Appendix H**.*

12. Leader of the Council's Proposed changes to the Executive Functions - Scheme of Delegation covering the Traffic Regulation Order process

Part 3 – Schedule 3 – Executive Functions states:

4.1 THE CABINET COLLECTIVELY (Part 3.30)

The following details the broad principles of issues that are the responsibility of the Cabinet and which shall be considered by the Cabinet collectively at public meetings:

Paragraph 9 - Power to consider objections received and then determine proposed Traffic Regulation Orders under the Road Traffic Regulations Act 1984 (as amended). All such objections to be determined at a public meeting of the Cabinet.

This means that if any objections are received, consideration should go to Cabinet and not be determined by the Portfolio Holder on their own.

4.3 ADDITIONAL SPECIFIC DELEGATIONS TO INDIVIDUAL PORTFOLIO HOLDERS

Leisure and Public Realm

2. Proposals for and approve the making of traffic regulation orders where no objections are received.

This covers the situation where no objections are received. In both circumstances, a Decision would be required with reasons for selecting the Traffic Regulation Orders (TROs) and proceeding, if objections were received, these would be set out in a Cabinet Report.

On the basis that the initial process in the selection of TROs does require local consultation to be carried out, the proposals are sent onto the North Essex Parking Partnership to undertake the formal process, including consultation. Therefore, upon review, the Leader of the Council does not feel that initial objections to a proposal should be considered by the Cabinet, in its strategic responsibility. Whilst the Leader does have the authority to amend the Scheme of Delegation for Cabinet, he wishes to seek full Cabinet's approval to the change of practice to allow the Portfolio Holder to deal with all initial TRO requests, making published decisions with reasons, whether objections are received or not, as these ultimately go onto the NEPP in any event. Any Executive Decision made either by Cabinet or an individual Portfolio Holder is subject to call in, upon certain criteria applying. This delegation would not apply to any TROs within the

relevant Portfolio Holder's ward, and in such cases, these will be referred to the Leader to make the decision.

Leader's Proposal:-

Paragraph 9 (as stated above) would be deleted from the Cabinet's collective responsibility. The delegated power to the Leisure and Public Realm Portfolio Holder would be amended to the following:

"The selection and rejection of proposals for the making of traffic regulation orders being submitted to the North Essex Parking Partnership will be authorised by the Portfolio Holder, whether objections have been received to initial proposals. Reasons for such selection or rejection will be published following consultation with the relevant ward councillor. Such delegation cannot be exercised for proposed traffic regulation orders within the Portfolio Holder for Leisure and Public Realm's ward and in such cases, would be referred to the Leader for determination."

PREVIOUS RELEVANT DECISIONS

Meeting of the Council – 19 March 2024 - Minute 139 (Joint Report of the Monitoring Officer and the Cabinet - A.3 - Annual Review of the Council's Constitution) – Resolution (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.”

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Notes of the meeting of the Review of the Constitution Portfolio Holder Working Party held on 19 February 2025.

Review of the Constitution Report and Appendices of the Corporate Finance & Governance Portfolio Holder submitted to the meeting of the Cabinet held on 17 March 2025.

Published Decisions made by Cabinet on 17 March 2025.

APPENDICES

A.4

APPENDIX A	Part 2	Articles of the Constitution – Article 2 (Members of the Council)
APPENDIX B	Part 2	Articles of the Constitution – Article 3 (Citizens and the Council)
APPENDIX C	Part 3	Section 4.2.2 (Role of Leader and individual Portfolio Holders) – Schedule 3 (Responsibility for Executive Functions)
APPENDIX D	Part 4	Council Procedure Rule 11 (Questions by Members)
APPENDIX E	Part 4	Council Procedure Rule 16 (Rules of Debate)
APPENDIX F	Part 4	Council Procedure Rules 33.3, 34.2 and 34.3 – Training Members of the Audit, Human Resources and Council Tax, Licensing and Registration, Overview and Scrutiny, Planning and Standards Committees; Eligibility and Effect (Appointment of Substitute

		Members; and Training Substitute Members of the Audit, Human Resources and Council Tax, Licensing and Registration, Overview and Scrutiny, Planning and Standards Committees
APPENDIX G	Part 5	Overview and Scrutiny Procedure Rules – Amendments to Rules 16 (Attendance by Others) and 18 (Exceptions to Call-In)
APPENDIX H	Part 3	Planning Committee Terms of Reference
APPENDIX I	Part 5	Financial Procedure Rules
APPENDIX J	Part 3	Scheme of Delegated Powers – Schedule 2 – Responsibility for Council (Non-Executive) Functions – General Matters/Principles
APPENDIX K	Part 3	Schedule 3 – Executive Functions - Scheme of Delegation covering the Traffic Regulation Order process

REPORT CONTACT OFFICER(S)

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A.4 APPENDIX A

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01 Composition and Eligibility

(a) **Composition**

The Council comprises 48 members, otherwise called Councillors. One or more Councillors will be elected by the voters in Wards in accordance with a scheme drawn up by the Local Government Boundary Commission for England, and approved by the Secretary of State.

(b) **Eligibility**

Only registered voters of the District, or those living or working there, will be eligible to hold the office of Councillor.

2.02 Election and Terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular elections.

2.03 Roles and Functions of all Councillors

(a) **Key roles. All Councillors will:**

- (i) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) Represent their communities and bring their views into the Council's decision-making process, i.e. become an advocate for their communities;
- (iii) Effectively represent the interests of their ward and of individual residents;
- (iv) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;
- (v) Be involved in decision-making for the people of the District as a whole;
- (vi) Be available to represent the Council on other bodies; and
- (vii) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other Committees and Sub-Committees, maintaining the highest standards of conduct and ethics.

(b) **Rights and Duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

- (ii) Members are entitled to receive information from Officers in a timely manner to reasonable requests for the purposes of undertaking their role as Ward Councillors, decision makers and performing functions, such as overview and scrutiny (**this is referred to as the common law ‘need to know’ principle**). Under common law principles councillors have the right to access information held by their authority where it is reasonably necessary to enable the member to properly perform their duties as a councillor.

However, if the member’s motive for seeing documents is indirect, improper or ulterior, this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go off on ‘fishing expeditions’ through their council’s documents. If a councillor is a member of a particular committee or sub-committee then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the councillor would have to show good cause why sight of them is necessary to perform their duties (See R V Clerk to Lancashire Police Committee ex parte Hook [1980] Q.B. 603).

- (iii) Councillors will not make public information that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iv) For these purposes “confidential” and “exempt” information is defined in the Access to Information Rules in Part 5 of this Constitution.
- (v) **It is a duty of Councillors to undertake all relevant training and to keep themselves up-to-date on such training.**

2.04 Conduct

Councillors will at all times observe the Members’ Code of Conduct and protocols set out in Part 6 of this Constitution.

Councillors are also expected to comply with the requirements of any risk assessments issued by the Council in performance of their functions

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 7 of this Constitution.

2.06 Members’ Training / Development Records

The training / development records of Members will be centrally held by the Council’s Monitoring Officer through the Leadership Support Team. Members’ training / development will be organised and facilitated through that Team.

A.4 APPENDIX B

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens' Rights

The rights to information are explained in more detail in the Access to Information Rules in Part 5 of this Constitution. Other rights include:

(a) **Voting and petitions:**

People on the Electoral Register for the District have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

(b) **Information**

The public have a right to:

- (i) Attend meetings of the Council and its Committees and Sub-Committees except where confidential or exempt information is likely to be disclosed (Committees for this purpose do not include Working Parties/Groups and/or Task and Finish Review Groups);
- (ii) Attend meetings of the Cabinet when key decisions are being considered;
- (iii) Find out from the Council's website what key decisions will be taken by Cabinet and when;
- (iv) See reports and background papers, and any records of decisions made by the Council and the Cabinet; and
- (v) In accordance with the published timescales inspect the Council's accounts and make their views known to the external auditor.

(c) **Participation**

The public have a right to participate by submitting written questions to Full Council meetings and contribute to investigations by the Overview and Scrutiny Committees. The public can also participate at meetings of the Planning Policy & Local Plan Committee and the Planning Committee in accordance with the relevant Public Speaking Schemes. **The public can also submit a petition to the Council under the Council's adopted Scheme for dealing with Petitions.**

(d) **Complaints**

The public have a right to complain to:

- (i) A Ward Councillor;
- (ii) The Council itself under its Complaints Scheme, details of which are available on the Council's website;

- (iii) The Local Government and Social Care Ombudsman, after using the Council's own Complaints Scheme;
- (iv) The Housing Ombudsman;
- (v) The Monitoring Officer about a breach of the Council's Code of Conduct (which sets out the standards of behaviour expected of a Councillor and is contained within Part 6 of this Constitution). The Complaints Procedure is available on the Council's website.

3.02 Citizens' Responsibilities

At meetings of the Council, its Committees or Cabinet, members of the public must treat Councillors and Officers with respect and courtesy and must not wilfully harm the property of the Council, Councillors or Officers.

A.4 APPENDIX C

4.2.2 Role of Leader and Individual Portfolio Holders

In addition to the general principles set out in Section 3 above, the role of individual Portfolio Holders with areas of responsibility is as follows:-

1. To have overall responsibility for the development, implementation and review of Strategies and District Council Policy in relation to their portfolios and to be the main Council spokesperson thereon.
2. To monitor service performance regarding progress towards achieving strategies and objectives and delivery of service performance targets within approved budgets.
3. To satisfy themselves as to the integrity of financial information and the adequacy of financial controls and risk management arrangements.
4. To represent and speak on behalf of the Cabinet at the Overview and Scrutiny and Audit Committees when they are dealing with issues in their portfolio.
5. To be a member of the Cabinet and exercise collective responsibility in decision making and in making recommendations to the Council.
6. To consult with the Committees, other Members, partners and stakeholders including the public as appropriate in the formulation and development of Council policy within their portfolio.
7. To inform and consult relevant ward Members when making formal decisions.
8. To make decisions in accordance with the Council's Strategies, Policies, Procedures, Protocols and Codes of Conduct or as otherwise required by the Constitution.
9. **To undertake all relevant training provided to aid them in carrying out their duties and responsibilities as Portfolio Holders and to keep themselves up to date on such training.**

A.4 APPENDIX D

COUNCIL PROCEDURE RULES

11. QUESTIONS BY MEMBERS

11.1 On Statements made by the Leader or a Member of the Cabinet to the Council, Reports or References from the Cabinet or Minutes of Committees

A Member of the Council may ask the Leader or a Member of the Cabinet any question without notice about any statement made by the Leader or a Member of the Cabinet to the Council when that item is being received.

A Member of the Council may ask the Leader or a Member of the Cabinet or the Chairman of a Committee any question without notice upon a report or recommendation of the Cabinet or the minutes or reference from a Committee when that item is being received by the Council.

Supplementary Questions will not be permitted under this rule.

11.2 Scope of Questions on Notice at Full Council and Time Allocated in the Meeting

Subject to Rules 11.3, 11.4 and 11.5 a Member of the Council may ask:-

- the Chairman;
- a Member of the Cabinet; and
- the Chairman of any Committee;

a question on any matter, which is within their area of responsibilities as set out in Part 3 of the Constitution, in relation to which the Council has powers or duties or which affects the Tendring District.

Only the text of the Questions will be included within the full Council Agenda and in the order in which the questions from Members were received. None of the accompanying preamble or explanatory statements (if any) submitted by the Questioner(s) will be so included.

The time allocated for receiving and disposing of questions shall be a maximum 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. The Question(s), together with the relevant written response(s), will also be published to the Council's website and will also be reported to the next meeting of the Council, as an "information only item", by the Committee Services Manager. The provisions of this paragraph will also apply in those instances when the full Council meeting has had to be cancelled.

Questions shall not be submitted to the Annual Meeting of the Council or to an Extraordinary Meeting of the Council or to the Budget and Council Tax setting meeting of the Council.

11.3 Notice of Questions

A Member may only ask a question under Rule 11.2 if either:

- (a) notice has been given by delivering it in writing (or by personal e-mail) to the Committee Services Manager no later than midday 8 (eight) working days before the day of the meeting; or
- (b) the question relates to urgent matters, he has the consent of the person to whom the question is to be put and the content of the question is given to the Committee Services Manager by noon on the day of the meeting.

11.4 Number of Questions

At any one meeting no Councillor may submit more than two questions.

11.5 Reasons for rejection of Questions

- (a) the question is not about a matter for which the local authority has responsibility or which affects the District;
- (b) The Monitoring Officer will reject a question if in their judgement it could be considered to be defamatory or offensive or requires the disclosure of confidential or exempt information (as defined in the Access to Information Procedure Rules);
- (c) the Monitoring Officer will reject a question if in their judgment it is substantially the same as a question already received to be put to the ordinary meeting of the Council in question;
- (d) The Monitoring Officer will reject a question if in their judgement it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (e) The Monitoring Officer will reject a question if in their judgement it is likely to lead to a breach of the Members' Code of Conduct~~or~~; or
- (f) the question is about a matter that is subject to call in or ongoing legal proceedings.

11.6 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where a reply cannot conveniently be given orally, a written answer given later to all Members.

The Member giving the response must provide an electronic or written copy of that response to the Committee Services Manager by Noon on the day of the meeting in order to enable the

response to be circulated to the Questioner, the Chairman of the Council, the Leader of the Council and relevant Officers.

11.7 Recording of Questions and Responses and Questions of Clarification

After the response has been given to a Question on Notice, the Member who asked the question may ask one question, of which no notice is required. That question must solely relate to clarifying the response received. No statements or other form of question will be allowed. The ruling of the Chairman on the admissibility of the question is final.

The minutes of the meeting will record the text of the question plus any preamble or supporting statement (if any) together with the response given thereto and that, if appropriate, a question of clarification and a response was asked and given, without detailing the content.

11.8 Time Limits for Asking/Answering Questions

The time limit for asking each question (including any preamble or statements in support) is two minutes and the time limit for each reply is three minutes.

11.9 Withdrawal of Question

A Member may withdraw their question by giving notice of their wish to do so to the Committee Services Manager prior to the commencement of the meeting at which their question is to be put.

Once the meeting has commenced a Member may withdraw their question with the consent of the Chairman.

A.4 APPENDIX E

COUNCIL PROCEDURE RULES

16. RULES OF DEBATE

16.1 No Speeches until Motion Seconded

No speeches may be made after a motion has been proposed and explained until it has been seconded. However, a motion that the recommendations from Cabinet or references from the relevant Committee shall be adopted need not be seconded.

A Member when seconding a motion or amendment may, if he then declares his intention to do so, reserve his speech until a later period of debate, subject to Rule 16.10 – Closure Motions.

16.2 Right to Require Motion or Amendment in Writing

Unless notice of the motion or amendment has already been given, the Chairman may require it to be written down and handed to him before it is discussed.

