



# RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE

<b>DATE:</b>	<b>Tuesday, 17 December 2024</b>
<b>TIME:</b>	<b>7.30 pm</b>
<b>VENUE:</b>	<b>Town Hall, Station Road, Clacton-on-Sea, CO15 1SE</b>

**MEMBERSHIP:**

**Councillor P Honeywood (Chairman)**  
**Councillor M Cossens (Vice-Chairman)**  
**Councillor Bensilum**  
**Councillor Doyle**  
**Councillor Goldman**

**Councillor Harris**  
**Councillor S Honeywood**  
**Councillor Newton**  
**Councillor Steady**

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DATE OF PUBLICATION: Monday, 9 December 2024

## AGENDA

### **1 Apologies for Absence and Substitutions**

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

### **2 Minutes of the Last Meeting (Pages 7 - 14)**

To confirm and sign as a correct record, the minutes of the last meeting of the Committee, held on 23 September 2024.

### **3 Declarations of Interest**

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

### **4 Questions on Notice pursuant to Council Procedure Rule 38**

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

### **5 Report of the Head of Democratic Services & Elections - A.1 - Work Programme 2024/25 - Including Monitoring of previous Recommendations and Summary of Forthcoming Decisions (Pages 15 - 34)**

To provide the Committee 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 respect of enquiries undertaken; and a list of forthcoming decisions for which notice has been given since publication of the agenda for the Committee's last meeting.

In respect of forthcoming decisions and pursuant to the provisions of Overview and Scrutiny Procedure Rule 13, the Committee will review any such new and/or amended published forthcoming decisions relevant to its terms of reference and decide whether it wishes to enquire into any such decision before it is taken.

Matters may only be raised on those forthcoming decisions at Committee meetings where the Member has notified the Committee Services Manager in writing (or by personal email) of the question they wish to ask, no later than Midday, two working days before the day of the meeting.

### **6 Report of the Head of Democratic Services and Elections - A.2 - Portfolio Holder Projects - Performance and Project Management (Pages 35 - 38)**

This report is submitted to the Committee to enable it to consider the outcome of its decision from its meeting on 23 September 2024 (Minute 57 refers) which had been considered by Cabinet on 15 November 2024 (Minute 75 refers).

The Committee had recommended, in the light of the unauthorised expenditure found in relation to the Spendells temporary accommodation project that Portfolio Holders review performance and project management of all their existing projects.

This review, the Committee had requested, should be completed in time for the findings to be reported to this meeting together with any additional actions determined by the Leader.

The Leader of the Council is to attend this meeting to discuss the outcome of the Portfolio Holder reviews of their projects.

**7 Report of the Portfolio Holder for the Environment - A.3 - Update on the Waste and Recycling Service Procurement (Pages 39 - 66)**

To update the Committee on the current position with regard to the waste and recycling and street cleaning service procurement.

**8 Report of the Director (Finance & IT) - A.4 - External Auditor's Combined Annual Report including their Value for Money Commentary on the Council's Use of Resources (Pages 67 - 90)**

To present the External Auditor's Combined Annual Report for the years ended 31 March 2021, 31 March 2022 and 31 March 2023 and to enable the Committee to consider the value for money commentary provided by the Council's External Auditor.

### **Date of the Next Scheduled Meeting**

*The next scheduled formal meeting of the Resources and Services Overview and Scrutiny Committee is to be held in the Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 7.30 pm on Monday, 13 January 2025.*

## **Information for Visitors**

### **FIRE EVACUATION PROCEDURE**

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**MINUTES OF THE MEETING OF THE RESOURCES AND SERVICES OVERVIEW  
AND SCRUTINY COMMITTEE,  
HELD ON MONDAY, 23RD SEPTEMBER, 2024 AT 7.30 PM  
IN THE TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15 1SE**

<b>Present:</b>	Councillors P Honeywood (Chairman), M Cossens (Vice-Chairman), Bensilum, Harris, S Honeywood, Newton and Goldman
<b>Also Present:</b>	Councillor Kotz (Portfolio Holder for Assets)
<b>In Attendance:</b>	Lisa Hastings (Assistant Director Governance & Monitoring Officer), Richard Barrett (Assistant Director Finance and IT & Section 151 Officer), Damian Williams (Corporate Director Operations and Delivery), Andy White (Assistant Director Building and Public Realm), Keith Simmons (Head of Democratic Services and Elections & Deputy Monitoring Officer), Bethany Jones (Committee Services Officer) and Hattie Dawson-Dragisic (Performance and Leadership Support Officer)

**52. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Councillors Doyle and Steady with no substitutions.

An apology was also received from Councillor Mark Stephenson, Leader of the Council who had been due to attend the meeting for item 7, Report of the Assistant Director of Finance & IT – A.2 – Financial Outturn Update Report, on the agenda. Due to family commitments, he was unable to attend on this occasion.

**53. MINUTES OF THE LAST MEETING**

It was **RESOLVED** that the minutes of the meeting of the Committee, held on 22 July 2024, be approved as a correct record and be signed by the Chairman following an amendment to show that Councillor M Cossens had been absent from the meeting.

**54. DECLARATIONS OF INTEREST**

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

**55. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

The Committee was reminded that, subject to the required notice being given, a Member of the Committee could ask the Chairman of the Committee a question on any matter in relation to which the Council had powers or duties which affected the Tendring District, and which fell within the terms of reference of the Committee. On this occasion, one question on notice had been submitted by a Member of the Committee as set out below: -

Question

Councillor Matthew Bensilum asked Councillor Paul Honeywood, the Chairman of the Resources and Services Overview & Scrutiny Committee: -

*“Can we seek reassurance that all departments regularly review their “preferred” providers / suppliers and that any contracts awarded follow a set policy of due-diligence and if this is the case, please confirm how suppliers are vetted, when they were last reviewed and when they will be next reviewed. This is of course especially important for larger / regular contract.”*

Councillor Paul Honeywood, the Chairman of the Resources and Services Overview & Scrutiny Committee read the following which had been prepared for him: -

*“Assurance can be provided from the Procurement Team, including support from Essex County Council under the Council’s Service Level Agreement for the provision of Procurement services, that tenders processed by them do not have a preferred contractor’s list and that the correct governance is followed throughout the procedure.*

*Depending on the amount that the contract is worth will depend on the route to tender, whether they be Request for Quotation (RFQ between £10-50k) or invitation to Tender (ITT over £50k). Invitation To Tender are handled by Essex County Council and will generally be on contracts finder or from a framework. If open tender (not via a framework) any company may submit a tender.*

*RFQ locked tender boxes are controlled by Procurement but the information and specification to submit quotes is completed by the relevant service and is the responsibility of the service, by e mailing the RFQ details directly to suppliers. However, the Council does not hold a preferred contractors list as this would not be in line with the Council’s Procurement Procedure.*

*There is provision for the contractor to provide a performance bond, or parent company guarantee where appropriate and this is contained within the Council’s Procurement Procedure, which can be found at Part 5 of the Constitution, providing the appropriate procedures in full and all associated information.”*

By virtue of the Rule 38, no further question, statement or debate was provided for following the Chairman’s reply.

**56. PORTFOLIO HOLDER INTRODUCTION - PORTFOLIO HOLDER FOR ASSETS**

The Chairman of the Committee welcomed to the meeting the Portfolio Holder for Assets, Councillor Peter Kotz. The invitation had been made as part of a process of inviting to each of the Committee’s meetings, a different Portfolio Holder to address it on the focus for their Portfolio (Minute 21 of 21 June 2023 refers). The purpose of their invitation was to enable the Portfolio Holder to provide a broad introduction to their portfolio, including their current issues and challenges (as well as priorities for 2024/25).

Councillor Kotz introduced the various services within his portfolio and raised the current issues/challenges that they were dealing with, and projects that were being worked on or work that was envisaged to begin.



*The challenges and projects within the Corporate Asset Management area highlighted included:*

- *Halting progression of potential disposal or development action for 69 areas of land owned by the Council, to propose a more focussed progression of a small number of sites.*
- *Conclude the disposal of the redundant office site at Weeley.*
- *Review of the Property Strategy.*
- *Team resources challenged by significant caseload, work will be done to get these issues regularised.*
- *Drafting a new Public Conveniences Strategy.*
- *Completion of the transfer of bus shelter responsibilities to Essex County Council. They proposed to use the revenue generation to facilitate service improvements.*

*The challenges and projects within the Building Services and Facilities Management area highlighted included:*

- *Establish the Dangerous Structures service within the two areas it is shared between, the Council's Building Control and surveying function.*
- *Recognising that the Councils offices and other facilities are a significant cost and substantial part of the Councils carbon footprint and so ensuring that the most is being made of what the Council has and having consideration to beneficial ways to share with our delivery partners.*

*The challenges and projects within the Bereavement Service area highlighted included:*

- *A priority with Colleague Cllr Barry is to resolve the issues that have led to difficulties of achieving the standard of grounds maintenance that is aspired to.*
- *Work toward extension project of the Clacton Cemetery if burials are to be continued there.*
- *Ensure that there is a financial provision for the lifecycle of the machinery at the Crematorium and establish working methods that reduce gas consumption for now and for the next renewal of the plant.*

Councillor Kotz also highlighted the services, work and projects undertaken by the IT team and highlighted their day to day work providing professional, knowledgeable, high quality support and services for the Council's 726 IT users, and residents and customers.

He also provided an update around the Council's new website and the My Tendring customer self-service portal. He raised that further work was being undertaken to enhance the usability of both and plans to further adapt them.

Councillor Kotz provided the Committee with figures around Information Governance such as the average amount of data requests the Council responded to and how this had increased in recent years. He also highlighted the importance of Councillors being

vigilant in relation to information security as the Council information they held could be subject to SAR and FOI disclosure.

Another issue Councillor Kotz warned the Committee of was the global cyber security threat to the UK. He made the Committee aware of the work to ensure that the Council's information stayed secure from those threats.

He advised the Committee of the new in house Developer team within the IT service that had established itself as the 'go-to' team for creating new Council Applications. In addition to this he raised that utilising the in-house services had created major savings such as the digitisation of the Planning Services' microfiche records.

Finally Councillor Kotz informed the Committee of the Procurement Partnership between the Council and Essex County Council. He highlighted that the shared resource provided advice and support to colleagues across the Council on how to source goods and services, in accordance with the Council's procurement procedure rules. He also advised that the service had adapted to feedback through its operation and was currently creating a questionnaire for users to provide their opinion of the process and where improvements could be made.

The Committee then asked questions of Councillor Kotz in relation to the challenges, projects and ongoing work he had advised them of. The Committee asked questions in relation to: the cost and progress of the disposal of the Weeley Council Offices; assurances that the new equipment at the Weeley Crematorium was sufficient and would last its natural lifecycle; and there were also questions in relation to the Shared Procurement Services.

It was **AGREED** that following the meeting a written reply on the questions around the disposal of the Weeley Council offices would be circulated to all Members of the Committee.