16.3 Content and Length of Speeches

Speeches must be directed to the motion under discussion or to a personal explanation or point of procedure. No speech (including those to move motions) shall exceed three minutes except with the consent of the Council. This does not apply to the statement by the Leader on the State of the District and the Leader's presentation of the budget.

16.4 When a Member May Speak Again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;
- (b) to move or second a further amendment if the motion has been amended since he last spoke;
- (c) if his first speech was on an amendment moved by another Member, to speak on the main issue (provided the amendment has not been carried);
- (d) in exercise of a right of reply;
- (e) on a point of procedure; and/or
- (f) by way of personal explanation.

16.5 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and either be:

- (i) to refer the matter to the Cabinet or relevant Committee for consultation, further information on the implications of the potential decision to be researched and submitted, consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words

as long as the effect of (ii), (iii) or (iv) is not to negate the motion or introduce a new subject matter into the motion before the Council. In addition, any amendment proposed to be made that may have budgetary implications must have been submitted to the Council's Section 151 Officer at least two working days before the Full Council meeting to enable them to consider the implications for the Council's Finances.

Furthermore, no amendment will be accepted that could bind or fetter the Executive or a Committee in relation to matters that are within the responsibility of the Executive or a Committee of the Council.

- (b) Any amendment proposed to be made to the Cabinet's budget proposals must have been submitted to the Council's Section 151 Officer at least two working days before the Budget Full Council meeting(s) to enable them to consider the implications for the budget.
- (c) Any Member wishing to move an amendment or alternative recommendation to those made by the Independent Remuneration Panel in respect of the Members' Scheme of Allowances must have submitted their proposals to the Council's Section 151 Officer and the Monitoring Officer at least two working days before the relevant Full Council meeting to enable them to consider the legal and financial implications. Any such amendment or alternative recommendation must be accompanied by the reasons for departing from the IRP's recommendations. Once deemed to be valid by the Monitoring Officer it will be immediately circulated by email to all Members of the Council. Copies of such amendment or alternative recommendation(s) will also be placed on Members' tables prior to the commencement of the Council meeting.
- (d) Only one amendment may be moved and discussed at any one time. Subject to Rule 16.10 no further amendment may be moved until the amendment under discussion has been disposed of. However the Chairman may permit a Member to give formal notice of the terms of any further amendment which he proposes to move at a later stage in the proceedings.
- (e) A member may withdraw their proposed amendment with the consent of the seconder.
- (f) If an amendment is not carried, other amendments to the original motion may be moved.

- (g) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (h) After an amendment has been carried, the Chairman will read out the substantive motion before accepting any further amendments, or if there are none, put it to the vote.

16.6 Alteration of Motion

- (a) A Member may alter a motion of which he has given notice with the consent of the seconder.
- (b) A Member may alter a motion that he has moved without notice with the consent of the seconder.
- (c) Only alterations that could be made as an amendment may be made. **This includes any amendment made at the meeting by another Member.**

16.7 Withdrawal of Motion

A Member may withdraw a motion that he has moved with the consent of the seconder unless it is the subject of an amendment. No Member may speak on the motion after the mover has withdrawn it.

16.8 Right of Reply

- (a) The seconder of a motion (including the seconder of a motion on which an amendment has been moved), the mover of a motion (including the mover of a motion on which an amendment has been moved) and the seconder and the mover of an amendment have a right of reply at the end of the debate on the motion or amendment. Following this, the appropriate Portfolio Holder or the Chairman of the relevant Committee shall have the right to speak on the motion or amendment immediately before it is put to the vote. Where the mover of the motion or amendment was the Leader of the Council, he shall have the final right to speak.
- (b) A Member exercising a right of reply shall confine his remarks to answering the arguments employed or observations made during the debate and shall not introduce any new matter.
- (c) The right of reply of the seconder of a motion or amendment (as referenced in (a) above) will only apply if the seconder has not already spoken during the debate on the motion or amendment in question.

16.9 Motions Which May be Moved During Debate

When a motion is under debate, no other motion may be moved except the following procedural motion:

- (a) to withdraw a motion;

- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to extend the time for speeches;
- (h) to give any consent required by these procedure rules;
- (i) to suspend one or more of the procedure rules;
- (j) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (k) that a Member named under Rule 23.3 below (Disorderly Conduct), not to be heard further or to exclude them from the meeting under Rule 23.4.

16.10 Closure Motion

- (a) A Member may move, without comment, the following motions at the conclusion of a speech of another Member;
 - (i) That the Council proceed to the next business;
 - (ii) That the question now be put;
 - (iii) That the debate now be adjourned; or
 - (iv) That the Council does now adjourn; or
 - (v) That the matter be referred to the Cabinet or a Committee(s) in accordance with the responsibility of functions and the defined terms of reference.
- (b) On the seconding of which the Chairman shall, unless in their opinion the matter before the meeting has been insufficiently discussed, proceed as follows:
 - (i) On a motion to proceed to the next business or to refer the matter to the Cabinet or a Committee(s): they shall first give the seconder and the mover of the original motion their right of reply, under Rule 16.8 above, and then put to the vote the motion to proceed to the next business or to refer the matter;
 - (ii) On a motion that the question now be put: they shall put to the vote the motion that the question now be put, and if it is passed then the Chairman will give the seconder and the mover of the original motion their right of reply under Rule 16.8 above before putting their motion to the vote;
 - (iii) On a motion to adjourn the debate or the meeting: they shall put the adjournment motion to the vote without giving the seconder and the mover of the original motion their right of reply on that occasion.

16.11 Point of Procedure

A Member may raise a point of procedure at any time. The Chairman will hear him immediately. A point of procedure may only relate to an alleged breach of these Council Procedure Rules or the law. The Member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Chairman on the matter will be final.

16.12 Personal Explanation

A Member has the right to make a personal explanation when directly related to some material part of an earlier speech by the Member if it appears to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

A.4 APPENDIX F

COUNCIL PROCEDURE RULES

33. APPOINTMENT OF MEMBERS OF COMMITTEES AND SUB-COMMITTEES/VACANCIES IN CHAIRMANSHIP

33.1 General

Subject to the rules of political proportionality, as provided in the Local Government and Housing Act 1985 (Section 15) and the Local Government (Committees and Political Groups) Regulations 1990, and Rule 33.2 below, Full Council (usually at its Annual Meeting) will appoint Committees and Sub-Committees in accordance with the Local Government Act 1972 (Section 102).

33.2 Eligibility

Subject to the provisions of Rule 33.3 below the eligibility requirements with regard to membership of Committees and Sub-Committees are as follows:-

Overview and Scrutiny Committees

All Councillors except Cabinet members may be members of the Overview and Scrutiny Committees.

Audit Committee, Human Resources and Council Tax Committee, Licensing and Registration Committee, Planning Policy & Local Plan Committee, Planning Committee and Miscellaneous Licensing Sub-Committee

All Councillors may be members of these Committees.

The members of the Miscellaneous Licensing Sub-Committee must also be members of the parent Licensing and Registration Committee.

CIPFA Guidance recommends that the membership of the Audit Committee should not cross-over with either the Executive or Scrutiny functions. However, Officers' advice is that if Members feel that cross membership is necessary then this should be limited to one member from each of the Executive or Scrutiny functions. The Chairman of the Audit Committee should not be a member of the Cabinet.

Standards Committee

All Councillors may be members of this Committee except that no more than one member of the Committee shall be a member of the Cabinet (and that member cannot be the Leader of the Council). In addition, no Leaders of Political Groups can be members of that Committee.

Premises/Personal Licences Sub-Committee

The membership of this Sub-Committee is appointed on an ad hoc basis from the membership of the Licensing and Registration Committee.

33.3 Training Members of the Audit, Human Resources and Council Tax, Licensing and Registration, Overview and Scrutiny, Planning and Standards Committees and the Licensing Sub-Committees

In addition to specific training required as and when necessary, training shall be provided to all Members appointed to the Audit, Human Resources and Council Tax, Licensing and Registration, Overview and Scrutiny, Planning and Standards Committees **and the Licensing Sub-Committees** on an annual basis at an appropriate date and time after each annual meeting of the Council and such training shall be mandatory. ~~The Monitoring Officer shall define what is meant by the word “mandatory” and they will also decide whether the training offered/provided is/was sufficient and “fit for purpose”.~~

A Member cannot sit as a member of the Planning Committee unless they have received specific training with regard to the determination of planning applications.

A Member cannot sit as a member of the Licensing and Registration Committee **or its Sub-Committees** unless they have received **the** specific training with regard to the broad range of licensing matters **(or the specific training to the subject matter of the Sub-Committee)** as set out within (but not necessarily limited to) the Licensing Act 2003, the Gambling Act 2005 and the Local Government (Miscellaneous Provisions) Act 1982.

A Member cannot sit as a member of the Audit Committee unless they have received specific training with regard to the determination of the Council's Statement of Accounts and comprehension of Auditor reports.

A Member cannot sit as a member of the Standards Committee unless they have received specific training with regard to the Hearings Procedure and participation in Hearings.

A Member of the Human Resources and Council Tax Committee cannot sit as a member of a Personnel Appeals Sub-Committee of that Committee unless they have received specific training with regard to determining Employment appeals (for specific senior officer posts)

A Member cannot sit as a member of an Overview and Scrutiny Committee unless they have received specific training with regard to work programming and questioning skills.

No Member can continue to sit as a member of the above committees if they have gone more than two years without attending any of the relevant training events.

The Monitoring Officer is authorised to approve alternative arrangements for training to enable Members to attend and take part in the business of the agenda for a particular meeting. Members training records are held by the Monitoring Officer.

33.4 Resignation of Chairmanship Etc.

Any Chairman, Vice-Chairman or Member of a Committee, Sub-Committee or Working Party may at any time, by notice in writing or personal email delivered to the Chief Executive, resign his position and such resignation shall take immediate effect on delivery of the notice.

33.5 Casual Vacancies

In the case of a casual vacancy in the office of a Chairmanship or Vice-Chairmanship of a Committee, Sub-Committee or Working Party an item shall be placed on the agenda of the next meeting of the relevant body which shall, before proceeding to any other business, elect from its Members a Chairman or Vice-Chairman as the case may be for the remainder of the year.

34. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES, SUB-COMMITTEES AND WORKING PARTIES

34.1 General

Substitute members may attend, speak and vote at meetings of Committees and Sub-Committees of the Council, subject to Rules 33.3 and 33.4. In the case of the Overview and Scrutiny Committees, such Substitute Members may not be Members of the Cabinet. Substitute Members may not be appointed to any Working Parties unless that working party has been established in full accordance with the Widdicombe Rules.

34.2 Eligibility and Effect

A Substitute shall belong to the same political group (as defined in the Local Government and Housing Act 1989) as the Member for whom he is a Substitute. Substitution by, or of, Members not in a political group is not permitted.

Only the Member being substituted or their Group Leader (or Deputy) can appoint substitute members. Notification of a substitute from the Member being substituted or their Group Leader (or Deputy) must be given to Committee Services prior to the commencement of the meeting at which the substitution is to apply. Where more than one notification is received, the Group Leader (or Deputy's) request will take precedence.

In those circumstances where the Member who wishes to be substituted has recently left one political group and joined another or if they have moved to a non-aligned position and in the absence of a review of the allocation of seats to political groups, the seat remains within the control of the Member's previous Group then it shall be for the Leader of that Group to appoint a substitute.

The substitution will be in effect for the whole of the meeting (including any part thereof that is adjourned to, and subsequently considered at, a later date). The Substituted Member must not take their seat.

34.3 Training Substitute Members of the Audit, Human Resources and Council Tax, Licensing & Registration, Overview & Scrutiny, Planning and Standards Committees

In addition to specific training required as and when necessary, training shall be provided to all named Substitute Members appointed to the Audit, Human Resources & Council Tax, Licensing and Registration, Overview & Scrutiny, Planning and Standards Committees **and the Licensing Sub-Committees** on an annual basis at an appropriate date and time after each annual meeting of the Council.

The Monitoring Officer is authorised to approve alternative arrangements for training to enable Members to attend and take part in the business of the agenda for a particular meeting.

34.4 Substitute Members of the Audit, Human Resources & Council Tax, Licensing & Registration, Overview & Scrutiny, Planning and Standards Committees and the Licensing Sub-Committees

Group Leaders shall, provide named Substitute Members (in accordance with proportionality rules) and all substitutions will only be permitted from this list. Any member of a political group shall be eligible to act as a named Substitute Member providing that they have received training in relation to all relevant Audit, Human Resources & Council Tax, Licensing & Registration, Standards-related, Overview & Scrutiny or Planning matters under a continuing programme arranged by the Council. When naming a designated substitute, Group Leaders shall, as far as reasonably practicable, satisfy themselves that the named Member is as conversant with all relevant Audit, Human Resources & Council Tax, Licensing and Registration, Standards-related, Overview & Scrutiny and Planning matters as the appointed members of those Committees.

34.5 Substitute Members of the Premises/Personal Licences Sub-Committees

Substitutes for Members of the Premises/Personal Licences Sub-Committee shall be made from the appointed membership of the Licensing & Registration Committee. Such substitute need not be a Member of the same political group and the provisions of Rule 34.2 shall not apply.

The Committee Services Manager will, at the request of the Group Leader of a member of the Premises/Personal Licences Sub-Committee or at the request of the Member concerned, appoint a Substitute from amongst the appointed Membership of the Licensing & Registration Committee who should have received training in relation to licensing under a continuing programme arranged by the Council. Such request need not be in writing.

The Committee Services Manager will ensure that a fourth or standby Member, drawn from amongst the appointed membership of the Licensing & Registration Committee, is present at every meeting of the Premises/Personal Licences Sub-Committee. Such Member shall act as a member of the Sub-Committee in the event that one of the three Sub-Committee members becomes unable to act due to e.g. illness, conflict of interest.

A.C APPENDIX G

OVERVIEW AND SCRUTINY PROCEDURE RULES

16. ATTENDANCE BY OTHERS

Each Overview and Scrutiny Committee may, in so far as it relates to matters within their terms of reference, invite people other than those referred to in paragraph 15 above to address them, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and may invite such people to attend. Attendance by those invited is entirely optional but encouraged in the spirit of partnership working and community engagement.

Ward Members will be invited to attend before the Committee if there is an item on the agenda that is specific to their Ward and shall have the facility to address the Committee and/or answer Members' questions.

All such invitations will be made through the Head of Democratic Services & Elections, in his capacity as the Council's designated Scrutiny Officer (Article 12 of the Constitution), so that a consistent and co-ordinated approach to invitations can be maintained. All such requests from individual Members shall be referenced to the Head of Democratic Services & Elections. This approach shall be followed in respect of less formal overview and scrutiny enquiries (such as through task and finish groups).