## **57. A.1 REVIEW OF THE WORK PROGRAMME**

The Head of Democratic Services and Elections firstly advised the Committee that circulated around the room that evening was the reference report that had been considered and approved by Cabinet at its meeting on Friday 20 September (Minute 46 refers) in relation to the Committee's recommendations in respect of the Spendells Project. The reference report included the Portfolio Holder for Planning and Housing's response to the Committee's recommendations and Cabinet had approved the Portfolio Holder's proposals in respect of the recommendations. The Committee enquired whether the outcome of the investigation by the Chief Executive into unauthorised expenditure and the matters in the contract specification for the Spendells project and it was advised that the investigation was still ongoing. In respect of the recommended review of progress with projects, the Committee discussed its concerns that Cabinet had not placed a timescale for when the findings of project management reviews would be reported. Whilst no timescale was set it was possible money would still be being spent and potentially be unauthorised. The Committee was advised that it could make a further reference to Cabinet for a timescale to be applied to reporting on those reviews. Comments made confirmed that Members of the Committee would like to receive an update on the reviews at its next meeting on 17th December 2024 and to invite the Leader of the Council to discuss those review reports. The Monitoring Officer also provided an assurance that, as promised at the Committee's meeting in July 2024, the

Statutory Officers, Ian Davidson, Richard Barrett and herself had delivered the strong instructions around expenditure on projects to senior managers across the Council.

The Head of Democratic Services and Elections highlighted to the Committee that, as part of its annual budget review, the Committee would require a briefing on the use of resources section on the External Auditor's report that was expected to be received in November/December.

Within the Report it set out the names of those nominated to form the various Task and Finish Groups. The Groups the Committee were asked to consider were Asset Management Arrangements of the Council, Housing Strategy, Development and Infrastructure and Council Enforcement Arrangements. Councillor Harris also indicated that he would like to serve as a part of the Asset Management Task and Finish Group.

The Committee **RESOLVED TO NOTE:**

- (a) That the forum session to senior managers had been delivered.
- (b) Invite the Leader of the Council to its next meeting and receive a report outlining the progress with the Cabinet's decision as follows; "Portfolio Holders should review, with their Corporate Directors, the performance and project management of all existing projects within their respective portfolios and report their findings to the Leader of the Council and the Resources and Services Overview and Scrutiny Committee together with such additional actions as the Leader wishes to undertake.
- (c) Include consideration of the use of resources section of the External Auditors report at the December meeting of the Committee.
- (d) The following Councillors be appointed to the Task and Finish Groups identified to undertake the enquiries referred to in the decision of Council on 6 August 2024 (Minute 31 refers):
  - Asset Management arrangements of the Council Task and Finish Group – Appointed Members: Councillors Bensilum, Newton, Steady, M Cossens, Sudra and Harris
  - Housing Strategy, Development and Infrastructure Task and Finish Group – Appointed Members: Councillors Harris, Bensilum, Doyle, Casey, Goldman and Fairley
  - Council Enforcement Arrangements Task and Finish Group – Appointed Members: Councillors Harris, Newton, P Honeywood, S Honeywood and Wiggins

**58. REPORT OF THE ASSISTANT DIRECTOR OF FINANCE & IT. - A.2 - FINANCIAL OUTTURN UPDATE REPORT**

The Committee was presented with a report from the Director of Finance & IT, Richard Barrett to look at the current position of the Council's financial position in relation to the Financial Outturn report that had been submitted to Cabinet on 26 July 2024.

Within his presentation to the Committee, he highlighted that there was a favourable variance at the end of 2023/24 of just over £1.8 million. He advised that there was a mix of variances that had contributed to this but one of the main reasons was a favourable outcome in terms of business rates income. The Assistant Director informed the Committee that the Portfolio Holder for Governance and Finance had made a

recommended allocation to reinvest the additional income generated through Parking Services back into Parking Services. He also informed them of a number of the recommended allocations that were within the report.

The Committee was advised that, once significant reinvestment into challenges the Council would naturally face, there was an opportunity to bring together money along with funding from the Corporate Investment Fund to make allocations in the following areas: to conduct a review of the Careline Service; to develop/establish a Project Delivery team; and, to support the Capital Regeneration in Dovercourt. This meant that there was just over £2.4 million left in the Corporate Investment Fund.

The Assistant Director also informed the Committee that a report was to be submitted to Cabinet in October 2024 with the Quarter 1 position of the Council's Finances. He advised that this report would touch on issues such as any new items emerging, anything the Council had already allocated extra funding to, developing the forecast, the cost pressure review and, the first iterations of the savings plan.

The Committee thanked The Assistant Director for attending the meeting and presenting the report and expressed the view that the report was informative and detailed.

The Committee discussed and compared the consequences other Local Authorities such as Thurrock had experienced in relation to poor Financial Management and it wanted an assurance that this Council was doing what was necessary to avoid such a situation. The Assistant Director informed the Committee that an External Auditor report would be received in due course that would provide feedback on the Council's financial resilience, financial forecasting and the ability to manage risks.

Some consideration took place in relation to Citizens Advice Tending and more generally around external funding. They were advised that an External Funding report, that provided a High Level Framework was to be submitted to Cabinet and that there would also be development of a further detailed external funding policy as requested by Cabinet. The Head of Democratic Services and Elections informed the Committee also that, as a part of the Community Leadership Overview and Scrutiny Committee work programme, it would be looking at reviewing the progress the Cabinet had made in relation to implementing improved arrangements in respect of grant giving by the Council.

**59. A.3 REFERENCE REPORT FROM THE COUNCIL'S ENFORCEMENT ARRANGEMENTS TASK AND FINISH GROUP.**

The Head of Democratic Services advised the Committee that this was the second report the Committee had received from the Enforcement Task and Finish Group. He reminded the Committee that the first report had been on Planning Enforcement and that the recommendations from that first report had been approved by Cabinet and that the Committee would (in time) be expecting to receive an update on those recommendations.

The Committee **AGREED** the Recommendations to Cabinet from the report that were as follows:

- (1) That, in order to develop a more holistic picture of the issues involved and the development of strategies to address them, in addition to highway fly-tipping incidents, records be kept and analysed for fly-tipping on other public land such as open spaces, public realm, Council assets, Beachfronts etc;
- (2) That further steps be undertaken to engage with volunteer litter picking groups to ensure there is greater awareness of the issues around taking waste from private property and of the steps taken by officers to identify perpetrators of fly-tipping (and the need to preserve that evidence to ensure it can be used in action against perpetrators);
- (3) To develop a similar approach to that of the London Borough of Redbridge with its online 'Wall of Shame' showing footage of fly-tipping with a view to encouraging understanding of the issue, the Council's efforts to address fly tipping and to receive information on perpetrators;
- (4) To encourage residents to supply their own footage, possibly through 'RING' (or other manufacturers) camera-door bells of fly-tipping captured by them;
- (5) To inform Councillors that if they notice dog fouling, unretrieved dog waste, they should inform the Council's Community Safety Team who can look at deployment of Ambassadors with a view to detecting the perpetrators and, if the issues persist, to evidence a decision to deploy mobile CCTV cameras to address the problem;
- (6) That consideration be given to the deployment of a mobile 'phone application for reporting incidents of fly-tipping and other crimes such as dog fouling and graffiti similar to that in place in Cheshire West and Chester Council;
- (7) To consider how best to support members of the public to find details of licensed waste carriers (after the UK Government has concluded its review of the online access to that data);
- (8) That details of fly-tipping hot spots on the highway/public land in the District be circulated to Councillors together with the stepped approach to enforcement relevant to that hot spot site and that this should be alongside summary details of the deployment of mobile CCTV cameras as part of addressing environmental crimes such as fly-tipping;
- (9) That the reasons for the non-deployment of a mains powered or a battery powered CCTV camera in the High Street, Clacton-on-Sea with a view to deterring and/or detecting fly-tipping at the junction with Beach Road be set out and addressed with the relevant decision makers.
- (10) That, on the basis that the Council's policies, procedures and codes in respect of CCTV are reviewed in this current calendar year, they be amended to provide that as and when CCTV cameras are to be purchased, or grant applications made to fund CCTV cameras, consideration be given to the relative

benefit of those cameras having AI functionality that can be deployed and that for mobile CCTV cameras consideration should also be given to alternative acquisition options such as rental rather than purchase.

The meeting was declared closed at 9.30 pm

**Chairman**

## RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE

17 DECEMBER 2024

### REPORT OF HEAD OF DEMOCRATIC SERVICES AND ELECTIONS

#### A.1 WORK PROGRAMME 2024/25 – INCLUDING MONITORING OF PREVIOUS RECOMMENDATIONS AND SUMMARY OF FORTHCOMING DECISIONS

(Report prepared by Ian Ford)

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

The report provides the Committee 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 notice has been given since publication of the agenda for the Committee's last meeting.

The report also provides an opportunity for updates on the work of the Committee's Task and Finish Groups, to consider the Committee's approach to budget scrutiny at its January 2025 and to note that arrangements will be made with the Chairmen of this Committee and of the Audit Committee to receive the findings in relation to the investigation into the Council's development of Spendells House, Naze Park Road, Walton-on-the-Naze.

##### **INVITEES**

None.

##### **BACKGROUND**

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

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

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

The inclusion of the matters set out in the “purpose of this report” section above seeks to further re-enforce the inter-relationship of the matters referred to. As such, it is designed

to further support consideration of work programming of the Committee and contribute to addressing progress with the Corporate Plan.

## DETAILED INFORMATION

### WORK PROGRAMME 2024/25

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

- (1) Work Programme for 2024/25 approved by Full Council on 6 August 2024 – See Appendix A;
- (2) feedback to the Committee on the decisions in respect of previous recommendations from the Committee in respects of enquiries undertaken – See Appendix B; and
- (3) a list of forthcoming decisions for which notice has been given since publication of the agenda for the Committee’s last meeting – See Appendix C.

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

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

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

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

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

The Resources and Services Overview and Scrutiny Committee is one of two overview and scrutiny committees established by the Council to specifically focus on the following areas of Council work (as detailed in Article 6.02(i) of the Council’s Constitution):

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

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

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



*Service Delivery and Performance (where not delegated to the Community Leadership Overview and Scrutiny Committee)*  
*Procurement and Contract Management*  
*Transformation and Digital Strategies*  
*Customer Service and Standards*

The Constitution provides for the two overview and scrutiny committees to submit a work programme to full Council for approval. Rule 7 of the Overview and Scrutiny Procedure Rules sets out the position as follows:

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

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

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

In considering the Work Programme of enquiries, the Committee must have regard to the Corporate Plan 2024-28 and the themes of that Corporate Plan 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

It should also be noted that the Committee will hold an informal meeting on Thursday 12 December 2024 with the Head of Democratic Services and Elections to discuss the work programme and the agenda for this meeting.