18. EXCEPTIONS TO CALL-IN

The call-in procedure set out above shall not apply in respect of ***executive decisions taken at Cabinet meetings, or by individual Cabinet Members or by Officers (who are making a Key Decision as defined in Article 13.03), as defined in Rule 17*** Cabinet decisions regarding the following:

(i) Urgent Decisions

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

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

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

(ii) Other Exceptions

- (a) “Provisional” or “in principle” decisions where the issue is to be referred to an Overview and Scrutiny Committee for comment.
- (b) Decisions taken under the “Special Urgency” procedure as provided for in Access to Information Procedure Rule 15.
- (c) Recommendations from Cabinet to Council.
- (d) Decisions by the Cabinet where the issue has been referred to them by the Council or an Overview and Scrutiny Committee for their view or comment shall not be subject to call-in.
- (e) Unless the decision has taken into account new material considerations arising since the original consultation with the Council or an Overview and Scrutiny Committee a decision by the Cabinet in response to such consultation shall not be subject to call-in.
- (f) Where Full Council has delegated to the Cabinet the ability to approve additional information in respect of the Corporate Plan to ensure that statutory publishing deadlines are met, such decisions shall be construed as urgent for the purposes of Rule 18(i) above. In such circumstances the Chairman of the relevant Committee, or other Chairman or Vice-Chairman so authorised to act in his absence, will only be required to agree that the proposed decision is reasonable in all the circumstances.
- (g) Appointment by the Leader of the Council of Members to serve on the Cabinet as Portfolio Holders.**

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

A.4 APPENDIX H

Committee	Functions and Terms of Reference	Delegated Functions
<p>Planning Committee</p>	<p>The discharge of the Town and Country Planning Conservation functions 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>Additional roles and functions of the Committee are as set out below:</p> <ol style="list-style-type: none"> 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>1. All planning (including all prior approval applications), enforcement, building control and conservation matters delegated to the Director (Planning & Community) <u>except</u> in relation to the determination of certain planning applications as detailed below for determination by the Committee:</p> <ol style="list-style-type: none"> (i) Officer recommendation for approval is 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 & Community) to alter the previous material planning considerations. (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.
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		<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 or a member of permanent staff employed by TDC within Planning Services or Legal Services, or they are one of the Council's senior managers as determined by the individual Services, 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</p>
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		<p>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>
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		<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</p>
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		<p>would result in deemed approval if not determined in time, including prior approval applications.</p> <p>(*) Scheme to be approved by Full Council.</p> <p>(viii) The Director (Planning & Community), or other authorised Officer, in following consultation with the Chairman of the Planning Committee and the Planning Solicitor, may can 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><i>(NOTE: an Officer decision will be required in exercising this discretion to allow or refuse with reasons being produced and published to the Council's website.)</i></p>
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		<p>(ix) Any application which the Director (Planning), in their professional opinion, taking into account the written representations received, plans and policies and other material considerations decides should be</p>
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		<p>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 Miscellaneous functions – Part 1 – relating to Public Rights of Way, within the 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.</i></p> <p><i>The discharge of the following 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</i></p>	<p>All public rights of way matters delegated to the Corporate Director} (Operations and Delivery)</p> <p>All hedgerows, trees and hedges matters delegated to the Director (Planning)</p>

A.4 APPENDIX I – FINANCIAL PROCEDURE RULES

6. CHANGES TO BUDGETS AFTER APPROVAL BY COUNCIL

6.1 Supplementary Estimates

6.1.4 No specific supplementary estimate approval is required at any time for the following:

- (a) Expenditure which is being funded entirely by income received under section 106 agreements and held in the section 106 receipts in advance holding account **or associated reserve** where that expenditure is in accordance with the terms of the section 106 agreement. In these circumstances the Chief Financial Officer must agree the expenditure, and the financing.
- (b) Debt written off for which specific provision was made in the Council's bad debt provision at the end of the previous financial year.
- (c) Expenditure on a specific activity that has previously been approved in accordance with the Council's constitution and for which the funding of that expenditure in future years has been placed in a dedicated earmarked reserve, and the expenditure is to be financed by the use of that reserve. In these circumstances the Chief Financial Officer must agree the expenditure, and the financing.
- (d) For expenditure where the Council receives full funding from an external source for a specified project and there are no additional revenue costs to the Council in either the current financial year or future financial years.

16. EXTERNAL FUNDING

16.1 External funding refers to applications to external organisations, including Government departments and agencies for the funding of expenditure. The expenditure may be for the Council's own services or for those services provided in partnership with other public bodies, voluntary sector bodies or private sector organisations.

16.2 In any partnership arrangement the Chief Financial Officer must ensure that there are adequate controls in place in respect of the Council's own financial liabilities to the partnership and that there are adequate controls in place for the partnership itself.

16.3 Any application for external funding to finance or contribute to the financing of a function, investment or activity for which the Council is either the sole provider or is the accountable body must be approved by Management Team following consultation with the Chief Financial Officer to ensure the external funding being sought is in accordance with the Council's priorities and not an additional impact on resources. Such approval will be recorded with an Officer Decision.

- 16.4** When making application for payment of funds from the body awarding the grant it is a statutory obligation that all figures in the claim be supported by adequate, and comprehensive working papers. All such working papers will be in a format and detail as determined by the Chief Financial Officer.
- 16.5** *Should an application for External Funding be successful, a separate recorded decision is required relating to acceptance of the funding, the terms and conditions and how the funding will be used. Such decision will take into consideration all the necessary implications in the required format.*

A.4 APPENDIX J

Schedule 2

Responsibility for Council (Non-Executive) Functions

GENERAL MATTERS/PRINCIPLES

Detailed below are the general matters/principles which underpin the Council's scheme of delegation in respect of non-executive functions.

7. The delegation of powers to Officers is underpinned by the principle and culture of consultation and liaison with Members, as appropriate and the ability for Officers to refer matters to the relevant decision-making body, where it is felt that this is appropriate due to the nature of an issue **in addition, to the legal obligations to record the decision in the required format.**

A.4 APPENDIX K

Schedule 3

Responsibility for Executive Functions

4.1 THE CABINET COLLECTIVELY

The following details the broad principles of issues that are the responsibility of the Cabinet and which shall be considered by the Cabinet collectively at public meetings:

TERMS OF REFERENCE

To be responsible for Community Leadership for the District of Tendring. To lead the preparation of the District Council's policies and budget. To take decisions on resources and priorities together with other stakeholders and community partners as appropriate, and to deliver and implement the budget and policies decided by full Council. To be the focus for forming partnerships with other local public, private, voluntary and community sector

1. Developing and making recommendations to the Council in respect of the plans and strategies that form the Council's policy framework.
2. Formulations of budgets and other statutory financial requirements for submission to Council.
3. Monitoring the Council's budgetary and overall financial position.
4. Decisions as required by the Council's Financial and Procurement Procedure Rules including transactions in respect of the Final Accounts.
5. Decisions outside of the Budget or Policy Framework in accordance with the Procedure Rules.
6. The approval of strategies, policies, plans and guidance which are the responsibility of Cabinet and are not delegated elsewhere within the Constitution.
7. Consideration and approval of the acquisition and disposal of property in accordance with the Property Dealing Procedure, legislation and specific consents.
8. Consideration, approval and determination of objections, under Section 123 of the Local Government Act 1972, received in respect of proposed disposals of land used as public open space. All such consideration and determination to be at a public meeting of the Cabinet.
- ~~9. Power to consider objections received and then determine proposed Traffic Regulation Orders under the Road Traffic Regulations Act 1984 (as amended). All such objections to be determined at a public meeting of the Cabinet.~~

The following paragraphs would be re-numbered accordingly.

10. The approval of planning policy matters that are the responsibility of the Executive such as Local Development Orders and Neighbourhood Plans (including statutory public consultations thereon).
11. Issues delegated to individual Portfolio Holders that in their opinion a collective decision by the Cabinet is required.
12. Issued delegated to an Officer that in the opinion of the Management Team a collective decision by the Cabinet is required.
13. Reviewing from time to time the Council's Constitution.

4.3 ADDITIONAL SPECIFIC DELEGATIONS TO INDIVIDUAL PORTFOLIO HOLDERS

Leisure and Public Realm

1. To approve the making of car parking regulation orders when requested by Essex County Council.
- ~~2. Proposals for and approve the making of traffic regulation orders where no objections are received.~~
- 2. The selection and rejection of proposals for the making of traffic regulation orders being submitted to the North Essex Parking Partnership will be authorised by the Portfolio Holder, whether objections have been received to initial proposals. Reasons for such selection or rejection will be published following consultation with the relevant ward councillor. Such delegation cannot be exercised for proposed traffic regulation orders within the Portfolio Holder for Leisure and Public Realm's ward and in such cases, would be referred to the Leader for determination.**
3. The determination of Hackney Carriage stands under Section 63 of Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (in consultation with the Portfolio Holder for Housing and Planning).

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COUNCIL

25 MARCH 2025

REFERENCE FROM HUMAN RESOURCES AND COUNCIL TAX COMMITTEE

A.5 HUMAN RESOURCES COMMITTEE AND ARRANGEMENTS FOR STATUTORY OFFICER AND NON-STATUTORY CHIEF OFFICER APPEALS

(Report prepared by Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek Council's approval of the Human Resources & Council Tax Committee's proposed amendments to the Terms of Reference of the Committee to include the determination of Appeals of Chief Officers for recommendation onto Full Council, together with a recommendation to establish a Chief Officer Employment Appeals Sub-Committee and to review the Council's HR Policies and Procedures, to ensure they are consistent with the changes concerning appeals processes.

EXECUTIVE SUMMARY

At its meeting held on 24 February 2025 (Minute 20 refers), the Human Resources and Council Tax Committee ("the Committee") were made aware of the context of Officers seeking to amend the Terms of Reference of the Human Resources Committee.

The Council's Staff Handbook stated "*Employees have a right to appeal against any formal disciplinary decision. The appeals procedure was part of the Disciplinary Policy and Procedures.*" Members were told that the Disciplinary Policy and Procedures issued by Human Resources and last updated in October 2017 stated:-

"15. APPEALS PROCEDURE

15.1 Refer to Appeal Policy"

APPEALS PROCEDURE (Updated August 2012):

"As an employee of the Council, there may be occasions where a formal decision was required to be taken about your employment. Where this occurs, formal policies and procedures will be followed to ensure a fair process is applied. It is essential that any actions or decisions made are based on facts and evidence provided as part of that process.

There may, however, be times where an employee is unhappy with the decision made or action taken. Where this occurs, they have the right to appeal against that decision. The purpose of the Appeals Procedure is to outline the process which will be followed when exercising the right of appeal.

The right of appeal will usually apply where decisions are taken regarding the outcome of a disciplinary or capability hearing, formal grievance or redundancy selection. In all cases, the appeals process will be the same and further advice relating to each specific procedure can be found in the following policies:

- Disciplinary Policy, Rules and Procedure*
- Grievance Procedure"*

Members had also been made aware that in paragraph 2.2 of the Disciplinary Policy and Procedure, the Scope of the Procedure was stated as:

“The procedure applies to all employees of Tendring District Council, with the exception of the Council’s Statutory Officers who are covered by National Employer’s procedures. These are agreements of the Joint Negotiating Committee (JNC) for Chief Executives and Chief Officers of Local Authorities. Cases where an employee’s ability to undertake the job they are employed to do is in question, will normally be dealt with under the Capability Procedure. Human Resources will advise on the best course of action to take in these circumstances.”

Officers had informed Members that, in September 2022, the Handbook for Chief Executives had been updated by the *Joint Negotiating Committee for Chief Executives*. The Conditions of Service for Local Authority Chief Officers had been last updated by the Joint Negotiating Committee in 2017. Further information on both of those documents was contained within the legal requirements section of the Officer report (A.6).

Consequently, there had been a need to review whether the Council had the appropriate decision-making structure in place to accord with appeal requirements for the Chief Executive, Statutory Officers, and Non-Statutory Chief Officers and their deputies, as set out in the relevant Staff Handbooks.

The Committee had also heard that upon undertaking the review, it had been recommended that a Chief Officer Employment Appeals Sub-Committee be established with the Terms of Reference, as set out in Appendix A of the Officer report, following a recommendation from the Human Resources and Council Tax Committee onto Full Council for approval and consequential amendments to the Council’s Constitution.

It had been unanimously RESOLVED that the Human Resources and Council Tax Committee:-

(a) notes the outcome of the review undertaken by the Council’s Monitoring Officer as requested by Full Council;

(b) recommends to Full Council that:

(i) the Human Resources and Council Tax Committee’s Terms of Reference be amended to include the determination of Employment Appeals of Chief Officers, with these functions being delegated to a Chief Officer Employment Appeals Sub-Committee;

(ii) a Chief Officer Employment Appeals Sub-Committee is established with the Terms of Reference as set out in Appendix A of the Officer report (A.6), with the necessary amendments being made to the Council’s Constitution, to be highlighted in the reference report to Full Council;

(iii) political proportionality would not apply to the Employment Appeals Sub-Committee, on the basis that it is not a committee which meets regularly; and

(c) authorises the Head of People to undertake a review of the Council’s Human Resources Policies and Procedures, in consultation with the Head of Paid Service, to ensure they are up to date and consistent with the appeal process for Chief Officers as set out.

The Monitoring Officer, having been fully involved in all aspects of this matter, has no further comments to add to this report.

RECOMMENDATIONS

That Council, having considered this reference report from the Human Resources Committee, formally approves that –

- (a) the Human Resources and Council Tax Committee’s Terms of Reference be amended to include the determination of Employment Appeals of Chief Officers, with these functions being delegated to a Chief Officer Employment Appeals Sub-Committee;**
- (b) a Chief Officer Employment Appeals Sub-Committee is established with the Terms of Reference as set out in Appendix B to this report (A.5), with the necessary amendments being made to the Council’s Constitution; and**
- (c) political proportionality will not apply to the Employment Appeals Sub-Committee, on the basis that it is not a committee which meets regularly.**

BACKGROUND PAPERS FOR THE DECISION

Published Minutes of the meeting of the Human Resources and Council Tax Committee held on 24 February 2025.

APPENDICES

Appendix A = Report (A.6) of the Director (Governance) and Monitoring Officer submitted to the meeting of the Human Resources and Council Tax Committee held on 24 February 2025.

Appendix B = Chief Officer Employment Appeals Sub-Committee Terms of Reference

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HUMAN RESOURCES & COUNCIL TAX COMMITTEE

24 FEBRUARY 2025

REPORT OF DIRECTOR LAW & GOVERNANCE & MONITORING OFFICER

A.6 HUMAN RESOURCES COMMITTEE AND ARRANGEMENTS FOR STATUTORY OFFICER AND NON-STATUTORY CHIEF OFFICER APPEALS

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek approval of the proposed amendments to the Terms of Reference of the Human Resources Committee to include the determination of Appeals of Chief Officers for recommendation onto Full Council, together with a recommendation to establish a Chief Officer Employment Appeals Sub-Committee and to review the Council's HR Policies and Procedures, to ensure they are consistent with the changes concerning appeals processes.

EXECUTIVE SUMMARY

It is important to set out the context of seeking to amend the Terms of Reference of the Human Resources Committee.

The Council's Staff Handbook states *"Employees have a right of appeal against any formal disciplinary decision. The appeals procedure is part of the Disciplinary Policy and Procedures"*.

Disciplinary Policy and Procedures issued by Human Resources updated October 2017 state
"15. APPEALS PROCEDURE
15.1 Refer to Appeal Policy"

APPEALS PROCEDURE (Updated August 2012):

"As an employee of the Council, there may be occasions where a formal decision is required to be taken about your employment. Where this occurs, formal policies and procedures will be followed to ensure a fair process is applied. It is essential that any actions or decisions made are based on facts and evidence provided as part of that process.

There may, however, be times where an employee is unhappy with the decision made or action taken. Where this occurs they have the right to appeal against that decision. The purpose of the Appeals Procedure is to outline the process which will be followed when exercising the right of appeal.

The right of appeal will usually apply where decisions are taken regarding the outcome of a disciplinary or capability hearing, formal grievance or redundancy selection. In all cases, the appeals process will be the same and further advice relating to each specific procedure can be found in the following policies:

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- *Disciplinary Policy, Rules and Procedure*
- *Grievance Procedure*

In paragraph 2.2 of the Disciplinary Policy and Procedure, the Scope of the Procedure is stated as:

“The procedure applies to all employees of Tendring District Council, with the exception of the Council’s Statutory Officers who are covered by National Employer’s procedures. These are agreements of the Joint Negotiating Committee (JNC) for Chief Executives and Chief Officers of Local Authorities. Cases where an employee’s ability to undertake the job they are employed to do is in question, will normally be dealt with under the Capability Procedure. Human Resources will advise on the best course of action to take in these circumstances”.

In September 2022, the Handbook for Chief Executives was updated by the *Joint Negotiating Committee for Chief Executives*. The Conditions of Service for Local Authority Chief Officers was last updated by the Joint Negotiating Committee in 2017. Further information on both of these documents is contained within the legal requirements section of this report.

Consequently, there was a need to review whether the Council had the appropriate decision-making structure in place to accord with appeal requirements for the Chief Executive, Statutory Officers, and Non-Statutory Chief Officers and their deputies, as set in the relevant Staff Handbooks.

Upon undertaking the review, it is recommended that a Chief Officer Employment Appeals Sub-Committee is established with the Terms of Reference as set out in Appendix A, following a recommendation from the Human Resources and Council Tax Committee onto Full Council for approval and consequential amendments to the Council’s constitution.

RECOMMENDATION(S)

It is recommended that the Human Resources and Council Tax Committee:

- (a) Notes the outcome of the review undertaken by the Council’s Monitoring Officer as requested by Full Council;**
- (b) recommends to Full Council that:**
 - (i) the Human Resources and Council Tax Committee’s Terms of Reference be amended to include the determination of Employment Appeals of Chief Officers, with these functions being delegated to a Chief Officer Employment Appeals Sub-Committee;**
 - (ii) a Chief Officer Employment Appeals Sub-Committee is established with the Terms of Reference as set out in Appendix A, with the necessary amendments being made to the Council’s Constitution, to be highlighted in the reference report to Full Council;**
 - (iii) political proportionality would not apply to the Employment Appeals Sub-Committee, on the basis that it is not a committee which meets regularly; and**
- (c) Subject to (a) and (b) authorises a delegation to the Head of People to undertake a review of the Council’s Human Resources Policies and Procedures, in**

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consultation with the Head of Paid Service, to ensure they are up to date and consistent with the appeal process for Chief Officers as set out.

REASON(S) FOR THE RECOMMENDATION(S)

The recommendations seek to implement the will of Council for a review in respect of Chief Officer Appeals and set out for consideration the appropriate steps to address the issue of employment appeals concerning Statutory Officers and Non-Statutory Chief Officers.

ALTERNATIVE OPTIONS CONSIDERED

The option of not pursuing the changes recommended was discounted as it would be contrary to the will of Council and otherwise mean that the Council did not have appeal structures in place for Statutory Officers or Non-Statutory Chief Officers that were compliant with the Council's obligations.

Employment Appeals from Deputy Chief Officers could be determined by the Sub-Committee however, this option was discounted as the Council's Management Team can determine these appeals in line with the existing arrangements.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The proposals in this report support good governance for the Council and as such supports the Council to deliver against its adopted Corporate Plan and its themes.

Tendring District Council adopted its Corporate Plan 2024-28 ('Our Vision') at full Council in November 2023 (Minute No. 76 refers) with Community Leadership and listening to, and delivering for, our residents and businesses to be recognised as cross cutting elements of the Plan. The Corporate Plan Themes are:

- Pride in our area and services to residents
- Raising aspirations and creating opportunities
- Championing our local environment
- Working with partners to improve quality of life
- Promoting our heritage offer, attracting visitors and encouraging them to stay longer
- Financial Sustainability and openness

The Council's Annual Governance Statement (a statutory document which sits alongside the Statement of Accounts, which is inspected by External Audit, and which follows the CIPFA format) covers the 7 principles of Local Code of Governance (for Local Government) and expects adherence with **Principle A - Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law**. Accordingly, the approach taken in this report can be said to support that Principle and, more generally, good governance.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

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Part 3 of the Council's Constitution contains the Responsibility of Functions - Scheme of Delegation - Schedule 1 sets out the Responsibility for Local Choice Functions.

Local Choice functions are those, which may (but need not) be the responsibility of the Cabinet. Schedule 1 of Part 3 of the Constitution details the responsibility for those local choice functions as set out in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as determined by the Council.

(Part 3.3) Paragraph 2 of Schedule 1 – for the Function of “*The determination of an appeal against any decision made by or on behalf of the authority*” currently has reserved the function to Full Council with a further delegation to state “*the relevant non-executive committee, unless expressly specified within the terms of reference*” (*)

In September 2022, following a review of practices introduced by the Local Authorities Standing Orders (England)(Amendment) Regulations 2015, the Joint Negotiating Committee (JNC) for Chief Executives of local authorities wrote to all Chief Executives to notify them their Handbook (“CX Handbook”) had been updated, which sets out what became the conditions of service of employees engaged on terms laid down by the JNC, with effect from September 2022. The circular and the new CX Handbook was requested to be brought to the attention of the Monitoring Officer and HR Director, to remind all Councils should ensure that the following committees should be established and ensuring that the appropriate delegated powers have been conferred on them:

- An Investigating and Disciplinary Committee (IDC) (para 1.2.2);
- An Appeals Committee (para 1.2.3); and
- An Independent Panel (para 1.2.4).

The Model Procedures & Guidance, as set out in Appendix 5 to the CX Handbook apply and should be followed unless alternative arrangements are agreed locally. Tendring District Council has not agreed any alternative arrangements. The guidance is to protect the Chief Executive and Head of Paid Service whilst providing the Council and its elected members guidance to ensure they:

- Understand the procedure to be used;
- Seek appropriate advice at every stage;
- Do not compromise the outcome of any proceedings; and
- Allow every opportunity for fair procedures to operate.

A key feature of the model procedures is the specific roles envisaged by the three committees referred to above. Councils should consider a number of important issues around the composition of committees and the delegation of appropriate powers. In particular, it must be borne in mind that staffing issues are a non-executive function and so these bodies have to be put in place by the Council and not the Leader.

Currently, the Council has:

- Human Resources Sub-Committee forming the Panel for the dismissal and disciplinary process for Senior Officers (as defined in paragraph 3 of Part II of Schedule 1 of the Local Authorities (Standing Orders)(England) Regulations 2001 (as amended) (Part 3.21) which is akin to the role of the Investigating and Disciplinary Committee (as

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referred to above).

- The full Human Resources & Council Tax Committee undertaking the role of an advisory Independent Panel in accordance with the statutory provisions for the Chief Executive, Chief Financial Officer and the Monitoring Officer (together with the Independent Persons) (Part 3.20), which is akin to the role of the Independent Panel (as referred to above).
- Both of the above are supported by the Officer Employment Procedure Rules (Part 5.87-5.90)

With regards to an Appeal process the Officer Employment Rules state:

“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.”*

DISCIPLINARY ACTION IN CONNECTION WITH OFFICERS BELOW DEPUTY CHIEF OFFICER

Members will not be involved in the disciplinary action or dismissal against any officer below a Deputy Chief Officer. The Council’s disciplinary, capability and related procedures, as adopted from time to time will apply, and may allow a right of appeal to Members in respect of disciplinary action.

DISMISSAL

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.

However, there is no reference to the appeal process from the Deputy Chief Officer and above. Therefore, it is necessary to give due consideration to the requirements within the Chief Executive’s Handbook and that of Chief Officers.

The Chief Officers Conditions of Service issued in 2017, states in PART 3 under DISCIPLINE, CAPABILITY AND REDUNDANCY that where disciplinary action against the Monitoring Officer or s151 Officer the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015) in England, provide a degree of protection for these officers in their statutory role within local authorities. Paragraph 1.2 goes on to state that in England, Paragraph 13 and 13A and Appendix 5A of the Conditions of Service Handbook of the Joint Negotiating Committee for Local Authority Chief Executives, which give effect to these statutory requirements, can be used as a reference guide in circumstances where disciplinary action against the Monitoring Officer or s151 Officer is contemplated.

Therefore, it is considered appropriate to follow the same structure as suggested and give consideration to the establishment of an Appeals Committee.

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In relation to Non-Statutory Chief Officers the Conditions of Service, state “A particular consideration for Chief Officers is that the procedures must take account of an officer’s position in the hierarchy when determining who conducts investigations, undertakes disciplinary/capability hearings taking any appropriate action and who hears appeals. Depending on the structure of the authority and the circumstances of the case these functions should normally be undertaken by officers as appropriate but in some cases may require a committee of members to be involved in hearings or appeals”

The Council’s Pay Policy Statement defines “Chief Officers” as “the Chief Executive, and Management Team for the authority, which also includes both the Monitoring Officer and the Section 151 Officer”.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The implications of this report will be met from existing resources and budgets.

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:

<p>A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;</p>	<p>The Council has an approved Budget and Policy Framework, which includes the resources required to deliver the services on behalf of the Council in accordance with the Corporate Plan, Cabinet’s Priorities, statutory duties and discretionary powers.</p>
<p>B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and</p>	<p>The Council’s report templates include headings for all the required considerations for informed decision making and managing risk.</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>The Council is committed to delivering it’s Best Value obligations around continuous improvement. The measures set out in this report are an example where improvement upon the current position is proposed.</p>

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MILESTONES AND DELIVERY
Human Resources and Council Tax Committee – February 2025 Full Council – March 2025
ASSOCIATED RISKS AND MITIGATION
Without an appeals process in place for the Council’s Chief Officers, the Council could be found in breach of their Terms and Conditions of Employment. Suitable training will be delivered to the Sub-Committee prior to being able to sit and determine the outcome of an appeal.
OUTCOME OF CONSULTATION AND ENGAGEMENT
The Statutory Officers and non-statutory Chief Officers forming Management Team are aware that changes were required to provide a Chief Officers Appeals Sub-Committee, as per the Terms and Conditions of those roles. Research has been undertaken on a number of other Councils’ Constitutions, and it is standard practice for a Chief Officer Appeals Sub-Committee to exist. The Head of People has been consulted with the proposed recommendations and has confirmed their agreement. A delegation will be required so that a review of the Council’s Human Resources Employment Policies and Procedures can be undertaken by the Head of People (in consultation with the Chief Executive, as Head of Paid Service). These procedures will require updating in accordance with the proposed recommendations if the Committee approves the establishment of a Chief Officer Appeals Sub-Committee being recommended to Full Council for approval.
EQUALITIES
The Council must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex, sexual orientation. The proposal does not impact on the protected characteristics.
SOCIAL VALUE CONSIDERATIONS
Social Value is defined through the Public Services (Social Value) Act 2012 and requires all public sector organisations (and their suppliers) to look beyond the financial cost of a contract and consider how the services they commission and procure might improve the economic, social and environmental well-being of an area. Therefore, social value considerations are not relevant to the proposed recommendations as set out in this report.
IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2050
There are no implications positively or negatively towards the Council’s Net Zero agenda.

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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	None related to this report
Health Inequalities	
Area or Ward affected	
ANY OTHER RELEVANT INFORMATION	
<i>none</i>	

PART 3 – SUPPORTING INFORMATION

BACKGROUND
<p>Through the Annual Review of the Constitution in late 2023 and early 2024, the Officer Employment Procedure Rules and the Terms of Reference & Delegated Powers of the Human Resources and Council Tax Committee and its Sub-Committee, were considered.</p> <p>This was specifically considered at the meeting held on 18 January 2024 of the Constitutional Review Working Party. The Working Party was advised of the position and the decision taken by Full Council at its meeting held on 29 March 2022. The Full Council in 2022 followed receipt of a letter from The Joint Negotiating Committee for Chief Executives of local authorities.</p> <p>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.</p> <p>In addition, a 'knock on' review of the Officer Employment Procedure Rules would need to take place.</p> <p>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.</p> <p>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 changes to the Rules were set out to the Cabinet Report in February 2024. <u>The review regarding appeals was at that time still outstanding.</u></p>

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

Full Council March 2022 (minute 150)

(i) Council notes that the Monitoring Officer intends to exercise her delegated powers (as a result of management restructures and legislative requirements) and make appropriate amendments to the Constitution in relation to the following matters:-

...
· The terms of reference and delegated powers of the Human Resources & Council Tax Committee and its Sub-Committee.

On 16th February 2024, following a report of the Corporate Finance & Governance Portfolio Holder (the Leader of the Council) on the Annual Review of the Council's Constitution Cabinet resolved (Minute No. 91):

2. That Cabinet -

(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.

This report is the outcome of that review.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

There are no background papers (within the terms of the legislation) and published reference material are appropriately annotated within this report.