## **RECOMMENDATION**

**That the Committee:**

- (a) considers and notes 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;**
- (b) invites oral updates on the work of the three Task and Finish Groups established by the Committee (as referenced in the Work Programme at Appendix A):**
  - (i) Asset Management Arrangements (Cllr. Mark Cossens is its Chairman);**
  - (ii) Council Enforcement Arrangements (Cllr. Paul Honeywood is its Chairman);**
  - (iii) Housing Strategy Development and Temporary Accommodation (It's meeting on Thursday, 19 December will determine its Chairman);**
- (c) determines the Committee's 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; and**
- (d) notes that arrangements will be made with the Chairmen of this Committee and of the Audit Committee to receive the findings in relation to the investigation into the Council's development of Spendells House, Naze Park Road, Walton-on-the-Naze.**

## A.1 APPENDIX A

### RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE FOR ENQUIRIES TO BE UNDERTAKEN IN 2024/25

Item	Date of Enquiry	Relevant Corporate Plan Theme/Annual Cabinet Priority	Information to be provided in advance	Those to be invited to attend	Articulated value of undertaking the review
Post delivery scrutiny of the Sunspot commercial workspace in Brooklands, Jaywick	Off agenda briefing note by the end of September 2024	<input type="checkbox"/> Financial sustainability and openness	<p>Management arrangements for the commercial workspace.</p> <p>Details of the lettings of the business units, shops and café and the use of the covered market area and event hall (including lease terms) from the opening of the development.</p> <p>Details as to how the operation of the workspace supports enhances, compliments activities at the Jaywick Resources Centre.</p>	<p>Portfolio Holder for Economic Growth, Regeneration and Tourism</p> <p>Corporate Director, Place and Economy</p>	To provide the Committee with information on the development since it opened and identify matters for further enquiry, would be beneficial.
To examine the Asset management arrangements of the Council and consider the extent to which asset	Through A Task and Finish Group	<input type="checkbox"/> Championing our local environment	A complete list of TDC assets (specifically property & land) and the ward they are located in.	<p>Portfolio Holder Assets</p> <p>Assistant Director,</p>	The enable the examination of asset management and utilisation with a view to supporting

## A.1 APPENDIX A

<p>acquisition and disposal is strongly linked to the ambitions of the corporate plan.</p> <p>The enquiry will look at land assets and their use/value to the Council and community properties, investment in them and the use to which they are put, IT Assets and Beach Hut (bases).</p> <p>[This matter will not look at Human Resources or matters in the Housing Revenue Account].</p>		<ul style="list-style-type: none"> <li><input type="checkbox"/> Pride in our area and services to residents</li> <li><input type="checkbox"/> Working with Partners to improve quality of life</li> <li><input type="checkbox"/> Raising aspirations and creating opportunities</li> <li><input type="checkbox"/> Promoting our heritage offer, attracting visitors and encouraging them to stay longer</li> <li><input type="checkbox"/> Financial sustainability and openness</li> </ul>	<p>Repairing obligations (for this Council) costings in relation to maintenance for land &amp; property asset.</p> <p>The enquiry will look at unused assets (eg toilet block at the junction of Coppins Road and Old Road, Clacton).</p> <p>IT equipment and software acquisition, maintenance licences, disposal and the opportunity to harness digital solutions and be as efficient in transactional services, as possible across the Council. This should look at contacts (and costs of contact) and use of AI chatbot systems to improve experience and reduce multiple handling enquiries.</p>	<p>Building and Public Realm</p> <p>Assistant Director Finance IT</p> <p>Appropriate other Portfolio Holders and Officers</p>	<p>delivery of the corporate plan 2024 and recommendations to release assets that do not contribute to that plan or otherwise rationalise assets to improve effectiveness and efficiency of those assets.</p>
<p>Pre-Budget Scrutiny</p>	<p>At Committee on 13 January 2024</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Championing our local environment</li> </ul>	<p>The 2024/25 Budget and update the end of Q3, draft budget for</p>	<p>All Portfolio Holders</p>	<p>To provide the envisaged reality check on budgets</p>

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<p>Consider long-term forecasts. Challenging assumptions/testing zero base budgeting. Consider repeated overspends/underspends Addressing performance/budget requirements.</p>	<p>[Pre-meeting 6 January 2025]</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Pride in our area and services to residents</li> <li><input type="checkbox"/> Working with Partners to improve quality of life</li> <li><input type="checkbox"/> Raising aspirations and creating opportunities</li> <li><input type="checkbox"/> Promoting our heritage offer, attracting visitors and encouraging them to stay longer</li> <li><input type="checkbox"/> Financial sustainability and openness</li> </ul>	<p>2025/26 and the financial strategy plus details of significant overspend and underspend over the last five financial years.</p>	<p>All Members of Management Team</p>	<p>and financial plans prior to their approval and ensure that there are clear links between budget setting and strategic/operational plans.</p>
<p>Housing Strategy Development and Infrastructure and Temporary Accommodation. The enquiry will include a</p>	<p>Through Task and Finish Group</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Working with Partners to improve quality of life</li> </ul>	<p>Policies and Practice documents of the Council in respect of the use of private rented accommodation for</p>	<p>Portfolio Holder, Housing and Planning.  Assistant Director,</p>	<p>To look at possible improvements to temporary accommodation provision and make</p>

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<p>look at how the Council maintain its list of private landlords and if the Council quality check those properties as suitable.</p>		<p><input type="checkbox"/> Financial sustainability and openness</p>	<p>those needing housing.</p> <p>The average time people are placed in temporary rented housing accommodation. Details of complaints by those people in rental accommodation. Numbers of HRA properties over the last five years including acquisitions and disposals.</p> <p>The current housing strategy and any development draft of a new strategy as well as an assessment as to how the current strategy has been delivered.</p>	<p>Housing and Environment</p> <p>A representation of private landlords</p>	<p>recommendations there on.</p> <p>To determine the strategic direction of the Council in respect of Housing and the extent to which this has been delivered.</p>
<p><b>COMPLETED</b></p>					
<p>Portfolio Holder Update</p>	<p>22 July 2024</p>	<p><input type="checkbox"/> Championing our local environment</p>	<p>Updated the Committee on work in relation to his role as Portfolio Holder.</p>	<p>Councillor Mike Bush – the then Portfolio Holder for Environment</p>	<p>Enabled the Committee to be aware of the significant areas of the responsibility with in the Portfolio</p>

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		<input type="checkbox"/> <b>Pride in our area and services to residents</b> <input type="checkbox"/> <b>Working with Partners to improve quality of life</b> <input type="checkbox"/> <b>Financial sustainability and openness</b>			and the areas the Portfolio Holder was addressing currently.
<b>Portfolio Holder Update</b>	<b>At Committee on 23 September 2024</b>	<input type="checkbox"/> <b>Championing our local environment</b> <input type="checkbox"/> <b>Pride in our area and services to residents</b> <input type="checkbox"/> <b>Working with Partners to improve quality of life</b> <input type="checkbox"/> <b>Financial sustainability and openness</b>	<b>Updated the Committee on work in relation to his role as Portfolio Holder.</b>	<b>Councillor Peter Kotz – Portfolio Holder for Assets</b>	<b>Enabled the Committee to be aware of the significant areas of the responsibility with in the Portfolio and the areas the Portfolio Holder is addressing currently</b>
<b>Council Enforcement arrangements including the extent to which enforcement powers are</b>	<b>Through Task and Finish Group.</b>	<input type="checkbox"/> <b>Championing our local environment</b>	<b>The detail to the extent to which the Corporate Enforcement Group</b>	<b>Leader of the Council</b>	<b>To identify any possible areas for improved enforcement</b>

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<p>looked at in a silo or corporate way to ensure that (with in the purposes of particular enforcement powers) the Council considers the ability to address non-compliances robustly.</p>	<p>[This continues the work in 2023/24 where enforcement arrangements around planning, was examined].</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Pride in our area and services to residents</li> <li><input type="checkbox"/> Promoting our heritage offer, attracting visitors and encouraging them to stay longer</li> <li><input type="checkbox"/> Financial sustainability and openness</li> </ul>	<p>has provided the route to ensuring a corporate consideration to utilising a range of enforcement powers to address problem premises. An update on the implementation of recommendations made in 2023/24 around planning.</p> <p>To examine fly tipping and the use of mobile CCTV as part of enforcement.</p>	<p>Corporate Director for Operations and Delivery</p> <p>Assistant Director, Partnerships</p> <p>Appropriate Portfolio Holders and Officers</p>	<p>arrangements and to make recommendations there on.</p> <p>Final Report of the Working Group on Fly Tipping and Mobile CCTV enforcement was submitted to the meeting of the Committee held on 23 September 2024.</p> <p>The Committee's recommendations were then submitted to the meeting of the Cabinet held on 15 November 2024.</p> <p>Cabinet's decision is set out in Appendix B.</p>
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## A.1 APPENDIX B

### Resources and Services Overview and Scrutiny Committee - 17 December 2024

#### RECOMMENDATIONS MONITORING REPORT – 2024/2025 MUNICIPAL YEAR

(Prepared by Ian Ford)

Recommendation(s) Including Date of Meeting and Minute Number	Actions Taken and Outcome	Completed, follow-up work required or added to Work Programme
<p><b><u>THE SPENDELLS PROJECT</u></b></p> <p>At the Committee’s meeting on 22 July 2024 (minute 50 refers):-</p> <p><b>RECOMMENDED to CABINET:-</b></p> <ol style="list-style-type: none"> <li>1. That, once the Chief Executive’s formal review (on how the issue of unauthorised expenditure arose and developed in respect of the Spendells project) has been completed, the Cabinet reports on its lessons learnt;</li> <li>2. that the report referred to in (1) above should articulate a robust response and action plan for going forward;</li> <li>3. that a more detailed financial breakdown of the seven items not included in the specification for the Spendells project be reported to Cabinet; and</li> <li>4. that Portfolio Holders review, with their Corporate Directors, the performance and project</li> </ol>	<p>This item was reported to Cabinet on 20 September 2024.</p> <p>Having duly considered the recommendations made by the Resources and Services Overview &amp; Scrutiny Committee together with the response of the Portfolio Holder for Housing and Planning thereto, Cabinet:-</p> <p><b>RESOLVED that –</b></p> <p>(a) the Chief Executive’s formal review, when completed, be reported to the Cabinet including:</p> <ol style="list-style-type: none"> <li>i) a more detailed financial breakdown of the seven items not included in the original specification, of additional expense itemised in the previous report to Cabinet;</li> <li>ii) the lessons learnt;</li> <li>iii) articulating a robust response and action plan for going forward;</li> </ol> <p>(b) Portfolio Holders should review, with their Corporate Directors, the</p>	<p><b>Completed</b></p>

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<p>management of all existing projects within their respective portfolios and report their findings to the Leader of the Council by the end of September 2024 (and that this also then be submitted to this Committee at its next programmed meeting).</p> <p>At the Committee's meeting on 23 September 2024 (minute 57 refers), it considered the Cabinet's response and decided, inter alia:-</p> <p><i>"Invite the Leader of the Council to its next meeting and receive a report outlining the progress with the Cabinet's decision as follows:-</i></p> <p><i>"Portfolio Holders should review, with their Corporate Directors, the performance and project management of all existing projects within their respective portfolios and report their findings to the Leader of the Council and the Resources and Services Overview and Scrutiny Committee together with such additional actions as the Leader wishes to undertake.""</i></p>	<p>performance and project management of all existing projects within their respective portfolios and report their findings to the Leader of the Council and the Resources and Services Overview and Scrutiny Committee together with such additional actions as the Leader wishes to undertake in response.</p> <p>This item was reported to Cabinet on 15 November 2024.</p> <p>The response of the Housing &amp; Portfolio Holder had been:-</p> <p><i>"As I have stated on more than one occasion I meet weekly with the Corporate Director (Operations and Delivery) along with the Director for Planning and Communities, to discuss the situation, at that time, of ongoing projects within the Housing and Planning Portfolios, along with many other issues.</i></p> <p><i>Within the Housing Portfolio there are currently two major projects, one being the Honeycroft development of 13 bungalows in Lawford, and the other the refurbishment of Spendells House to temporary accommodation for families, which are both discussed at the weekly meetings, covering the progress, and finances of both. Having visited both sites recently, I can say that</i></p>	<p>Follow-up - Leader of the Council has been invited to attend this meeting.</p>
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*work is progressing very well, and although I have been informed of potential dates of opening, I would not want to commit to those publicly until they are a certainty.*

*As the Committee have been advised, there is a review of the Spendells project, which is still ongoing, and it would be wrong of me to comment on that process, which is being undertaken under the direction of the Chief Executive.*

*Once the conclusions, and any recommendations, of the review have been made available to both myself and Cabinet, I will be in a better position to identify what actions must be taken in relation to any similar projects that come forward.”*

The Leader of the Council had thanked the Resources and Services Overview & Scrutiny Committee for all of their work on this matter.

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

*“RESOLVED that the recommendations made by the Resources and Services Overview & Scrutiny Committee be noted and that the response of the Portfolio Holder*

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### SCRUTINY OF FLY TIPPING AND MOBILE CCTV ENFORCEMENT

At the Committee's meeting on 23 September 2024 (minute 59 refers), it considered the final second report from its Council's Enforcement Arrangements Task and Finish Group, which had been submitted following that Group's conclusion of its enquiry concerning fly tipping and mobile CCTV enforcement.

The Committee had recommended to Cabinet that:-

- “(1) in order to develop a more holistic picture of the issues involved and the development of strategies to address them, in addition to highway fly-tipping incidents, records be kept and analysed for fly-tipping on other public land such as open spaces, public realm, Council assets, Beachfronts et cetera;*
- (2) further steps be undertaken to engage with volunteer litter picking groups to ensure there is greater awareness of the issues around taking waste from private property and of the steps taken by Officers to identify perpetrators of fly-tipping (and the need to preserve that evidence to ensure it can be used in action against perpetrators);*

*responsible for Housing and Planning thereto be endorsed.”*

This item was reported to Cabinet on 15 November 2024.

Cabinet had before it the following response from the Portfolio Holder for the Environment:-

*“I note the recommendations of the Committee and thank them for work they have carried out.*

*I have been in discussion with the relevant service to explore the feasibility and resource implications of adopting the Committee's recommendations.”*

Cabinet had also before it the following response from the Portfolio Holder for Partnerships:-

*“I also note the recommendations and thank the Committee.*

*I have raised the recommendations within the report with the relevant service. I am happy to explore the option to use AI functionality, where appropriate. I have asked the service to assess the impact of using AI on our existing policies and delivery of service.”*

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<p>(3) <i>it develop a similar approach to that of the London Borough of Redbridge with its online 'Wall of Shame' showing footage of fly-tipping with a view to encouraging understanding of the issue, the Council's efforts to address fly-tipping and to receive information on perpetrators;</i></p> <p>(4) <i>it encourage residents to supply their own footage, possibly through 'RING' (or other manufacturers) camera-door bells of fly-tipping captured by them;</i></p> <p>(5) <i>it inform Councillors that if they notice dog fouling, un-retrieved dog waste, they should inform the Council's Community Safety Team who can look at deployment of Ambassadors with a view to detecting the perpetrators and, in the issues persist, to evidence a decision to deploy mobile CCTV cameras to address the problem;</i></p> <p>(6) <i>consideration be given to the deployment of a mobile 'phone application for reporting incidents of fly-tipping and other crimes such as dog fouling and graffiti similar to that in place in Cheshire West and Chester Council;</i></p> <p>(7) <i>consider how best to support members of the public to find details of licensed waste carriers (after the UK Government has concluded its review of the online access to that data);</i></p> <p>(8) <i>details of fly-tipping hot spots on the highway/public land in the District be circulated to Councillors together with</i></p>	<p>Having duly considered the recommendations made by the Resources and Services Overview &amp; Scrutiny Committee together with the responses of the Portfolio Holder for the Environment and the Portfolio Holder for Partnerships thereto, Cabinet had:-</p> <p><i>“RESOLVED that the recommendations made by the Resources and Services Overview &amp; Scrutiny Committee be noted and that the responses of the Portfolio Holder for the Environment and the Portfolio Holder for Partnerships thereto be endorsed.”</i></p>	
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## A.1 APPENDIX B

<p><i>the stepped approach to enforcement relevant to that hot spot site and that this should be alongside summary details of the deployment of mobile CCTV cameras as part of addressing environmental crimes such as fly-tipping;</i></p> <p><i>(9) the reasons for the non-deployment of a mains powered or a battery powered CCTV camera in the High Street, Clacton-on-Sea with a view to deterring and/or detecting fly-tipping at the junction with Beach Road be set out and addressed with the relevant decision makers.</i></p> <p><i>(10) on the basis that the Council's policies, procedures and codes in respect of CCTV are reviewed in this current calendar year, they be amended to provide that as and when CCTV cameras are to be purchased, or grant applications made to fund CCTV cameras, consideration be given to the relative benefit of those cameras having AI functionality that can be deployed and that for mobile CCTV cameras consideration should also be given to alternative acquisition options such as rental rather than purchase."</i></p>		
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Recommendations monitoring for those recommendations from earlier meetings of the Committee have been previously reported to the Committee and, as such, are not repeated here as there is no further update to be provided on them.

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## A.1 APPENDIX C

### Resources and Services Overview and Scrutiny Committee - 17 December 2024

#### OVERVIEW AND SCRUTINY PROCEDURE RULE 13 – SCRUTINY OF PROPOSED DECISIONS

(Prepared by Ian Ford)

The below forthcoming decisions are those published since 13 September 2024 – the publication date for the Committee’s last ordinary meeting and are still ‘live’.

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

DESCRIPTION OF DECISION	KEY DECISION – YES/NO	DECISION MAKER	Decision Due Date
Adoption of an Artificial Intelligence Best Practice approach at Tendring District Council	NO	Cabinet	20/12/24
Updated financial forecast and initial budget proposals for 2025/26	YES	Cabinet	20/12/24
Updated Housing Revenue Account (HRA) Business Plan and Budget Proposals 2025/26	YES	Cabinet	20/12/24
Delivering against the Council’s Corporate Plan 2024-28 – Initial Proposals for Highlight Priorities for 2025/26	NO	Cabinet	20/12/24
Revisions to the Housing Allocations Policy and Agreement to undertake consultation in connection with these Revisions	YES	Cabinet	20/12/24
Adoption of Housing Polices on Gas Safety, Electrical Safety, Fencing & Paving and Empty Council Homes Management	YES	Cabinet	20/12/24
Progress Report for the Highlight Priorities Actions for 2024/25 – Quarter 3	NO	Cabinet	31/1/25
Final Highlight Priorities for 2025/26 – Approval and Adoption	NO	Cabinet	31/1/25
Update on the Essex Procurement Partnership and Procurement Strategy	YES	Cabinet	31/1/25
Finalisation of General Fund Budget and Council Tax Proposals for 2025/26 for submission to Full Council	YES	Cabinet	31/1/25



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Finalisation of HRA Budget Proposals for 2025/26 for submission to Full Council	YES	Cabinet	31/1/25
Business Rates Base 2025/26	YES	Corporate Finance & Governance Portfolio Holder	Not before 17/1/25
Council Tax Base 2025/26	YES	Corporate Finance & Governance Portfolio Holder	Not before 5/12/24
Terms for a lease renewal over Holland Public Hall, Frinton Road, Holland-on-Sea	NO	Assets Portfolio Holder	Not before 5/12/24
Land swap at Honeycroft, Lawford	NO	Assets Portfolio Holder	Not before 5/12/24
Grant of a new Lease over The Redoubt Harwich	NO	Assets Portfolio Holder	Not before 5/12/24
Terms for the lease of a shop property in Dovercourt	NO	Economic Growth, Regeneration & Tourism Portfolio Holder	Not before 5/12/24
Review and revision of existing housing policies - Alterations and Improvements Policy, Decant Policy and Pets Policy	KEY	Housing & Planning Portfolio Holder	Not before 20/12/24
Renewal of the Council's Corporate Banking Contract	KEY	Director (Finance & IT)	Not before 5/12/24

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## RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE

17 DECEMBER 2024

### REPORT OF THE HEAD OF DEMOCRATIC SERVICES AND ELECTIONS

#### **A.2 PORTFOLIO HOLDER PROJECTS – PERFORMANCE AND PROJECT MANAGEMENT**

##### **PURPOSE OF THE REPORT/ENQUIRY**

This report is submitted to the Committee to enable it to consider the outcome of its decision from its meeting on 23 September 2024 (Minute 57 refers) which had been considered by Cabinet on 15 November (Minute 75 refers). The Committee had recommended, in the light of the unauthorised expenditure found in relation to the Spendells temporary accommodation project, Portfolio Holders review performance and project management of all their existing projects. This review, the Committee had requested, should be completed in time for the findings to be reported to this meeting together with any additional actions determined by the Leader. The Leader of the Council is to attend this meeting to discuss the outcome of the Portfolio Holder reviews of their projects.

##### **SCOPE - THE AIMS AND OBJECTIVES OF THE REPORT**

As set out at various points in the report, the intention of the report is to provide the setting for the Leader of the Council to discuss the outcome of the review by Portfolio Holders of projects in their respective areas of responsibility in relation to performance management and project management. The request for the reviews by Portfolio Holders arose out of issues identified in respect of unauthorised expenditure in the project to refurbish and fit out Spendells House to enable homeless persons to be housed there in what would be temporary accommodation.

##### **INVITEES**

The Leader of the Council, Councillor Mark Stephenson.

##### **BACKGROUND**

The Committee on 22 July and 23 September 2024 requested that reviews of project management and performance be undertaken by Portfolio Holders in respect of projects within their respective areas of responsibility. On 23 September, this was requested to be completed in time for the outcome of the reviews to be submitted to the Committee at this meeting. The Committee also invited the Leader of the Council to discuss the outcome of the reviews at this meeting.

The request for reviews arose from the consideration at the 22 July 2024 meeting of the Committee of the report into unauthorised expenditure incurred in relation to the work at Spendells House in Naze Park Road, Walton-on-the-Naze which the Council had commissioned to enable it to provide temporary accommodation for homeless individuals/families.

##### **RELEVANT CORPORATE PLAN THEME/ANNUAL CABINET PRIORITY**

The Committee is required under Article 6 of the Constitution, as follows:

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

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

*Colchester/Tendring Borders Garden Community*

*Housing Strategy and Homeless Service*

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

*Procurement and Contract Management*

*Transformation and Digital Strategies*

*Customer Service and Standards”*

The request to which this report refers and the invitation to the Leader to discuss the reviews requested can be said to be squarely within the highlighted responsibilities of this Committee.