APPENDICES

Appendix A – Proposed Chief Officer Employment Appeals Sub-Committee is Terms of Reference

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	Lisa Hastings
Job Title	Director Governance and Monitoring Officer
Email/Telephone	lhastings@tendringdc.gov.uk / 01255 686561

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DRAFT TERMS OF REFERENCE

THE CHIEF OFFICERS' EMPLOYMENT APPEALS SUB-COMMITTEE

1. To consider Employment Appeals under the Council's Disciplinary Policies and Procedures relating to the Council's Statutory Officers and Non-Statutory Chief Officers (as defined within the Council's Pay Policy Statement), and in accordance with the Handbooks and Conditions of Service as applicable to those posts at the relevant time.
2. The Chief Officers' Employment Appeals Sub-Committee ("Appeals Sub-Committee") will be comprised of 3 members normally consisting of:
 - (i) a Portfolio Holder, as determined by the Leader of the Council. The Leader will have the right to appoint a substitute for the Portfolio Holder if they will be unable to attend or if otherwise necessary;
 - (ii) the Chairman or Vice-Chairman of the Human Resources & Council Tax Committee;
 - (iii) and a named committee member from a political group that is not represented on the Cabinet.
3. The Appeals Sub-Committee must not compromise of any Member who formed part of the Human Resources Sub-Committee when it performed its functions in relation to the dismissal and disciplinary process for the Statutory and Non-Statutory Chief Officers (as defined in Paragraph 3 of Part II of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001.
4. No Member can sit on the Appeals Sub-Committee unless they have undertaken the appropriate training for the role to be fulfilled.
5. The Appeals Sub-Committee will follow the Appeal Procedure as contained within the Council's Policies and Procedures ensuring that the necessary process follows employment requirements.
6. The Appeals Sub-Committee must take into account the views and professional advice given by the relevant officers before a final decision is made, with such advice being recorded within the Decision.
7. The Decision of Appeals Sub-Committee maybe produced in any subsequent proceedings such as an Employment Tribunal.

8. All meetings of the Appeals Sub-Committee will be exempt from public attendance under paragraphs 1,2 and 3 of Schedule 12A of the Local Government Act 1972 due to the nature of the business conducted.

COUNCIL

25 MARCH 2025

REFERENCE FROM HUMAN RESOURCES & COUNCIL TAX COMMITTEE

A.6 PAY POLICY STATEMENT 2025/26

(Report prepared by Katie Wilkins)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The Council is asked to consider the recommendations submitted to it by the Human Resources & Council Tax Committee in respect of the draft Pay Policy Statement 2025/26.

EXECUTIVE SUMMARY

At its meeting held on 24 February 2025 (Minute 17 refers), the Human Resources and Council Tax Committee had considered a report of the Head of People (A.3) which had sought the Committee’s endorsement of the draft Pay Policy Statement 2025/26.

The Committee heard that the Localism Act 2011, Chapter 8 (Pay Accountability) Sections 38 and 39, required the Council to prepare a Pay Policy Statement that articulated the Council’s approach to a range of issues relating to the pay of its workforce.

Members were told that, Schedule 2 of Part 3 of the Constitution confirmed Full Council was 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.

Officers informed Members that the Human Resources and Council Tax Committee had historically overseen the preparation of a draft Pay Policy Statement for recommendation onto Full Council for its approval and adoption.

Members were also informed that 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 2025/26 outlined the Council’s approach to remuneration, detailing policies on the pay of Chief Officers and the lowest-paid employees, the relationship between different levels of pay, and the Council’s adherence to the National Pay Grades set by the National Joint Council (NJC). The adoption of this framework ensured a fair and transparent approach to remuneration, including incremental progression based on service length and performance.

Members noted that the statement covered discretionary allowances for statutory and non-

statutory officers, market forces supplements to address recruitment and retention challenges, and the Council's policies on organisational change, redundancy payments, pay protection, and access to the Local Government Pension Scheme.

The Committee was informed about the Council's position on mileage and subsistence payments, overtime, and standby allowances. The document emphasised transparency and compliance with statutory regulations, including gender pay gap reporting, off-payroll working rules, and severance payments.

Officers reported limited changes in the 2025/26 draft Statement, except for the implementation of the 2024/25 pay award, following agreement between National Employers and National Unions. The document was reviewed to ensure legal compliance, best practice, and high transparency for staff and residents of Tendring. Changes in the draft Pay Policy Statement for 2025/26 were highlighted in red text.

Officers reminded Members that the Human Resources and Council Tax Committee was requested to review and provide any comments on the draft Pay Policy Statement 2025/26 before its submission to Full Council.

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

RESOLVED that the draft Pay Policy Statement 2025/26, as set out in Appendix A of the Officer report (A.3), be recommended onto Full Council for approval and adoption.

A copy of the published report of the Head of People (*and its appendices*) presented to the Human Resources and Council Tax Committee held on 24 February 2025, is attached to this report.

RECOMMENDATIONS

That the Council, having reviewed the reference report from the Human Resources & Council Tax Committee, approves the draft Pay Policy Statement for 2025/26, as detailed in Appendix 2, for adoption in accordance with the Authority's statutory obligations.

BACKGROUND PAPERS FOR THE DECISION

Published Minutes of the meeting of the Human Resources & Council Tax Committee held on 24 February 2025.

APPENDICES

APPENDIX 1 - Published A.3 Report of the Head of People for the meeting of the Human Resources and Council Tax Committee meeting held on 24 February 2025

APPENDIX 2 - Draft Pay Policy Statement 2025/26

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HUMAN RESOURCES AND COUNCIL TAX COMMITTEE 24 FEBRUARY 2025

REPORT OF HEAD OF PEOPLE

A.3 PAY POLICY STATEMENT 2025/26

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To present the Council's draft Pay Policy Statement for 2025/26 for recommendation onto Full Council for approval and adoption.

EXECUTIVE SUMMARY

The Localism Act 2011, Chapter 8 (Pay Accountability) Section 38 and 39, 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.

Schedule 2 of Part 3 of the Constitution confirms 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.

The Human Resources and Council Tax Committee has historically overseen the preparation of a draft Pay Policy statement for recommendation onto Full Council for approval and adoption.

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 2025/26 therefore outlines the Council's approach to remuneration, detailing policies on the pay of Chief Officers and the lowest-paid employees, the relationship between different levels of pay, and the Council's adherence to the National Pay Grades set by the National Joint Council (NJC). This framework ensures a fair and transparent approach to remuneration, including incremental progression based on service length and performance.

The statement also covers discretionary allowances for statutory and non-statutory officers, the use of market forces supplements to address recruitment and retention challenges, and the Council's policies on organisational change and redundancy payments, pay protection, and access to the Local Government Pension Scheme.

Additionally, it sets out the Council's position on the provision of mileage and subsistence payments, and its policies for overtime and standby allowances. The document also emphasises transparency and compliance with statutory regulations, including gender pay gap reporting, off-payroll working rules and severance payments.

There is limited change reported in the 2025/26 draft Statement with the exception of the

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implementation of the 2024/25 pay award, (*following agreement between National Employers and National Unions*) whereby, there are further, notable changes at the lower to mid-end of the pay spine, as follows: -

Effective from 1 April 2024:

- An increase of £1,290 (pro rata for part-time employees) will be added as a consolidated, permanent addition on all NJC pay points 2 to 43.
- A 2.50% increase on all pay points above 43.
- A 2.50% increase 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 £5,323 (22.06%) over the three-year period to April 2024. For an employee at the mid-point of the pay spine (pay point 22), their pay will have increased over the same period by £5,140 (15.7%).

The document has been reviewed to ensure it remains legally compliant, reflects best practice, and maintains a high level of transparency for both staff and the residents of Tendring. Changes applied to the draft Pay Policy Statement in 2025/26 are highlighted throughout the document in red text.

The Human Resources and Council Tax Committee is requested to review and provide any comments on the draft Pay Policy Statement 2025/26 before its submission to Full Council.

As soon as is reasonably practicable after approving the draft Pay Policy Statement, this authority must publish the Statement. Therefore, this Statement will be published on the Council's website following approval by Full Council in March 2025.

RECOMMENDATION(S)

It is recommended to Human Resources & Council Tax Committee that:

the draft Pay Policy Statement 2025/26, set out in Appendix A, be recommended onto Full Council for approval and adoption.

REASON(S) FOR THE RECOMMENDATION(S)

In order to comply with the requirements of the Localism Act 2011, Section 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

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services to residents’.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Schedule 2 of Part 3 of the Constitution confirms 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.

Local authorities are expected to publish their policy and process for approving these payments. Accordingly, the authority’s draft Pay Policy Statement 2025/26 outlines the Council’s statutory obligations regarding the award and approval of these payments.

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

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Council's Officer Employment Procedure rules, as set out in Part 5 of the Council's Constitution.

The draft Pay Policy Statement being presented to the Committee for recommendation onto Full Council for approval and adoption, states the Council has adopted Organisational Change and Redundancy and Flexible Retirement Policies, which contain provisions regarding severance payments.

These policies will be subject to regular review to ensure they are consistent with statutory guidance and the authority's Best Value Duty.

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 Pay Policy for 2025/26 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:

<p>A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;</p>	<p>Tendring District Council recognises 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.</p> <p>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.</p>
<p>B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and</p>	<p>Publication of the annual Pay Policy Statement is a statutory requirement for the authority. In line with the Localism Act 2011 section 38 and 39, this must be approved by Full Council and published on the Council's website.</p> <p>The Council follows the transparency requirements on remuneration as set out in the Local Government Transparency Code 2015.</p>

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	<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>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 24 February 2025 (b) Full Council 25 March 2025 (c) Publication to TDC Website 30 March 2025</p>	
ASSOCIATED RISKS AND MITIGATION	
<p>By not adopting the Council's Pay Policy Statement 2025/26, 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 Pay Policy Statement</i>) in appointing officers on such reasonable terms and conditions as the authority thinks fit.</p>	
OUTCOME OF CONSULTATION AND ENGAGEMENT	
<p>Full consultation has taken place with the local Unison Branch Executive, and they are supportive of the proposed Statement for 2025/26 and its adoption.</p> <p>The annual NJC Pay Award is determined following negotiation between the National Employers and National Unions.</p>	
EQUALITIES	
<p>The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.</p> <p>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</p>	

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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.

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 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 2024/25 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 £0.81.
The male mean hourly rate is 4.8% 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 £0.36.
The female median hourly rate is 2.5% higher than the male median hourly rate.

There are currently more males at Chief Officer level which will impact the mean calculation, making the male hourly rate higher. The median calculation does not weight this factor 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 7.0%, down from 7.5% in 2023, ONS, Gender pay gap in the UK: 2024.

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

SOCIAL VALUE CONSIDERATIONS

Social Value is defined through the Public Services (Social Value) Act 2012 and requires all public sector organisations (and their suppliers) to look beyond the financial cost of a contract and consider how the services they commission and procure might improve the economic, social and environmental well-being of an area.

The Council aims to lead by example as a major local employer. This includes following recognised

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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.

Members will recall that the Human Resources and Council Tax Committee have previously requested that 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.

At its meeting on 30 July 2024, the Human Resources and Council Tax Committee reviewed the findings of the benchmarking analysis, which indicated that the majority of the Council's roles are compensated at levels comparable to similar positions within the East of England region. This alignment supports the Council's experiences with recruitment and retention, suggesting that the current pay structure is appropriately set.

The Committee also acknowledged ongoing recruitment and retention challenges for certain professional and technical roles. To address these issues, the Council has effectively utilised the Market Forces Supplement (MFS) Scheme. The application of these supplements has been deemed appropriate and targeted towards the relevant roles.

The outcomes of the comprehensive, service-wide review of TDC's pay structure, as requested by the Human Resources and Council Tax Committee and conducted by the East of England Local Government Association (EELGA), have been reflected in the 2025/26 Pay Policy Statement.

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PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.
Full Council adopted the Pay Policy Statement for 2024/25 at its meeting on 19 March 2024. https://tdcdemocracy.tendringdc.gov.uk/documents/s65921/A7%20Appendix%20-%20Pay%20Policy%20Statement%2024-25%20FINAL%20DRAFT.pdf
Report of the Assistant Director (Partnerships) - A.4 - Market Forces Policy Update Report https://tdcdemocracy.tendringdc.gov.uk/documents/s69087/A.4%20-%20-%20Market%20Forces%20Policy%20Update%20Report.pdf
BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL
Chief Officer Structure Chart.

APPENDICES
Appendix – draft Pay Policy Statement 2025/26.

REPORT CONTACT OFFICER(S)	
<i>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.</i>	
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Tendring District Council Draft Pay and Reward Policy Statement 2025/26





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Introduction

Section 38 and 39 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 confirms 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.

Tendring District Council recognises 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 salaries 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 **2025/26** provides an overview of the Council's framework for staff pay and rewards. This framework ensures the recruitment of talented individuals while delivering value for money to Tending residents.

Tending District Council requires high-calibre leaders to deliver quality public services, especially in challenging fiscal conditions. The Pay Policy aims to attract, retain, and motivate staff, ensuring optimal performance. It balances financial and non-financial rewards to achieve the best outcomes.

The Council is committed to promoting equality and diversity, reaffirming its dedication to equal pay and compliance with Equal Pay legislation.

Managing Remuneration

Tending 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 has adopted the National Pay Grades set by the National Joint Council (NJC) and adheres to national negotiations on pay and conditions (the 'Green Book'). The current pay structure includes 21 Pay Bands and 80 Incremental Pay Points.

Apprentices are excluded from the application of the NJC scheme, as they have learning and training contracts and are paid according to Government-approved apprenticeship rates.

The NJC negotiates pay awards for local government employees, involving both employers and trade unions. The Council applies the NJC Pay Award to all officers, including Chief Officers, with the exception of the Chief Executive, who follows the Joint Negotiating Committee Conditions of Service.

The Council's Pay Policy is shaped by job market data, market forces, and budget constraints. Pay ranges are regularly reviewed and benchmarked against other local authorities and the broader job market to ensure they remain relevant.

New employees typically start at the initial salary band point, progressing annually until reaching the top of the pay grade.

The Council has adopted the National Single Status and NJC Job Evaluation Scheme, with training provided by the Regional Employers (EELGA) to ensure fair and objective evaluations. Assistant Directors and Chief Officers are not subject to the NJC Job Evaluation Scheme. Their pay is set through senior management salary benchmarking and evaluation methods, supported by EELGA, to both attract and retain key employees, also ensuring compliance with Equal Pay legislation.

Pay Relationship for Chief Officers

In line with the requirements of the Localism Act 2011, the term "lowest-paid employees" is defined for the purposes of this policy, as 'those staff on the first SCP of the pay spine'. By adopting this definition, calculations undertaken elsewhere in this document to describe the relationship between remuneration at different levels of the organisation, can be undertaken clearly and allow for easier comparison between years.

	2024/25 £
Salary Midpoint for Head of Paid Service	143,514
Salary Midpoint for "lowest-paid employees"	23,656
Pay Multiple: Chief Officer to "lowest-paid employees"	6.07
Median average pay for Chief Officers	76,457
Median average pay for staff other than Chief Officers	30,559

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.