Corporate Plan Theme - Financial Sustainability and Openness

The relevant National Guidance for Overview and Scrutiny was included within the report to Committee on 22 July 2024, an extract is included again for reference:

Within the Government’s Statutory Guidance on the Best Value Duty (“the Guidance”) refers to the importance of scrutiny and accountability throughout.

Under the Continuous Improvement Best Value theme the Guidance states *“The Chartered Institute of Public Finance and Accountancy (CIPFA) /Society of Local Authority Chief Executives (SOLACE) Delivering Good Governance in Local Government Framework, along with the Centre for Governance and Scrutiny and Local Government Risk and Resilience Framework can help authorities to identify, understand, and act on risks to good governance”*.

Characteristics of a well-functioning authority (under Continuous Improvement theme) include *“The authority’s scrutiny function is challenging, robust and contributes to the efficient delivery of services”*.

The Governance Best Value Theme is described within the Guidance as: *“In a well-run council officers and members will have a clear understanding of the democratic mandate as it operates in the organisation. There will be clear and robust governance and scrutiny arrangements in place that are fit for purpose, appropriate to the governance arrangements adopted locally (executive / committee system), and in accordance with statutory or sector guidance such as statutory guidance on overview and scrutiny and the Centre for Governance and Scrutiny’s governance risk and resilience framework. These arrangements should be understood by members and officers alike, reviewed regularly and accurately described in the Annual Governance Statement.”*

Characteristics of a well-functioning authority (under Governance theme) include *“Scrutiny and internal audit functions are challenging, robust, valued and contribute to the efficient delivery of public services”*.

**DESIRED OUTCOME OF THE CONSIDERATION OF THIS ITEM/ENQUIRY**

The intention of this item and the invitation to the Leader of the Council to attend the

Committee's meeting to discuss the reviews undertaken of performance and project management by Portfolio Holders of projects within their respective remits is to enable the Committee to assess whether any recommendations around those arrangements need to be submitted to Cabinet.

## **DETAILED INFORMATION**

In addition, and outside of the request from this Committee, in respect of decision making and monitoring of performance and project management:

The Council must set a balanced budget each year. The Budget and Policy Framework Procedure Rules (with the Council's Constitution) sets out the framework and process for developing the budget, the submission of those proposals ahead of 8 February in any any year and the mechanisms that then follow the approved budget (in respect of decisions that accord with the budget and those that would be contrary to/not wholly in accordance with the budget). In addition to the Budget and Policy Framework Procedure Rules, the Council has more detailed Financial Procedure Rules and Procurement Procedure Rules (again set out in the Constitution). Together these Rules stipulate the parameters within which Members and Officers work to deliver services and functions. It is a fact that actions by the Council need to be documented, approved within the parameters provided and that the limits of decisions must be respected. As such, any additional activities outside of the approved delegations and decisions require fresh decisions to authorise those activities.

The project to refurbish and fit out Spendells House in Walton for temporary accommodation for persons who are homeless, had (during the project) involved commitments to expenditure that were unauthorised. As such, the process summarised in the paragraph above had not been followed. The level of expenditure involved required the Monitoring Officer to issue a report under section 5A of the Local Government and Housing Act 1989. In light of this, and having considered the position reported to it at its 22 July 2024 meeting, the Committee requested that reviews be undertaken by Portfolio Holders of all projects within their respective Portfolios. Cabinet considered the Committee's recommendation on 20 September 2024. The Committee then revisited the issue of reviews by Portfolio Holders at its meeting on 23 September. At that meeting, the Committee requested that the reviews be completed in time for this meeting and for the Leader to discuss the outcome of the reviews at this meeting.

The Cabinet, at its several meetings each year receives reports on the budgetary position at that point in time. As such, the Cabinet is provided with an update on expenditure across all of the Council's services and functions and this includes the various projects in progress. This itself facilitates project management and performance management to be reviewed by Cabinet. Outside of those meetings, the Leader (as Corporate Finance Portfolio Holder) will be provided with updates that impact on the budgetary position.

In addition to finance reports, Cabinet Members receive the quarterly reports on the position at each quarter in respect of those matters set out in its annual highlight priorities. This provides a further opportunity for Portfolio Holders to review the project and performance management around those highlight priorities. Between those reports, Portfolio Holders will meet regularly with, and receive updates on matters from, their relevant Directors.

The Leader will outline at the meeting the position in respect of the reviews undertaken in response to the recommendations from the Committee for such reviews in relation to project and performance management.

<b>RECOMMENDATION</b>
That the Committee, having discussed the review of performance and project managers undertaken by Portfolio Holders with the Leader of the Council, determines whether it has any comments or recommendations it wishes to put forward to a Portfolio Holder or to Cabinet.

<b>PREVIOUS RELEVANT DECISIONS</b>
Resources and Services Committee, 22 July 2024 (Minute 50 refers) Cabinet, 20 September 2024 (Minute 46 refers) Resources and Services Committee, 23 September 2024 (Minute 57 refers) Cabinet, 15 November 2024 (Minute 75 refers)
<b>BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL</b>
None.
<b>APPENDICES</b>
None

<b>REPORT/ENQUIRY CONTACT OFFICER(S)</b>	
<b>Name</b>	Keith Simmons
<b>Job Title</b>	Head of Democratic Services & Elections (designated Scrutiny Officer for the Council)
<b>Email/Telephone</b>	<a href="mailto:ksimmons@tendringdc.gov.uk">ksimmons@tendringdc.gov.uk</a> 01255 686580

## RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE

17 DECEMBER 2024

### REPORT OF THE PORTFOLIO HOLDER FOR THE ENVIRONMENT

#### **A.3 UPDATE ON THE WASTE AND RECYCLING SERVICE PROCUREMENT**

(Report prepared by *Tim Clarke*)

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

To update the Committee on the current position with regard to the waste and recycling and street cleaning service procurement.

It should be noted that as the procurement process is now under way there is limit to how much information about the process and the bidders involved that can be shared with the committee.

##### **BACKGROUND**

This update report has been requested by the Committee in light of the ongoing procurement exercise to find a contractor to deliver the waste a recycling collection and street cleaning service from 2026 onwards.

##### **DETAILED INFORMATION**

The appended report was presented to Cabinet on 26 July 2024. The minutes from that meeting are reproduced below:

#### **35. CABINET MEMBERS' ITEMS - REPORT OF THE ENVIRONMENT PORTFOLIO HOLDER - A.6 - WASTE MANAGEMENT, RECYCLING & STREET CLEANSING OPTIONS APPRAISAL**

*Cabinet considered a report of the Environment Portfolio Holder (A.6), which:-*

- *provide it with an update on progress with future options for kerbside waste and recycling collection and street sweeping beyond the expiry in 2026 of the current contractual arrangements;*
- *sought Cabinet's approval to go out to tender in order to find a suitable service provider;*
- *sought the adoption of the Core Specification Principles; and*
- *sought to delegate a number of decisions to Portfolio Holders and Officers to ensure a smooth progression of this work.*

*Cabinet was aware that this Council's contracts with Veolia Environmental Services for household waste and recycling collection, and street sweeping would both expire early in 2026 and that therefore a Waste Contract Project Board had been set up to provide governance and oversight to the process of determining how those services would be provided in future.*

*In addition, Member Working Group had been set up, led by the Portfolio Holder for*

*Environment and with representation from the majority of political groups on the Council. This group had now met on three occasions and it was supportive of the proposals.*

*It was reported that, following approval by the Waste Contract Project Board, the East of England Local Government Association (EELGA) had been commissioned to provide support to the Council and EELGA had produced an Options Appraisal and an Outline Business Case, assessing five potential delivery models. The highest scoring and therefore recommended option was to re-tender both the waste and recycling collection and the street sweeping services, as a single contract. This was the most advantageous option for the Council.*

*In addition, the Waste Contract Board had agreed a set of Contract Principles upon which the future service specification would be based. A market engagement exercise had been undertaken via the issue of a Prior Information Notice (PIN). Six responses to the PIN had been received and four of the contractors had taken up the option of a one to one meeting with Officers.*

*It was felt that the market engagement exercise had provided a clear steer on a number of key areas including where a decision was required before a tender exercise commenced. All of the work undertaken so far had led to the development of a set of Core Specification Principles that Cabinet were asked to adopt. Cabinet, having taken into account the fact that:-*

- (1) the Council's contracts with Veolia Environmental Services for household waste and recycling collection and street sweeping would both expire in 2026 and that, as such, a contractor needed to be found to deliver those services upon expiry of the current arrangements;*
- (2) the Portfolio Holder's recommendations would ensure that the Council continued to progress the future of this important statutory service and would also ensure value for money, whilst complying with the Environment Act 2021 requirements due to be introduced during 2026; and*
- (3) under the Environmental Protection Act 1990 the Council was designated as a Waste Collection Authority (WCA and as such had a statutory duty to collect household waste and recycling from homes in the District. From 2026, the Council would be required under provisions in the Environment Act 2021 to collect a wider range of recyclable material and as such any new service commencing in 2026 must be compliant with this requirement;*

*It was moved by Councillor Bush, seconded by Councillor M E Stephenson and:-  
RESOLVED that Cabinet –*

- 1. notes the work undertaken by the Waste Contract Project Board to date and the contributions from the Member Working Group;*
- 2. notes the content and recommendations made in the Options Appraisal and Outline Business Case produced in partnership with EELGA;*
- 3. endorses the proposal set out within the Options Appraisal and Outline Business Case to re-tender both the waste and recycling collection and street sweeping services as a single contract in order that a contractor is in place to deliver services at the time of the expiry of the current contracts on 31st December 2025 and 31st January 2026;*
- 4. notes the outcome of the market engagement exercise;*
- 5. agrees to the route to procurement being Competitive Dialogue;*
- 6. agrees to formally adopt the Contract Principles, endorsed by the Waste Contract Project Board and against which the new service will be set, along with the Core*



- Specification Principles set out in Table 4 within the Portfolio Holder's report (A.6);*
- 7. agrees to offer a lease of the Fowler Road depot in Clacton on the existing terms as part of any future contractual arrangement, accepting that the depot is likely to require reconfiguring / modernisation during the contract period. Therefore, Cabinet also agrees to initiate the Property Dealing Procedure allowing Officers to explore options and alternative / additional land purchase or lease opportunities;*
  - 8. agrees a delegation to the Portfolio Holder for Assets to determine the Social Value Themes, Outcomes and Measures (TOMs) against which the social value aspects of the tender submissions will be considered;*
  - 9. agrees a joint delegation to the Leader of the Council, the Portfolio Holder for Environment and the Portfolio Holder for Assets to approve:-*
    - a. the high level service specification provided that they consult with the Waste Contract Project Board and the Member Working Group beforehand;*
    - b. the aspects of the tender about which there will be dialogue held with bidders;*  
*and*
    - c. the tender evaluation criteria to be used;*
  - 10. agrees a delegation to the Corporate Director (Operations & Delivery) to approve:*
    - a. the detail of the service specification providing that they have consulted with the Portfolio Holder for the Environment; and also*
    - b. the membership of the tender evaluation panel; and*
  - 11. authorises a joint delegation to the Leader of the Council, the Portfolio Holder for Environment and the Portfolio Holder for Assets, in consultation with the Corporate Director (Operations & Delivery), the Section 151 Officer and the Monitoring Officer to agree any short term extension to the current contractual arrangements, where permissible to do so and solely for the purpose of assisting with the mobilisation of the new contracts.*

Since the 26 July Cabinet decision the relevant portfolio holder decisions have been taken and the procurement exercise was formally launched on 16 October 2024.

The first stage of the procurement exercise has been completed and bidders have now been invited to submit detailed solutions that are due to be submitted in mid-January 2025. Those submissions will then be scored and evaluated before bidders are invited to participate in a round of dialogue discussions aimed at increasing understanding of both the Council's requirements and bidder's proposals.

Following the dialogue sessions the bidders will be invited to submit their final solutions with the aim that a formal decision on contract award can be made in June 2025.

## **RECOMMENDATION**

**That the Committee determines whether it has any comments or recommendations it wishes to put forward to the relevant Portfolio Holder or Cabinet.**

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# **A.3 APPENDIX**

## **CABINET**

**26 JULY 2024**

### **REPORT OF THE PORTFOLIO HOLDER FOR ENVIRONMENT**

#### **A.6 UPDATE ON FUTURE WASTE AND RECYCLING COLLECTION AND STREET SWEEPING OPTIONS**

##### **PART 1 – KEY INFORMATION**

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

To:

- Provide Cabinet with an update on progress with future options for kerbside waste and recycling collection and street sweeping beyond the expiry in 2026 of the current contractual arrangements;
- Seek approval to go out to tender in order to find a suitable service provider;
- Seek adoption of the Core Specification Principles; and,
- Delegate a number of decisions to portfolio holders and officers to ensure a smooth progression of this work

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

- The Council's contracts with Veolia Environmental Services for household waste and recycling collection and street sweeping both expire early in 2026.
- A Waste Contract Project Board has been set up to provide governance and oversight to the process of determining how these services will be provided in future.
- A Member Working Group has been set up, led by the Portfolio Holder for Environment and with representation from the majority of political groups. This group has now met on three occasions and is supportive of the proposals.
- Following approval by the Waste Contract Project Board the East of England Local Government Association (EELGA) were commissioned to provide support to the Council and have produced an Options Appraisal and an Outline Business Case, assessing five potential delivery models. The highest scoring and therefore recommended option is to re-tender both the waste and recycling collection and the street sweeping services, as a single contract. This is the most advantageous option for the Council.
- The Waste Contract Board have agreed a set of Contract Principles upon which the future service specification will be based.
- A market engagement exercise has been undertaken via the issue of a Prior Information Notice (PIN).
- Six responses to the PIN were received and four of the contractors took up the option of a one to one meeting with officers.
- The market engagement exercise has provided a clear steer on a number of key areas including where a decision is required before a tender exercise commences.
- All of the work undertaken so far has led to the development of a set of Core

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Specification Principles that Cabinet are asked to adopt.

### **RECOMMENDATION(S)**

It is recommended that Cabinet:

1. Notes the work undertaken by the Waste Contract Project Board to date and the contributions from the Member Working Group;
2. Notes the content and recommendations made in the Options Appraisal and Outline Business Case produced in partnership with EELGA;
3. Endorses the proposal set out within the Options Appraisal and Outline Business Case to re-tender both the waste and recycling collection and street sweeping services as a single contract in order that a contractor is in place to deliver services at the time of the expiry of the current contracts on 31<sup>st</sup> December 2025 and 31<sup>st</sup> January 2026;
4. Notes the outcome of the market engagement exercise;
5. Agrees to the route to procurement being Competitive Dialogue;
6. Agrees to formally adopt the Contract Principles, endorsed by the Waste Contract Project Board and against which the new service will be set, along with the Core Specification Principles set out in Table 4;
7. Agrees to offer a lease of the Fowler Road depot in Clacton on the existing terms as part of any future contractual arrangement, accepting that the depot is likely to require reconfiguring / modernisation during the contract period. Therefore, agrees to initiate the Property Dealing Procedure allowing officers to explore options and alternative / additional land purchase or lease opportunities.
8. Agrees a delegation to the Portfolio Holder for Assets to determine the social value Themes, Outcomes and Measures (TOMs) against which the social value aspects of the tender submissions will be considered;
9. Agrees a delegation to the Leader of the Council, the Portfolio Holder for Environment and the Portfolio Holder for Assets to approve:
  - a. the high level service specification provided that they consult with the Waste Contract Project Board and the Member Working Group beforehand;
  - b. the aspects of the tender about which there will be dialogue held with bidders; and
  - c. the tender evaluation criteria to be used;
10. Agrees a delegation to the Corporate Director for Operations & Delivery to approve:
  - a. the detail of the service specification providing that he has consulted with the Portfolio Holder for Environment; and
  - b. the membership of the tender evaluation panel; and
11. Authorises a delegation to the Leader of the Council, the Portfolio Holder for

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**Environment and the Portfolio Holder for Assets in consultation with the Corporate Director for Operations & Delivery, Section 151 and Monitoring Officers to agree any short term extension to the current contractual arrangements, where permissible to do so and solely for the purpose of assisting with the mobilisation of the new contracts.**

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

The Council's contracts with Veolia Environmental Services for household waste and recycling collection and street sweeping both expire in 2026. (31st January 2026 and 31st December 2025 respectively). As such, a contractor needs to be found to deliver these services on expiry of the current arrangements.

The recommendations will ensure that the Council continues to progress the future of this important statutory service and ensures value for money whilst complying with the Environment Act 2021 requirements due to be introduced during 2026.

Under the Environmental Protection Act 1990 the Council is designated as a Waste Collection Authority (WCA and as such has a statutory duty to collect household waste and recycling from homes in the district. From 2026, the Council will be required under provisions in the Environment Act 2021 to collect a wider range of recyclable material and as such any new service commencing in 2026 must be compliant with this requirement.

### **ALTERNATIVE OPTIONS CONSIDERED**

The alternative options that have been considered are those set out within the Options Appraisal and Outline Business Case in Appendix A to this report. That document should be read in conjunction with this report as it sets out additional context and the scoring methodology applied to each option.

The market engagement exercise has provided valuable insight into a number of areas, in particular the procurement method. In the Outline Business Case the preferred option suggested was to use Competitive Procedure with Negotiation. That has now been amended to Competitive Dialogue based on the market engagement feedback and advice from the Councils external legal advisors for the project. A Competitive Dialogue process can be undertaken in a similar timeframe as Competitive Procedure with Negotiation and the process includes additional flexibility. Bidders in this market are also familiar with this approach which reduces the likelihood of non-compliance with the rules.

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

### **DELIVERING PRIORITIES**

This decision will contribute to the Corporate Plan 2024 – 28 (Our Vision) themes of:

- Pride in our area and services to residents
- Championing our local environment
- Financial sustainability and openness

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Additionally, Cabinet have agreed to a set of Highlight Priorities for 2024/25. One of those priorities is to complete an options appraisal for waste and street cleaning strategy with the following milestones:

Q1

Completion of soft market engagement and evaluation of responses.

Cabinet decision to agree to undertaking tender exercise as preferred option for delivery of service from 2026.

Preparation of waste contract specification for consideration by the Waste Contract Board.

Q2

Subject to the necessary approval, commence tender exercise for waste contract.

Q3

Subject to the necessary approval, review tender submissions

Q4

Subject to the timetable referred to, Cabinet & Full Council decisions to award contracts

**OUTCOME OF CONSULTATION AND ENGAGEMENT** (including with the relevant Overview and Scrutiny Committee and other stakeholders where the item concerns proposals relating to the Budget and Policy Framework)

Feedback from residents and stakeholders in respect of the Corporate Plan consultation has been taken into consideration along with the consultation undertaken with the Member Working Group.

Market engagement has been undertaken by way of the issuing of a Prior Information Notice (PIN). Six written responses to the PIN were received and four contractors took up the option of meeting with officers during which more detailed questions were asked. The outcome of this market engagement exercise is summarised in the Table 1 below and Cabinet are asked to note the themes that have emerged from this exercise.

<b>Table 1 - Summary of Market Engagement Responses</b>	
<b>Theme</b>	<b>Response</b>
Mobilisation period	9 – 12 months from date of contract award. Commence roll-out of any new service within 3 months of contract start date
Recyclable materials Marketing	Risk share model now the industry standard with the contractor handling the onward processing/ sale of all dry recyclate i.e fibres, containers, glass, films, etc..

### A.3 APPENDIX

	Food & garden disposal via ECC. A120 Transfer Station available via ECC. Usually based on the LetsRecycle.com indices. Minimum 20%, maximum 60% As bid back in tender Open book on prices
Waste & recycling collection	<p>Twin stream dry recycling collection with fibres (paper &amp; cardboard) collected separately from containers, glass and plastics.</p> <p>With the additional plastics and glass to collect, combined with plastic film in 2027 contractors suggested a wheeled bin for these materials with paper/card remaining in the kerbside boxes.</p>
Street sweeping	Output based rather than prescribed frequency of cleaning / bin emptying, which allows the contractors to flex the workforce to where it is required most.
Garden waste collections	Minimal benefit to be gained by altering the current collection frequency or reducing collections during winter period
Vehicle procurement	Preference for TDC to fund the vehicle procurement and retain ownership of the fleet. Contractors likely, as a matter of course, to procure smaller vehicles such as supervisor's vans as EVs
Customer Contact	Contractors to handle initial customer contact...
Contract Duration	Initial 8 years with 8 year extension option
Procurement Process	Preference for Competitive Dialogue (CD) – desire to discuss complexities of the depot arrangements, vehicle purchase and expectations around the output based street cleaning specification. Enables bidders to fully understand their risk and the council's requirements. CD process gives bidders a more level playing field to compete against the incumbent contractor.
Procurement timeframe	Bidders will need 4 – 5 months to complete the initial process effectively
Depot	Bidders all require the use of the Council's Fowler Road depot
General / review mechanisms	Annual review mechanism would be an opportunity to look at efficiencies

The above themes have been considered as part of the development of the proposed approach to the tender process as set out later in this report.

Public consultation undertaken in 2023 by Mackman Research on behalf of the Council in

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respect of the draft Corporate Plan has provided some useful feedback on the Council's waste services. Feedback indicated that residents would like to see a wider range of recyclable materials collected and for service levels not to be reduced. This feedback is reflected in the Outline Business case. In view of this members of the Waste Board are working on the basis of continuing with fortnightly collections of residual (black bin) waste.

A public consultation specifically on the waste contract proposals is not planned as this is a statutory service that will broadly align to what is being delivered to residents currently. The enhanced collection of recyclable material will be a statutory requirement via the Environment Act 2021.