Discretionary Allowances for Statutory Officers

The Council applies a discretionary allowance for the additional duties of the statutory officers (*the Monitoring Officer and Section 151 Officer*) and their assigned deputies, as well as the Deputy Chief Executive designation.

These allowances are index-linked to the annual NJC pay award.

Market Forces Supplements

The National Job Evaluation and Grading Scheme provides an analytical, non-discriminatory method for evaluating jobs. However, market conditions may sometimes necessitate a Market Forces Supplement to recruit or retain suitable staff.

A Market Forces Supplement is a temporary addition to the basic salary for specific jobs where market pressures hinder recruitment or retention. These supplements, viewed as 'Risk and Retention' payments, help retain highly skilled staff in critical roles.

The Council's Market Forces Policy ensures a clear approach to applying these supplements when needed and complies with legal requirements for objective justification if different pay rates are offered for work of equal value.

Employee Recognition and Reward

As a public sector body, the Council does not currently operate typical bonus schemes. Instead, it supports employee growth and performance through the following initiatives:

Career Grade Schemes: This scheme aids the development of post holders from initial entry to high performance across the full scope of their roles.

Long Service Awards and Retirement Gifts: Provided in accordance with the Council's Loyalty and Retirement Gifts Policy.

Acting Up Arrangements

There may be occasions where employees are requested to temporarily undertake additional duties or responsibilities.

In such cases, the employee undertaking these duties is described as 'acting up' into that role. Employees will be entitled to an additional payment in recognition of the 'acting up' arrangement, provided the criteria outlined in the Council's Acting Up Policy are met.

In addition, Honorarium Payments may be awarded to officers performing duties outside their post scope or undertaking particularly onerous additional responsibilities, to reward exceptional performance.

Relocation

The Council's Relocation Allowances Scheme assists new recruits with moving expenses. To qualify, employees must meet the specified requirements of the scheme.

The scheme's application is at the discretion of the Head of Paid Service, in consultation with the Head of People.

Mileage & Subsistence

Mileage Payments:

Car mileage, motorcycle, and bicycle payments for all employees are paid at the Inland Revenue Rate. The current rates are as follows:

- Car Mileage: £0.45 per mile for the first 10,000 miles, thereafter £0.25 per mile.
- Motorcycles: £0.24 per mile.
- Bicycles: £0.20 per mile.

To encourage car sharing on business journeys, the Council has adopted an additional payment of £0.05 per passenger, per mile, in accordance with Inland Revenue guidance.

Subsistence Payments:

The Council pays subsistence rates that mirror HMRC rates of reimbursement. These rates cover the cost of meals and other necessary expenses while travelling for work.

Payments are made upon the production of actual receipts and 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.

The use of the Inland Revenue Rate ensures a fair and consistent rate of reimbursement for business mileage and subsistence across the Council.

Other Allowances

The Council's Allowances Policy supplements the Pay Policy Statement, recognising that officers may need to respond outside standard working hours to provide services.

Allowances Policy Principles:

- Ensures consistent pay across the organisation.
- Compensates staff for out-of-hours standby service to meet statutory duties.
- Maintains fair and sustainable payment structures.
- Promotes health and safety by encouraging TOIL for recovery from out-of-hours work.

Service Categories:

Category 1 - 24/7 scheduled provision.

Category 2 - Predominantly office hours with standby service.

Category 3 - Standard office hours with occasional extra response.

Overtime Arrangements (effective 1 April 2018):

- Staff up to SCP 43 can claim overtime, authorised in advance by the Corporate Director.
- Overtime is paid at plain rate for Categories 2 and 3.
- Enhanced rates for Category 1 for evenings, weekends, and bank holidays after 37 hours/week.

Standby or On-call

- Services that fall into Category 2 provide a standby service. Standby is provided outside core office hours, that is, from 6pm to 8am Monday to Friday and all day on weekends and Bank Holidays.

Emergency Response:

- First Call Officers support the statutory Emergency Response service under standby arrangements. The Emergency Planning Manager maintains a call-down list for emergencies.

Emergency Response Policy Update (February 2023):

- Extended payments to all staff supporting the authority's emergency response as follows:
 - Staff on standby, outside office hours can claim the standard daily standby allowance.
 - Deployed staff are eligible for TOIL or overtime (up to 6 hours) after the first 30 minutes.
 - A one-off ex-gratia payment up to £200 will be paid for deployments beyond 6 hours.

Committee Attendance:

- An allowance paid for meetings beyond 6.00pm, which is index linked to NJC pay award.
- Employees are eligible for TOIL for meetings exceeding 3 hours.

Election Duties

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 2024/25 was £11,246.

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](#). This information also includes a structure of the Council's Chief Officers and Assistant Directors.

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.

Under Gender Pay legislation, a one-off long service award, or any discretionary payment made for exceptional performance, or additional duties outside of an individual's normal salary, if they have a monetary value, are generally recognised as bonus payments, with the exception being Career Grade Progression.

5.1% of males and 3.2% of females, within the organisation, received bonus payments (*in line with the definition above*) within the 2024/25 reporting period, the data shows the following:

Mean bonus difference across gender

The difference between the male and female mean bonus payment is £1.56.
The female mean bonus payment is 0.36% higher than the male mean bonus payment.

Median bonus difference across gender

The difference between the male and female median bonus payment is £125.
The male median bonus payment is 33.3% higher than the female median bonus payment.

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 2024/25 reporting period shows the following:

Mean difference across gender

The difference between the male and female mean hourly rate is £0.81.
The male mean hourly rate is 4.8% higher than the female mean hourly rate.

Median difference across gender

The difference between the male and female median hourly rate is £0.36.
The female median hourly rate is 2.5% higher than the male median hourly rate.

There are currently more males at Chief Officer level which will impact the mean calculation, making the male hourly rate higher. The median calculation does not weight this factor 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 7.0%, down from 7.5% in 2023, ONS, Gender pay gap in the UK: 2024.

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 need for specialist skills or peaks in workloads, the Council occasionally engages agency workers or consultants for short-term assignments.

Effective 1st April 2017, HMRC updated regulations for off-payroll workers in the public sector, shifting the responsibility for determining the application of intermediaries' legislation and paying relevant taxes and NICs to the public sector employer.

The Council has reviewed and ensured that all workers with individual agencies and HMRC remain compliant with the legislation.

Payments when employment status changes

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.

The Council operates pay protection for a limited time period, within the terms of its Organisational Change and Redundancy Policy. This applies when staff have their pay reduced as part of a process of re-deployment or job evaluation.

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. The policies are uniformly applied to both the lowest-paid employees and the Chief Officers of the Council.

The Council will adhere to statutory guidance on 'Special Severance Payments' as part of the best value regime for local authorities in England, per section 3 of the Local Government Act 1999. These payments should only be considered in exceptional cases and must meet criteria of fairness, proportionality, lawfulness, and value for money.

Approval process:

- Payments of £100,000+ must be approved by a vote of Full Council (Localism Act 2011).
- Payments of £20,000 to £99,999 must be approved by the Head of Paid Service, with the Leader's approval.
- Payments below £20,000 must follow the local authority's scheme of delegation.

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.

Local authorities are expected to publish their policy and process for approving these payments. Accordingly, this policy outlines the Council's approach to these payments.

Access to the Local Government Pension Scheme

In accordance with statutory provisions, employees are offered membership of the Local Government Pension Scheme. The Council has a published Pension Policy, and this policy

applies to all employees including Chief Officers. It sets out the Council's decisions relating to discretionary powers allowed within the scheme.

The Council also supports the principle of flexible retirement, whereby, employees are able to gain access to their pension whilst continuing in employment, subject to the restrictions laid down within the scheme and in the Council's Pension Policy. This approach allows the Council to retain skilled employees and to assist individuals in managing the transition to retirement.

Other Rewards

The Council has both financial and non-financial rewards for all staff (including Chief Officers) as follows:

- Learning & Development, including sponsorship for formal qualifications
- 'Salary Sacrifice' schemes (e.g. AVC scheme, tax-efficient, nil cost to the Council)
- Health schemes with PROVIDE (nil cost to the Council)
- Occupational Health provision and a fully funded Employee Assistance Programme
- Additional development opportunities (secondments, special projects, flexible working, awards)
- Free car parking
- Flexi-time scheme
- Discounted corporate gym membership
- Additional annual leave after 5 years of continuous service

Other Policies

As referenced elsewhere in this Pay Policy, the Council has several policies with potential financial benefits that should be read in conjunction with this Pay Policy Statement, including:

- Allowances Policy
- Organisational Change and Redundancy Policy
- Market Forces Policy
- Flexible Retirement Policy
- Acting Up Policy
- Career Grade Policy
- Relocation Policy
- Long Service and Retirement Gifts Policy
- Pension Policy

These policies apply equally to all employees of Tendring District Council, regardless 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.

Review and Monitoring 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. The Council is committed to undertaking robust and comprehensive review of its pay and reward structure.

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COUNCIL

25 MARCH 2025

REFERENCE FROM HUMAN RESOURCES & COUNCIL TAX COMMITTEE

A.7 UPDATE ON THE REVIEW OF CHANGES TO THE CHIEF EXECUTIVE'S TERMS AND CONDITIONS

(Report prepared by Katie Wilkins)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

Council is asked to consider the recommendations submitted to it by the Human Resources and Council Tax Committee in respect of the review of changes to the Chief Executive's terms and conditions of employment.

EXECUTIVE SUMMARY

At its meeting held on 24 February 2025 (Minute 16 refers), the Human Resources and Council Tax Committee considered a report from the Head of People (A.2) regarding the outcome of the review of the Chief Executive's terms and conditions of employment.

The Committee heard that, at its meeting on 8 August 2024, the Human Resources Sub-Committee Panel had received a report in respect of the current terms and conditions of employment of the Chief Executive and, specifically, the reduced working hours (*of 27.75 hours per week*) approved by Council on 25 January 2025. The substantive post on the Council's establishment remained at 37 hours per week. In approving the reduced working hours arrangement for the post holder (*Ian Davidson*), Full Council had determined that there should be annual reviews of the operation of the revised working hours arrangement.

Members were informed that, in deciding to review the operation of the revised working hours arrangement for the current post holder, the Council had not specified the mechanism for that review. To advance that process, it had been determined that the composition of the Human Resources Sub-Committee Panel, as established by the Council, along with their role outlined for the Sub-Committee in the Officer Employment Procedure Rules concerning Statutory Officers, constituted the most effective approach for conducting such reviews.

Officers informed the Committee that, the Panel was composed of the Leader of the Council, the Deputy Leader of the Conservative Group and the Group Leader of the Independent Group (*and Chairman of the Human Resources and Council Tax Committee*). It also had the benefit of the presence and insight of Councillor Calver (*a member of the Labour Group and Vice-Chairman of the Human Resources and Council Tax Committee*).

The Committee was made aware that the special nature of the post of Chief Executive meant that the terms and conditions were set by the Joint Committee for Local Authority Chief Executives, as set out in the Chief Executives' Handbook, and locally agreed by Full Council, following the advice and recommendations of the Human Resources and Council Tax Committee.

Members noted that to assist the Panel in undertaking the review, the Panel had been presented with the statements of the former Leader of the Council, Councillor Neil Stock OBE, from the time of the original request to reduce the contractual working hours, as well as written representations from Councillor John Spence CBE, Chairman of the Essex

Health and Wellbeing Board. Additionally, the Panel had been apprised of Mr Davidson's notable achievements during his tenure as the Council's Chief Executive, and reference was made to his nomination for an award from the Suffolk and North Essex Integrated Care System.

The Committee was also told that the Panel had been informed that, unless otherwise agreed, the Chief Executive remained fully committed to Tendring District Council, adhering to whole-time service, with specific operational arrangements coordinated with the Leader of the Council.

At the Panel's meeting on 8 August 2024:-

"It was moved by Councillor Mark Stephenson, seconded by Carlo Guglielmi, and unanimously:-

RESOLVED that:

- (i) the position in respect of terms and conditions of employment of the post holder be noted;*
- (ii) the following outcome of the review undertaken by the Panel of the operation of the current terms and conditions of the post holder be reported to the Human Resources and Council Tax Committee:*
 - (a) no alteration to the terms and conditions of employment was required and, as such, the current terms and conditions do not need to be amended;*
 - (b) the annual review determined by Council on 25 January 2022 be discontinued on the basis that the exercise of the review appeared to have no identifiable value to the Council going forward and there was a separate annual appraisal process for the post holder undertaken by the Leader; and*
 - (c) the thanks of the Panel for the valuable and enduring positive contribution of the post holder to the Council be recorded."*

Officers also informed the Committee that since the Human Resources Sub-Committee Panel had reviewed the Chief Executive's terms and conditions of employment, Essex Devolution and Local Government Reorganisation (LGR) had been announced.

The Committee was made aware that Devolution involved the transfer of powers and funding from central government to local authorities, enabling decisions to be made closer to the communities they affect.

Further, Local Government Reorganisation, focused on restructuring local government to create simpler, more efficient council structures. In Essex, that would involve replacing the current two-tier system, where services were split between Essex County Council and 12 City, Borough, or District councils, with a number of unitary authorities responsible for all local services. That reorganisation aimed to drive economic growth and deliver better public services by creating clear accountability and more streamlined operations.

Essex had been agreed to be part of Phase 1 of that initiative, highlighting its commitment to those transformative changes. The process included submitting interim plans, followed by full proposals, with the goal of establishing new unitary councils by 2028.

The Committee was notified that the Chief Executive's role was considered critical in the formation and implementation of those proposals for Tendring. Given his essential role, the Leader of the Council had requested that the Human Resources and Council Tax Committee review the previously agreed reduction to his working hours and endorse, (*also recommending to Full Council*) that it was reversed to support his continued leadership and involvement in those significant initiatives.

Members also noted the decision of Full Council at its meeting on 21 January 2025, whereby Full Council - '*mandates the Leader of the Council and Chief Executive to seek to ensure that the voice of Tendring (and North Essex more generally) is as strong as possible in any negotiations around devolution and local government reorganisation recognising its opportunities and challenges.*'

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

RESOLVED that the Human Resources and Council Tax Committee:

(a) *endorses the request from the Leader of the Council to reinstate the Chief Executive's full time working hours in light of the demands of Devolution and Local Government Reorganisation;*

(b) *notes that a special dispensation is required to alter the terms and conditions of employment of the Chief Executive (due to the special nature of this role) in relation to the Council's Flexible Retirement Policy and its application, which reinstates the Chief Executive's full time working hours as soon as practical;*

(c) *recommends that Full Council:*

I. considers the request from the Leader having been supported by the Human Resources and Council Tax Committee, to reinstate the Chief Executive's full time hours;

II. agrees to grant the special dispensation to the Council's Flexible Retirement Policy and its application to the Chief Executive, in his role at this time due to Devolution and Local Government Reorganisation;

III. subject to (i) and (ii) agrees the reinstatement to full time hours as soon as practical;

IV. that the annual review as determined by Council on 25 January 2022, be discontinued on the basis that the exercise of the review is unnecessary, given that there is a separate annual appraisal process for the post holder undertaken by the Leader; and

V. the thanks of the Council for the valuable and enduringly positive contribution of the post holder to the Council be recorded.