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

<b>Is the recommendation a Key Decision (see the criteria stated here)</b>	<b>YES</b>	<b>If Yes, indicate which by which criteria it is a Key Decision</b>	<input type="checkbox"/> <b>Significant effect on two or more wards</b> <input checked="" type="checkbox"/> <b>Involves £100,000 expenditure/income</b> <input type="checkbox"/> <b>Is otherwise significant for the service budget</b>
		<b>And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)</b>	15 November 2023

The household waste and recycling collection and street sweeping services are a statutory function of the Council under the Environmental Protection Act 1990 with the Council designated as a Waste Collection Authority (WCA). Essex County Council is the Waste Disposal Authority (WDA)

The Council has an existing Inter Authority Agreement (IAA) in place with ECC who in addition to handling the disposal of the residual waste collected also fund the food waste collection service provided in the district and undertake the disposal of the food waste. ECC also receive and arrange the composting of the garden waste collected. It is not anticipated that this tender process will affect the IAA and the funding and waste disposal arrangements provided under it. Further consideration will be given to this when a report is brought back to Cabinet to approve the award of the contract.

Additionally to the above, ECC make tipping away payments to the Council in recognition of additional costs currently incurred in transporting the residual waste collected in the district to a disposal point outside of the district.

The Environment Act 2021 amends some sections of the Environmental Protection Act 1990 and whilst the detail is yet to be finalised, introduces some additional responsibilities in respect of the collection of recycling. Government is now proposing what it is calling a "Simpler Recycling" scheme meaning that Councils will be expected, from 2026, to collect a wider range of recyclable materials from the kerbside including glass. Unlike the original Environment Act proposals, there is not to be a requirement that these materials be collected separately and a comingled collection will be permitted. The implementation of simpler recycling has been set as 31st March 2026 by Government and 31st March 2027 for the kerbside collection of flexible



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plastic films. The service specification will be designed to account for these new, additional requirements.

In many respects the timing of the new contract and the new collection requirements places the Council in a good position to procure an effective new service. At the same time it may present challenges around procurement of vehicles and collection containers as most local authorities will be seeking to implement new services at the same time. It should be noted that the new requirements are likely to increase the cost of providing the service and this is considered in more detail in the Finance section of this report.

The Public Sector Procurement Directive (2014/24/EU) which provides rules for the procurement of goods, services and works above certain thresholds by public authorities, was implemented in England, Wales and Northern Ireland by the Public Contracts Regulations 2015 (SI 2015/102) (PCR 2015).

Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (SI 2020/1319) (PPAR 2020) amend the procurement regulations and other retained EU law and existing UK primary legislation.

The PCR 2015 apply when a contracting authority seeks offers in relation to a proposed “public contract” defined to mean:

"contracts for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities and having as their object the execution of works, the supply of products or the provision of services" (Regulation 2, PCR 2015).

The public procurement rules establish a legal framework governing the procedures and principles for the award of public contracts, which fall within the scope of the rules and exceed specified financial values. This legal framework is intended to ensure that contracts are awarded fairly, transparently and without discrimination and that all potential bidders are treated equally. In particular, in most cases, the public body awarding the contract is required to advertise the contract through the UK e-notification service and follow specified procedures for selecting candidates and assessing tenders.

With the introduction of the PCR 2015, early market engagement is now specifically permitted in the legislation when using Prior Information Notices (PINs). This means buyers can talk openly to suppliers about the procurement before the tender is released and this is what officers have been doing.

A new legal regime under the Public Procurement Act 2023 will come into full force and effect on Monday 28 October 2024. The 2023 Act will replace the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016, the Concession Contracts Regulations 2016 and the Defence & Security Public Contracts Regulations 2011. As a result, all the procurement rules applicable in the UK (outside Scotland) will be found in a single, consolidated instrument.

The Act lays down substantively similar rules to those found in the current regulations, governing all aspects of the award of a public contract. However, those rules have been extensively re-written in a style more typical of English legislation, which deviates from the wording originally found in the EU directives on procurement. Such re-wording may allow British judges to interpret the rules in new ways which deviate from previous case law, much of it laid down by the Court of Justice of the EU.

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It is imperative that the tender exercise is launched prior to the 28 October 2024 such that the procurement can run under the current legislation. Should the tender be launched after this date the suite of procurement documents will need updating to reflect the new legislation and this will cause further delay.

The proposed Competitive Dialogue procurement route is set out in the Public Contract Regulations 2015. Contracting authorities may apply a competitive procedure with negotiation or a competitive dialogue in the following situations as set out in Reg. 26(4):—

- (a) with regard to works, supplies or services fulfilling one or more of the following criteria:—
- (i) the needs of the contracting authority cannot be met without adaptation of readily available solutions;
  - (ii) they include design or innovative solutions;
  - (iii) the contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, the complexity or the legal and financial make-up or because of risks attaching to them;
  - (iv) the technical specifications cannot be established with sufficient precision by the contracting authority with reference to a standard, European Technical Assessment, common technical specification or technical reference;

In this instance it is considered that clauses (ii), (iii) and (iv) are applicable due to the need to discuss vehicle procurement and financing along with recycling risk / gain share with bidders.

The Council has secured the services of Messrs Sharpe Pritchard LLP as external solicitors instructed to advise the Council on the procurement of the new contract, to negotiate on behalf of, support and work with the Council in connection with all aspects of the procurement up to and including the award, and entry into a new waste contract. The Council's Monitoring Officer has granted an exemption to use a non-standard services contract for this work.

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) will be applicable to the staff currently employed by Veolia to provide the services, should Veolia not be successful in winning the contract. Information on their staffing is being gathered from Veolia such that it can be provided as part of the procurement documentation.

The Council's Constitution is set against the principle of delegating decisions to Portfolio Holders and Officers, with Officers making decisions in consultation with the relevant Portfolio Holder. Key decisions, those affecting more than one ward and / or an expenditure/income greater than £100k must be taken by Cabinet or a portfolio holder. Given the substantial value of this contract, likely exceeding £56m over an eight year initial contract term, and the fact it is the Council's highest profile service, used by all residents, it is prudent for the decisions set out in the Recommendations section of this report to be made by Cabinet. This approach sets the decision framework to be followed for this subject matter going forward and where delegated decisions are made, they will be supported by reports setting out the implications.

As highlighted elsewhere in this report, in exploring the option to potentially forward fund the purchase of the contractor's vehicle fleet it may be necessary to reflect the Council's current treasury strategy that may require amendments to be considered to support any associated proposals as part of securing value for money from the tender process.

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Consideration is being given to whether it is legally possible to extend the existing contracts with a very short term arrangement, to align the two expiry dates and enable sufficient mobilisation. Legal advice received is confidential and not included within this report and should the Council wish to implement these extensions a formal decision will be required. A delegation to make such a decision is proposed within the recommendations.

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

The Council is being supported by external solicitors advising on the contractual and procurement law and processes, however it is important that the framework for the decisions required is clearly set out. The Monitoring Officer has personally reviewed the report and assisted with its development with particular focus on the proposed recommendations and legal requirements section.

#### **FINANCE AND OTHER RESOURCE IMPLICATIONS**

Including the subscription based garden waste service and additional variation order work, the current contract is valued at £7 million per annum. Due to inflation it is highly likely that any future contract to provide broadly the same level of service as currently commissioned will result in a higher cost, maybe up to as much as 20%.

With the above in mind, the broad approach set out within this report is predicated on balancing the Council's commitment made to the future service provision, and new legislation with the challenging financial environment the Council finds itself in. The proposed approach, including the competitive dialogue procurement process will therefore play a crucial role in delivering such a balance. In respect of this latter point, the proposed delegations aim to allow exploring options via the tender process in areas such as the council financing vehicles, recyclable material risk sharing model along with any value for money options proposed by contractors via the tender process. However, it is important to note that it is expected that both ongoing revenue costs and potential one off capital costs will emerge as part of the final tender process that will need to be considered as part of the final report setting out the recommended approach.

In addition to the above, officers and the Portfolio Holder will look to design a service specification and tender process that aims to provide a number of options, one of which will seek to keep the cost envelope in a similar position to the current budget. This will then enable choices to be considered in the context of balancing the Council's financial sustainability with customer expectations along with compliance with the Environment Act 2021 requirements.

Work associated with developing the specification and tender documentation is significant and resource intensive. The Waste & Recycling Manager is currently devoting the majority of his time to this exercise whilst his day to day duties are covered by another officer in the team.

The procurement process is complex and lengthy and whilst the ECC procurement team are the lead in this workstream, direction and input is required from officers and the Waste Contract Board to ensure the procurement requirements are met in a timely manner.

The specification and its development has to ensure alignment with the Environment Act 2021 which will result in additional materials collected at the kerbside such as glass, additional

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plastics and a weekly food waste collection offered to all households from March 2026 and plastic film collected from March 2027. In turn, collecting these additional materials will impact how they are collected, the number and type of containers for presenting the material in, the increased number and type of collection vehicles and the impact that this will have on the operational effectiveness of the current council owned depot.

The Council owned depot that is utilised for both waste and street cleaning contracts is an ageing asset, of limited size and has been identified as requiring significant future investment to extend the operational lifespan of the site. This investment will be required during the lifetime of the next contract unless a future contractor can source their own depot facility. Resource will be required to deliver for consideration options such demolishing the current office and warehouse and replace with a two storey modular accommodation along with levelling off a section of the depot. Both of which will increase vehicle storage capacity of the site and support future HGV operator licences. The Council's Assets team are currently working on these proposals which are planned to be considered as part of the report that will be presented to Cabinet when the tender process has been completed.

Extensive resource is also required by the Council's I.T team and waste and recycling team in enabling the current subscription based garden waste service to be linked with the My Tending Portal, which in turn will then enable this service to be incorporated into the main waste and recycling contract which will then provide cost savings to the authority.

I.T resource is also required to identify and rectify any properties who are unable to self-serve on the My Tending portal as a complete and comprehensive database will be required for any future service provider.

The proposals supported by the Waste Contract Project Board is for the future street sweeping contract to focus on the migration from a frequency based service to an output based contract, which in essence places the onus on the contractor to maintain standards of cleanliness during all contracted hours. There is a need to identify and map the high intensity zones, all litter and dog waste bins and create appropriate rectification response times for each of those zones. The effective use of I.T, both by TDC and the future contractor is paramount to the future street sweeping service and the ability to monitor and report service standards effectively and as such requires input from the authority's I.T team.

Resource is also currently being deployed in the development and implementation of a comprehensive set of key performance indicators and the reporting process to enable strong contract management of the current and future service provisions.

Highlighted by EELGA consultants, the potential cost saving associated with the council borrowing capital funding for the procurement of the vehicle fleet could provide a significant financial saving compared to the contractor financing the fleet, which will alleviate the expected impact of increased service costs whilst also making the contracts more attractive and competitive to the open market.

The Environment Act 2021 and Simpler Recycling will require the authority to collect additional materials at the kerbside along with providing on street recycling bins for the public. Whilst this new legislation will allow the authority to be eligible for new burdens funding, resource from both finance, legal and the waste manager will be required to provide sufficient detailed information to meet the necessary requirements to new burdens funding.

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Whilst the authority is already in receipt of £270,000 new burdens funding to provide a kerbside food waste collection service to approximately 11000 properties that currently are not eligible for the service, this initial funding has highlighted that the level of funding is of concern and may not be reflective of the actual costs to provide these additional capital projects. With the requirement to collect additional materials for recycling the potential service option may travel towards a wheeled bin for recycling which in turn would acquire an estimated £1.5 to £2.0 million capital funding to purchase, store and deliver to households.