A copy of the published report (A.2) of the Head of People presented to the Human Resources and Council Tax Committee held on 24 February 2025, is attached to this report.

RECOMMENDATIONS

That Council, having reviewed the reference report from the Human Resources and Council Tax Committee:-

I. considers the request from the Leader having been supported by the Human

Resources and Council Tax Committee, to reinstate the Chief Executive's full time hours;

- II. agrees to grant the special dispensation to the Council's Flexible Retirement Policy and its application to the Chief Executive, in his role at this time due to Devolution and Local Government Reorganisation;**
- III. subject to (I) and (II) above agrees the reinstatement to full time hours as soon as practical;**
- IV. that the annual review as determined by Council on 25 January 2022, be discontinued on the basis that the exercise of the review is unnecessary, given that there is a separate annual appraisal process for the post holder undertaken by the Leader; and**
- V. the thanks of the Council for the valuable and enduringly positive contribution of the post holder to the Council be recorded.**

BACKGROUND PAPERS FOR THE DECISION

Published Minutes of the meeting of the Human Resources and Council Tax Committee held on 24 February 2025.

APPENDICES

APPENDIX 1 - Published A.2 Report of the Head of People for the meeting of the Human Resources and Council Tax Committee meeting held on 24 February 2025.

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HUMAN RESOURCES & COUNCIL TAX COMMITTEE

24 FEBRUARY 2025

REPORT OF HEAD OF PEOPLE

A.2 UPDATE ON REVIEW OF CHANGES TO THE CHIEF EXECUTIVE'S TERMS AND CONDITIONS (*Prepared by Katie Wilkins*)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To inform the Human Resources & Council Tax Committee of the findings from the review of the previously agreed changes to the Chief Executive's terms and conditions, conducted by the Human Resources Sub-Committee Panel during its meeting on 8 August 2024 (Minute 9 refers).

To notify the Human Resources and Council Tax Committee of the Leader of the Council's proposal to reinstate the Chief Executive's full-time working hours in light of the significant demands of Devolution and Local Government Reorganisation.

EXECUTIVE SUMMARY

At its meeting on the 8 August 2024, the Human Resources Sub-Committee Panel received a report in respect of current terms and conditions of employment of the Chief Executive and, specifically, the reduced working hours (*of 27.75 hours per week*) approved by Council on 25 January 2022 (Minute 118 refers). The substantive post on the Council's establishment remains at 37 hours per week. In approving the reduced working hours arrangement for the post holder (Ian Davidson), Full Council determined that there should be annual reviews of the operation of the revised working hours arrangement.

In deciding to review the operation of the revised working hours arrangement for the current post holder, the Council did not specify the mechanism for this review. To advance this process, it was determined that the composition of the Human Resources Sub-Committee Panel, as established by the Council, along with their role outlined for the Sub-Committee in the Officer Employment Procedure Rules concerning Statutory Officers, constituted the most effective approach for conducting the review.

The Panel was composed of the Leader of the Council, the Deputy Leader of the Conservative Group and the Group Leader of the Independent Group (*and Chairman of the Human Resources and Council Tax Committee*). It also had the benefit of the presence and insight of Councillor Calver (*a member of the Labour Group and Vice Chairman of the Human Resources and Council Tax Committee*).

The special nature of the post of Chief Executive means that the terms and conditions are set by the Joint National Committee for Local Authority Chief Executives, as set out in the Chief Executives' Handbook, and locally agreed by Full Council, following the advice and recommendations of the Human Resources and Council Tax Committee.

To assist the Panel in undertaking the review, the Panel was presented with the statements of the former Leader of the Council, Councillor Neil Stock OBE, from the time of the original

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request to reduce the contractual working hours, as well as written representation from Councillor John Spence CBE, Chairman of the Essex Health and Wellbeing Board. Additionally, the Panel was apprised of Mr Davidson's notable achievements during his tenure as the Council's Chief Executive, and reference was made to his nomination for an award from the Suffolk and North Essex Integrated Care System.

The Panel was also informed that, unless otherwise agreed, the Chief Executive remains fully committed to Tendring District Council, adhering to whole-time service, with specific operational arrangements coordinated with the Leader.

It was moved by Councillor Mark Stephenson, seconded by Councillor Carlo Guglielmi, and unanimously:

RESOLVED that:

- (i) the position in respect of terms and conditions of employment of the post holder be noted;
- (ii) the following outcome of the review undertaken by the Panel of the operation of the current terms and conditions of the post holder be reported to the Human Resources and Council Tax Committee:
 - (a) no alteration to the terms and conditions of employment was required and, as such, the current terms and conditions do not need to be amended;
 - (b) the annual review determined by Council on 25 January 2022 be discontinued on the basis that the exercise of the review appeared to have no identifiable value to the Council going forward and there was a separate annual appraisal process for the post holder undertaken by the Leader; and
 - (c) the thanks of the Panel for the valuable and enduringly positive contribution of the post holder to the Council be recorded.

Since the Human Resources Sub-Committee Panel reviewed the Chief Executive's terms and conditions of employment (*as outlined above*) Essex Devolution and Local Government Reorganisation (LGR) has been announced.

Devolution involves the transfer of powers and funding from central government to local authorities, enabling decisions to be made closer to the communities they affect.

Local Government Reorganisation, focuses on restructuring local government to create simpler, more efficient council structures. In Essex, this would involve replacing the current two-tier system, where services are split between Essex County Council and 12 city, borough, or district councils, with a number of unitary authorities responsible for all local services. This reorganisation aims to drive economic growth and deliver better public services by creating clearer accountability and more streamlined operations.

Essex has been agreed to be part of Phase 1 of this initiative, highlighting its commitment to these transformative changes. The process includes submitting interim plans, followed by full proposals, with the goal of establishing new unitary councils by 2028.

The Chief Executive's role is considered critical in the formation and implementation of these proposals for Tendring. Given his essential role, the Leader of the Council has requested that the Human Resources and Council Tax Committee review the previously agreed reduction to his working hours and endorse, (*also recommending to Full Council*) that this is reversed to

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support his continued leadership and involvement in these significant initiatives.

Also, following the decision of Full Council at its meeting on 21 January 2025, whereby Full Council 'mandates the Leader of the Council and Chief Executive to seek to ensure that the voice of Tendring (and north Essex more generally) is as strong as possible in any negotiations around devolution and local government reorganisation recognising its opportunities and challenges' (Minute 94 refers).

RECOMMENDATION(S)

The Human Resources and Council Tax Committee:

- (a) note and endorse the request from the Leader of the Council to reinstate the Chief Executive's full time working hours in light of the demands of Devolution and Local Government Reorganisation;**
- (b) subject to (a) above, notes a special dispensation is required to alter the terms and conditions of employment of the Chief Executive (*due to the special nature of this role*) in relation to the Council's Flexible Retirement Policy and its application, which reinstates the Chief Executive's full-time working hours as soon as is practical;**
- (c) subject to (a) and (b) above, recommends that Full Council:**
 - I. considers the request from the Leader having been supported by the Human Resources and Council Tax Committee, to reinstate the Chief Executive's full-time working hours;**
 - II. agrees to grant the special dispensation to the Council's Flexible Retirement Policy and its application to the Chief Executive, in his role at this time due to Devolution and Local Government Reorganisation;**
 - III. subject to (i) and (ii) agrees the reinstatement to full time working hours as soon as is practical;**
 - IV. that the annual review as determined by Council on 25 January 2022 be discontinued on the basis that the exercise of the review is unnecessary, given that there is a separate annual appraisal process for the post holder undertaken by the Leader; and**
 - V. the thanks of the Council for the valuable and enduringly positive contribution of the post holder to the Council be recorded.**

REASON(S) FOR THE RECOMMENDATION(S)

Recommendation ((c) IV & V) are supported by the Human Resources Sub-Committee Panel following its review of the previously agreed modifications to the Chief Executive's terms and conditions of employment.

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The committee considered that the annual appraisal process, conducted by the Leader of the Council, makes further formal review unnecessary. This approach aligns with statutory guidance on appraisals for the Chief Executive - the Chief Executive Handbook confirms that the decision to appraise the Chief Executive's performance should be made locally, considering local circumstances. It also specifies that the appraisal can be carried out either by a small committee representing all political groups, or by a senior representative, or representatives of the controlling group.

Since the Human Resources Sub-Committee Panel reviewed the Chief Executive's terms and conditions of employment Essex Devolution and Local Government Reorganisation (LGR) has been announced. The Chief Executive's role is considered critical in the formation and implementation of these proposals for Tendring.

The terms and conditions of employment for the Chief Executive are approved by Full Council upon the recommendations of the Human Resources and Council Tax Committee (Part 3.10).

ALTERNATIVE OPTIONS CONSIDERED

If a review was not undertaken, this would be contrary to the decision of Full Council, which requested the review at its meeting on 25 January 2022.

The Human Resources & Council Tax Committee could choose not to support the request of the Leader to revisit the Chief Executive's working pattern, however for the reasons outlined in this report, the Chief Executive's role is considered critical in the formation and implementation of the Devolution/Local Government Reorganisation proposals for Tendring – ensuring that Tendring is put in the best possible place for both its residents and staff.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

A formal review of the Chief Executive's flexible working arrangements provides transparency for the residents of Tendring, therefore, contributing to the Corporate Plan 2024/28 priority of 'Financial Sustainability and Openness'.

In line with legislative changes and best practices, the Council has developed to enable more flexible ways of working; this includes enabling staff to request reductions in hours and varied work patterns, improving its ability to recruit talented individuals, and thus contributing to the Corporate Plan 2024/28 priority of 'Pride in our Area and Services to Residents'.

These policies encompass the Council's Flexible Working Policy and the Flexible Retirement Policy.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

The role of the Head of Paid Service in a local Authority is governed by the Local Government and Housing Act 1989. According to Section 4 of this Act, every relevant local Authority must designate one of their officers as the Head of Paid Service. This position is crucial for ensuring the effective coordination and management of a local Authority's functions and staff.

The terms and conditions of employment for the Chief Executive are approved by Full Council

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upon the recommendations of the Human Resources and Council Tax Committee (*Part 3.10*).

The Chief Executive Handbook confirms that the decision on whether to appraise the Chief Executive's performance should be made locally, in light of local circumstances, and whether the appraisal should be carried out by a small committee representing all political groups or by a senior representative or representatives of the controlling group.

Appendix 2 of the Handbook provides guidance on appraisals for the Chief Executive. While this review by the Committee is not an annual appraisal process (*which is managed by the Leader or Deputy Leader*), the guidance is of assistance in that it states the process should not be complex.

In deciding to review the operation of the revised working hours arrangement for the current post holder, the Council did not specify the mechanism for this review. To advance this process, it was determined that the composition of the Human Resources Sub-Committee Panel, as established by the Council, along with their role outlined for the Sub-Committee in the Officer Employment Procedure Rules concerning Statutory Officers, constituted the most effective approach for conducting the review process.

As part of the review, the Human Resources Sub-Committee Panel considered both the Chief Executive's leadership and his significant contribution to the continuous improvement of the Council and public services more broadly.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The cost of this arrangement can be met from existing budgets without any wider financial implications. The existing budget remains based on the post of the Chief Executive being full time (*37 hours per week*).

USE OF RESOURCES AND VALUE FOR MONEY

External Audit expects 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, outline the pertinent facts for the proposal in this section of the 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 to secure and retain high-quality employees dedicated to the service of the public while ensuring value for money to the public purse.
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<p>B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and</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.</p> <p>The role of Chief Executive is fundamental to achieving this.</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>The Council's ambition, through both its corporate plan and its people strategy is to contribute to building a more prosperous local community.</p>
MILESTONES AND DELIVERY	
<p>(a) Human Resources and Council Tax Committee: 24 February 2025 (b) Full Council 25 March 2025</p>	
ASSOCIATED RISKS AND MITIGATION	
<p>Successful recruitment and retention of the Chief Executive role is critical to the Council's effective running. By ensuring that the post has potential access to the Council's employment policies, it can remain attractive to high-quality personnel.</p>	
OUTCOME OF CONSULTATION AND ENGAGEMENT	
<p>The Human Resources Sub-Committee Panel concluded that, following their comprehensive review, no changes to the terms and conditions of employment are necessary. Additionally, the panel recommended discontinuing the annual review established by the Council on 25 January 2022, as a separate annual appraisal process for the post holder is conducted by the Leader.</p> <p>However, since the Human Resources Sub-Committee Panel reviewed the Chief Executive's terms and conditions of employment Essex Devolution and Local Government Reorganisation (LGR) has been announced.</p> <p>It is considered that the Chief Executive has a fundamental role in the formation and implementation of these proposals for the Tendring district.</p> <p>A comprehensive consultation has been conducted with the local Unison Branch Executive, who fully support the proposed amendment to the Chief Executive's working arrangements in light of Devolution/Local Government Reorganisation.</p>	
EQUALITIES	
<p>Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:</p> <p>(a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act</p>	

A.7 APPENDIX 1

(b) Advance equality of opportunity between people who share a protected characteristic and those who do not

(c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

The Council's personnel policies are fully inclusive, ensuring compliance with our public sector equality duty.

The Equality Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

SOCIAL VALUE CONSIDERATIONS

Social Value is defined through the Public Services (Social Value) Act 2012 and requires all public sector organisations (and their suppliers) to look beyond the financial cost of a contract and consider how the services they commission and procure might improve the economic, social and environmental well-being of an area.

As a major local employer, the Council strives to lead by example. This includes, following recognised best practices 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 commit the Authority to be an advocate in these areas.

The Council is also an Anchor organisation. Anchor organisations are usually large organisations that are local to the place they operate and have the leverage to maximise social value through their role as workplace developers, employers and procurers, their core businesses (*for example, health and education*), and the linkages they have to the place they operate.

Finally, the Council seeks to promote growth and development opportunities for all within a community and ensure that they have access to opportunities to develop new skills and gain meaningful employment. This is further supported and evidenced via the organisation's commitment to apprenticeships and its Career Track service.

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.

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.

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ANY OTHER RELEVANT INFORMATION

Minutes of the Human Resources & Council Tax Committee Meeting 5 January 2022:

<https://tdcdemocracy.tendringdc.gov.uk/documents/g1930/Printed%20minutes%2005th-Jan-2022%2019.30%20Human%20Resources%20and%20Council%20Tax%20Committee.pdf?T=1>

Report:<https://tdcdemocracy.tendringdc.gov.uk/documents/s46204/A1%20Report%20-%20Terms%20and%20Conditions%20of%20Chief%20Executive.pdf>

Minutes of the Full Council Meeting 25 January 2022:

<https://tdcdemocracy.tendringdc.gov.uk/documents/g1918/Printed%20minutes%2025th-Jan-2022%2019.30%20Council.pdf?T=1>

Report:<https://tdcdemocracy.tendringdc.gov.uk/documents/s46529/A4%20Reference%20Report%20-%20Chief%20Executive%20Terms%20and%20Conditions.pdf>

Minutes of the Human Resources Sub-Committee Panel 8 August 2024:

<https://tdcdemocracy.tendringdc.gov.uk/documents/g2544/Printed%20minutes%2008th-Aug-2024%2015.30%20Human%20Resources%20Sub-Committee%20Panel.pdf?T=1>

Minutes of the Full Council Meeting 21 Jan 2025

<https://tdcdemocracy.tendringdc.gov.uk/documents/g2410/Printed%20minutes%2021st-Jan-2025%2019.30%20Council.pdf?T=1>

Report:<https://tdcdemocracy.tendringdc.gov.uk/documents/s72750/A1%20Report%20-%20Devolution%20and%20LGR%20proposals.pdf>

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The terms and conditions of employment for Chief Executives in local authorities are nationally agreed through the Joint Negotiating Committee for Local Authority Chief Executives. The last update to the Chief Executives' National Salary Framework and Conditions of Service occurred in September 2022. This handbook provides guidance for senior Elected Members and the Chief Executive when establishing a process for appraising the Chief Executive's performance.

The current post holder has been in their position since December 2010. In the intervening years, the Council's practices have evolved in alignment with legislative changes and best practices, allowing for more flexible work arrangements. This includes enabling staff to request reductions in hours and varied work patterns.

The Human Resources and Council Tax Committee, during its meeting on 5 January 2022 (Minute 79), considered a joint report from the Deputy Chief Executive and the Assistant Director (Partnerships). The report included a request from the current Chief Executive post holder to reduce their hours of employment by 25%.

Having considered the Chief Executive's request and its implications for this Council, it was resolved that the Committee:

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- a) notes the request of the current Chief Executive to reduce his hours of employment from 37 hours to 27.75 hours.
- b) supports the request, acknowledging the reduction of the Chief Executive's availability and that additional cover will not be provided for the reduction in working hours; and
- c) recommends to Full Council that:
 - i. the terms and conditions of the employment of the current Chief Executive shall be amended to 27.75 hours per week with effect from 31st March 2022;
 - ii. this change be reviewed after an initial period of six months operation and then at twelve-month intervals following that; and
 - iii. the post will remain at 37 hours on the Council's establishment.

Full Council later considered this matter at its meeting on 25 January 2022 (Minute 118 refers), and resolved that the Council approve:

- i. the terms and conditions of the employment of the current Chief Executive be amended to 27.75 hours per week with effect from 31st March 2022;
- ii. this change be reviewed after an initial period of six months operation and then at twelve-month intervals following that; and
- iii. the post will remain at 37 hours on the Council's establishment.

The terms of conditions of service of the Chief Executive are reserved to Full Council, as per the Constitution, following recommendations of the Human Resources and Council Tax Committee (Part 3.10), however, in requesting the review no process was set by Full Council.

At the time of the decision of Full Council no mechanism was articulated regarding the review, therefore, for the reasons outlined elsewhere in this report, it was proposed that the Human Resources Sub-Committee Panel conducted this review and following this, the Panel will report the outcome to the Human Resources and Council Tax Committee for their recommendation to Full Council.

Since the Human Resources Sub-Committee Panel reviewed the Chief Executive's terms and conditions of employment Essex Devolution and Local Government Reorganisation (LGR) has been announced. The Chief Executive's role is considered critical in the formation and implementation of these proposals for Tendring.

Therefore, in line with the mandate agreed by Full Council at its meeting 21 January 2025 that *'the Leader of the Council and Chief Executive to seek to ensure that the voice of Tendring (and north Essex more generally) is as strong as possible in any negotiations around devolution and local government reorganisation recognising its opportunities and challenges'*, the Leader of the Council has asked the Human Resources & Council Tax Committee to consider the reinstatement of the Chief Executive's full time working hours in light of the demands of Devolution and Local Government Reorganisation, whilst also granting a special dispensation to alter the terms and conditions of employment of the Chief Executive (*due to the special nature of this role*) in relation to the Council's Flexible Retirement Policy and its application.

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PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.
Human Resources and Council Tax Committee - 5 January 2022 Full Council - 25 January 2022 Human Resources Sub-Committee Panel - 8 August 2024 Full Council – 21 Jan 2025
BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL
Chief Officer Structure Chart.

APPENDICES
N/A

REPORT CONTACT OFFICER(S)	
Name	Katie Wilkins
Job Title	Head of People
Email/Telephone	kwilkins@tendringdc.gov.uk 01255 686315

COUNCIL

25 MARCH 2025

REPORT OF CHIEF EXECUTIVE

A.8 ALLOCATION OF SEATS ON COMMITTEES ET CETERA TO POLITICAL GROUPS FORMED ON TENDRING DISTRICT COUNCIL AND APPOINTMENT OF THE MEMBERSHIPS OF COMMITTEES ET CETERA

Following Councillor Bush’s and Councillor Thompson’s decisions on 21 and 17 January 2025 respectively to leave the Tendring Independents political group and to join the Reform UK political group and also following the By-Election held on 6 February 2025 in The Bentleys & Frating Ward, 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(c) 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	13	27.08%
Independents	5	10.42%
Labour	7	14.58%
Liberal Democrats	4	8.33%
Tendring Independents	10	20.83%
Reform UK	7	14.58%
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, which 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 in bold 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, amounts to 70 places.

For the avoidance of doubt the Cabinet and the Premises/Personal Licences Sub-Committee are excluded from the political proportionality requirements that this report concerns. In addition, the Tendring/Colchester Borders Garden Community Joint Committee and the Town & Parish Councils Standards Sub-Committee have not formed part of this calculation for the purposes of the review and determination to be undertaken. This is on the basis that the Council has previously determined that they are to be excluded. Recommendation (a) below seeks confirmation of this position.

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	27.08%	18.57	19
Independents	10.42%	7.29	7
Labour	14.58%	10.21	10
Liberal Democrats	8.33%	5.83	6
Tendring Independents	20.83%	14.29	14
Reform UK	14.58%	10.21	10

The above rounded position (last column) adds up to 66 places whereas there are 70 places on the relevant Committees/Sub-Committees. As a consequence, there are four 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	27.08%	1 (1.35)	2 (1.90)	2 (2.44)	3 (2.71)
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 Independents	20.83%	1 (1.04)	1 (1.46)	2 (1.87)	2 (2.08)
Reform UK	14.58%	1 (0.73)	1 (1.02)	1 (1.31)	1 (1.46)

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	1	2	2	3	17
Independents	1	1	1	1	9
Labour	1	1	1	1	9
Liberal Democrats	0	1	1	1	7
Tendring Independents	1	1	2	2	14
Reform UK	1	1	1	1	9

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	19	17	-2
Independents	7	9	+2
Labour	10	9	-1
Liberal Democrats	6	7	+1
Tendring Independents	14	14	0
Reform UK	10	9	-1

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

Table 6 below sets out the last allocation of committee et cetera seats to political groups i.e. as decided at the meeting of the Council held on 6 August 2024. Council's decision followed a meeting of the Group Leaders with the Chief Executive and other Officers held on 18 July 2024 when, in order to remove the excess/deficit position identified in Table 5 above, alternative allocations to the Committees were proposed by the Leaders of the relevant Political Groups.

Table 6

Committee /Sub-Committee	Total Seats on Body	Conservative	Independents	Labour	Liberal Democrats	Tending Independents	Tending Residents Alliance (now Reform UK)
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

The effect of the above (i.e. Table 6) meant that one unallocated place was left on the **Community Leadership Overview & Scrutiny Committee, the Licensing and Registration Committee and the Miscellaneous Licensing Sub-Committee**. At its meeting held on 6 August 2024, Full Council appointed Councillor Casey to serve on both the Licensing and Registration Committee and the Miscellaneous Licensing Sub-Committee. The remaining seat on the Community Leadership Overview and Scrutiny Committee was left vacant at that time.

A meeting of the Group Leaders with the Chief Executive, the Monitoring Officer, the Head of Democratic Services & Elections and the Committee Services Officer (Bethany Jones) was held on 10 March 2025 in order to agree their wishes as to the allocation of Committee seats to political groups in readiness for this meeting of the Council. At that meeting on 10 March 2025, Group Leaders agreed their wishes as to the allocation of Committee seats to political groups as set out in Table 7 below.

Table 7

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

Council should be aware that the “trading” set out in Table 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 Human Resources & Council Tax Committee (instead of two), 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);
- (2) the Conservative Group would revert to having one seat on the Audit Committee (instead of two), two seats on the Community Leadership Overview & Scrutiny Committee (instead of three), two seats on the Planning Committee (instead of one) and two seats on the Resources and Services Overview & Scrutiny Committee (instead of three);
- (3) the Reform UK Group would revert to having one seat on the Audit Committee (instead of none), one seat on the Planning Committee (instead of two) and one seat on the Resources and Services Overview & Scrutiny Committee (instead of two);
- (4) the Liberal Democrats Group would revert to having one seat on the Human Resources & Council Tax Committee (instead of none); and

- (6) the Independents Group would revert to having one seat on the Licensing and Registration Committee (instead of none) and one seat on the Miscellaneous Licensing Sub-Committee (instead of none).

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

In the light of the above information:-

IT IS RECOMMENDED THAT:-

- (a) Council confirms that the political balance rules shall not be applied to the Tendring/Colchester Borders Garden Community Joint Committee and the Town & Parish Councils Standards Sub-Committee;

[Note: Recommendation (a) requests a nemine contradicente vote to be approved.]

- (b) Council approves the review of the allocation of places on relevant Committees, as set out in Table 2 above in so far as it sets out the total number of seats on all those Committees to be allocated to political groups represented on the Council, (principle (c) of the “Principles”);

- (c) Council approves, subject to the subsequent consideration of (d) below, the number of seats on each relevant Committee to be allocated to political groups such that, for each group, their proportion of seats on individual Committees is proportionate to their overall membership on the Council (principles (c) and (d) of the “Principles”):

Table 8

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

Resources and Services O & S Committee	9	2*	1	1*	1	2	1*
Standards Committee	7	2	1	1	1	1	1

(d) That the following changes to the allocations set out in Table 8 above be approved (the relevant allocations are shown ‘*’ in Table 8):

- (1) the Labour Group to have two seats on the Human Resources & Council Tax Committee (instead of one), two seats on the Licensing and Registration Committee (instead of one) and no seat on the Resources and Services Overview & Scrutiny Committee (instead of one);
- (2) the Conservative Group to have two seats on the Audit Committee (instead of one), three seats on the Community Leadership Overview & Scrutiny Committee (instead of two), one seat on the Planning Committee (instead of two), and three seats on the Resources and Services Overview & Scrutiny Committee (instead of two);
- (3) the Reform UK Group to have no seat on the Audit Committee (instead of one), two seats on the Planning Committee (instead of one), and two seats on the Resources and Services Overview & Scrutiny Committee (instead of one);
- (5) the Independent Group to have no seat on the Licensing and Registration Committee (instead of one) and no seat on the Miscellaneous Licensing Sub-Committee (instead of one); and
- (6) the Liberal Democrats Group to have no seat on the Human Resources & Council Tax Committee (instead of one).

[Note: Recommendation (d) requests a nemine contradicente vote to be approved.]

(e) Council endorses and approves, in so far as it reflects the earlier decisions on this matter, the appointment of Members to serve on the relevant Committees et cetera, as set out in Appendix 1 to this report;

Having considered and made its decision(s) on the above recommendations, Council is also requested to consider the following recommendation namely that:-

(f) Council decides who from the non-aligned Councillors should be appointed to the unallocated seats on the Licensing and Registration Committee, the Planning Policy & Local Plan Committee, the Planning Committee and the Miscellaneous Licensing Sub-Committee.

IAN DAVIDSON
CHIEF EXECUTIVE

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MARCH 2025 - MEMBERSHIP OF COMMITTEES/SUB-COMMITTEE

Committee		Conservative	Independent	Labour	Liberal Democrats	Tending Independents	Reform UK	Non-Aligned
Audit Committee	5	Fairley Platt 2	Steady 1	Morrison 1	0	Sudra 1	0	0
Community Leadership Overview & Scrutiny Committee	9	Ferguson Griffiths Platt 3	Steady 1	Davidson 1	Barrett 1	Doyle Oxley 2	Keteca 1	0
Human Resources & Council Tax Committee	7	Amos Guglielmi 2	Chapman 1	Calver Morrison 2	0	G Stephenson 1	Keteca 1	0
Licensing & Registration Committee	10	A Cossens Skeels One Vacant 3	0	Davidson J Henderson 2	Wiggins 1	Doyle Smith 2	Thompson 1	To Be Determined 1
Planning Committee	9	Alexander 1	White 1	Fowler 1	Wiggins 1	Goldman Smith 2	Bray Everett 2	To Be Determined 1

Planning Policy & Local Plan Committee	9	Fairley 2 Guglielmi	Chapman 1	Fowler 1	Scott 1	Newton 2 M Stephenson	Codling 1	To Be Determined 1
Resources and Services Overview & Scrutiny Committee	9	M Cossens 3 P Honeywood S Honeywood	Steady 1	0	Bensilum 1	Goldman 2 Newton	Bush 2 Harris	0
Standards Committee	7	Alexander 2 Land	Talbot 1	J Henderson 1	Wiggins 1	Oxley 1	Codling 1	0
Miscellaneous Licensing Sub-Committee	5	A Cossens 1	0	J Henderson 1	0	Smith 1	Thompson 1	To Be Determined 1

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

Councillors Ann Oxley, Michael Talbot and Ann Wiggins (designated substitute is Councillor Sarah Newton)

QUESTIONS PURSUANT TO COUNCIL PROCEDURE 11.2

The following question has been received, on notice, from a Member:

From Councillor Chris Amos to Councillor Ivan Henderson, Portfolio Holder for Economic Growth, Regeneration & Tourism

“At the 6 August 2024 full Council meeting I asked a question about investment in Clacton Town Centre and particularly the wrapping of the empty shops. The answer I received was that this would be done in the Autumn, and yes, at the beginning of November some shops were indeed wrapped.

Disappointingly though there are still at least eight shops not wrapped and looking unkempt and so the Town Centre still looks scruffy and dirty which is not likely to encourage business investment!

My question therefore is: Where is the town centre regeneration money for Clacton that matches what is being invested in Dovercourt High Street?”

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