As highlighted, the Council is required to increase the range of recyclable materials collected from the kerbside. Although it is expected that the Government will provide a level of financial support to local authorities in meeting the new responsibilities it is unlikely we will fully know the level of financial support at the time it needs to enter into a contract with the successful bidder. This will be monitored throughout the tender process and development of the financial forecast.

Any impact on the garden waste service will be reflected in the future financial forecast and fees and charges reports and will also be brought back in the Cabinet report once the tender process has been completed.

In conjunction with the Environment Act 2021 is the introduction of Extended Producer Responsibility. The concept is that the manufacturers of packaging materials will be responsible for the operational costs borne by the authority for the collection and recycling of those materials, either at the kerbside or via on street recycling bins.

Whilst exact funding remains unclear, the amount of monies received by the authority will be based on how efficient and effective the service is, with poor performing services receiving 80% of potential funding. Whilst deprivation and rurality of the district will support the funding received it is anticipated that due to our current recycling service the authority will be classed as a poor performer and consequently not be eligible for full funding, with this funding either fully replacing the current recycling credit payment system or supporting this system as a “top up”. EELGA consultants have indicated a potential funding shortfall year on year.

DEFRA has now announced that deposit return scheme for plastic bottles will be introduced from 2027. This will have a significant effect on the number of plastic bottles collected for recycling at the kerbside and therefore the quality of the more valuable recyclable plastic collected.

A current budget allocation of £0.2m has been set aside to support the preparation and procurement of the new contract. This budget has so far been spent in the following areas:

<b>Table 2 – Budget allocation / spend to date</b>		
<b>Activity</b>	<b>Delivered by</b>	<b>Spend / Commitment</b>
Preparation of an Options Appraisal and Outline business case and	The East of England Local Government Association	£34,853 with one half day left to spend
Procurement support	Essex County Council	£8k to date
Specification Writing	WRM Sustainability Ltd	£15k committed
Legal advice	Sharpe Pritchard LLP	£50K committed
Communications	TDC Communications Team	£15k estimated requirement

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The above budget is proposed to be complimented by a further £0.10m as set out in item A.9 elsewhere on the agenda.

<b>Yes</b>	<b>The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:</b>
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It is important to highlight the importance of designing a tender process and specification that delivers a number of options to Members to assist them in balancing the Council's financial sustainability with delivering priorities including managing the expectation of customers alongside the need to respond to emerging legislation / regulations associated with waste and recycling.

A full financial analysis of the various options, etc. will be presented to Cabinet following the tender process, which will include the impact on the Council's wider financial position.

### **USE OF RESOURCES AND VALUE FOR MONEY**

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>It is not yet known what the cost of the new services will be. Maintaining current levels of service will cost more than they do currently and repeating a point from earlier in this report there is a need to balance the provision of the required service including new legislative requirements against the Council's financial forecast.</p> <p>This potential increase in cost is recognised in the "live" list of cost pressures, maintained on an ongoing basis.</p>
<p>B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and</p>	<p>These are important long term decisions for the Council and as such will be undertaken in accordance with the constitution, making use of delegated powers where appropriate.</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>Waste and recycling services are significant budget areas for the Council and also ones where we have good levels of information both in respect of operational delivery and cost. This data will be used as part of the decision making processes going forwards.</p>

### **MILESTONES AND DELIVERY**

Key procurement target dates are shown in Table 3 below. A more detailed project management document is being developed as more is learned about the procurement process and more accurate timescales emerge. This document is being overseen by the Waste Contract Board. It should be noted that the target dates may be adjusted as the project develops.

## A.3 APPENDIX

Key		
SSQ	Standard Selection Questionnaire	
FTS	Find a Tender Service (Notice)	
ITPD	Invitation To Participate in Dialogue	
ISFT	Invitation to Submit Final Tender	

Table 3 – Key procurement target dates <i>(subject to adjustment as the project develops)</i>		
EVENT	DATES	COMMENTS
Cabinet Meeting (Decision to Procure)	26-Jul-24	
FTS Notice published	02-Sep-24	
SSQ and Draft Docs issued	02/09/2024 - 02/10/2024	To close either midnight on 01/10/24 OR 9am on 02/10/24 to allow for SSQ to be evaluated quickly The 'Draft Documents' will be in good form, however a caveat to be included to state that these are subject to change in the ITPD
SSQ Evaluation	02-Oct-24	
SSQ Outcome Letters	03-Oct-24	
ITPD Docs Issued (final)	03/10/2024 - 14/11/2024	Published for 6 weeks
Depot Tour/Visits	21/10/2024 - 25/10/2024	
Dialogue Intro Session (aka Bidder Day)	17-Oct-24	2 weeks following publication of ITPD
Detailed Solutions Submitted	14-Nov-24	
Detailed Solutions Evaluation	14/11/2024 - 12/12/2024	4 weeks to evaluate The evaluation panel for the Detailed Solutions should be the <b>same</b> as the panel used for the ISFT to maintain consistency During this period, Legal also to review Bidder's recommendations for change
Detailed Solutions Moderation	13/12/2024 & 16/12/2024	
Detailed Solutions Feedback	17/12/2024 - 20/12/2024	Feedback to be produced based on detailed moderation notes. Requires sign off from Legal
Detailed Dialogue Session(s)	06/01/2025 - 28/02/2025	8 week dialogue period Dialogue sessions are to be split by topic (Eg: vehicles in week 1, depot in week 2, etc.) Dialogue regarding the Contract (Legal) to occur toward the end of Dialogue period
Issue ISFT (Invite to	03/03/2025 -	

### A.3 APPENDIX

Submit Final Tenders)	17/03/2025	
ISFT Evaluation	17/03/2025 - 31/03/2025	
ISFT Moderation	01/03/2025 & 02/03/2025	
ISFT Outcome Letters	03-Mar-25	
Standstill Period	04/03/2025 - 13/04/2025	
Cabinet Paper on Forward Plan	03-Apr-25	
Cabinet Meeting (Decision to Award) + 5 Day Call-In	23/05/2025 - 28/05/2025	
Award Letters	29-May-25	
Preferred Bidder Stage	02/06/2025 - 06/06/2025	
Contract Collation	02/06/2025 - 06/06/2025	
Contract signature	09-Jun-25	
Mobilisation	09/06/2025 - 31/01/2026	Provides 7 months and 22 days mobilisation
Contract Start Date	<b>01-Feb-26</b>	

During the market engagement exercise it was clear that contractors will require up to 12 months from the point of contract award to the point where they take over the running of the contract. The availability of vehicles is one of the main influences behind this although some contractors indicated that this period could be reduced to 6 – 9 months. The timeframe set out above provides a mobilisation period of just over seven months.

Given that there are currently two service contracts in place with different end dates – 31 December 2025 for Street Cleaning and 31 January 2026 for Waste & Recycling collection - it is likely to be necessary to put in place an interim arrangement with the current contractor in order to align the contract end dates to 31 January 2026 should they not be the successful bidder. If it is not possible to provide a sufficient mobilisation period it may be necessary to put in place a short term interim arrangement with the current contractor, for example to take both contract end dates to 31 March 2026. Any interim arrangements must be in accordance with the procurement legislation and will be subject to a separate formal decision. A delegation is included within the recommendations to enable such a decision to be made, when and if, appropriate to do so.

#### **ASSOCIATED RISKS AND MITIGATION**

##### **Compliance with the Environment Act 2021**

Compliance with “Simpler Recycling” / Environment Act 2021 requirements for collection of recyclable materials – the service will be designed to comply with what we know about the future requirements from 2026 and therefore it will be possible to comply with the new



## **A.3 APPENDIX**

requirements.

### **Additional contract costs**

Additional costs are expected, especially in relation to the collection of recyclable materials from the kerbside and an output based street cleaning arrangement. Development of an efficient collection service will mitigate these costs to an extent and the Council will seek to maximise any claims for new burdens funding in respect of the Environment Act 2021 requirements.

### **Readiness for current contract expiry**

The broad timeframes set out in the milestones and delivery section above must be adhered to such that a contract award can be made leaving sufficient time for the successful contractor to procure necessary vehicles and any additional bins that are required. With the likelihood that service changes will be taking place across the country at the same time there will be increased lead times for vehicles, bins, drivers and workforce.

The timeframe for the procurement process, contractor mobilisation combined with implementing a new collection service is of considerable risk. Whilst contractors may have access to spare vehicles the current lead time for refuse collection vehicles is nine months from point of placing order and with demand on vehicle manufactures and bin manufactures expected to increase as a consequence of the Environment Act requirements it is anticipated that lead times will extend and as such this will place a risk on the deliverability of the new service in the required timeline.

As already highlighted this risk can be mitigated by way of an extension to the existing contractual arrangements or a separate short term arrangement with the current contractor, for example to the end of March 2026. Such an arrangement would be subject to a separate formal decision and external legal advice has been sought on the options that are available. A delegation is included within the recommendations to enable such a decision to be made, when and if, appropriate to do so.

### **Changes in procurement legislation from October 2024**

As highlighted in the Legal section of this report a new legal regime under the Public Procurement Act 2023 will come into full force and effect on Monday 28 October 2024. It is therefore imperative that the tender exercise is launched before this date to avoid delays in updating the suite of procurement documents.

The number of interested parties within the waste and recycling municipal contract market has reduced in recent years through mergers and acquisition. Whilst key players remain in the market and there were six responses to the PIN, there remains the risk that not all parties will be attracted to bid and as such the authority is at risk of receiving minimal bids which could result in loss of competitiveness. Additionally, it is understood from industry publications that one third of council waste contracts are up for renewal in 2025. Given the resource investment bidders need to make in order to develop a bid this may deter some from bidding.

### **Recycling Processing Costs**

Current and previous waste and recycling contracts have placed the risk of the recycling commodity upon the contractor, with it being their sole responsibility to burden any cost or profit from the processing/sale of the material, leaving the Council in essence with a fixed cost contract (subject to uplift and property growth). However, and as backed up by the market engagement exercise, this format of contract is no longer an industry standard. A common

## **A.3 APPENDIX**

approach is for the material processing cost to be shared between the contractor and council. In practice the material value is indexed on a monthly basis against industry published data and in a risk share model if the value decreases below a set value, then the cost burden is shared, whilst if the value increases above a set value then the profit is shared. A variation on this approach is a gain share model whereby any increase in value above the index value is shared between the contractor and the council.

Shifting the risk element from the contractor to the Council will reduce the cost of the contract as risk and cost are linked, however the Members will need to become accustomed to a more flexible cost contract, the associated cost pressure and ensure that adequate budgets are set aside to fund any costs associated with the shared risk principle.

There are variations to how the material risk or gain share approaches can be applied and built into a contract. Officers are therefore exploring this with ECC Procurement, WRM and Sharpe Pritchard. It is likely that the final specification will include two options, one being the current model with the contractor taking on all the risk with the other being a bid back on a gain share model.

### **Vehicle Funding**

It is clear from the market engagement work that contracts are now more likely to involve the local authority funding, up front, the cost of the contractor's vehicle fleet. This approach could offer a cost saving to the Council by virtue of access to lower cost borrowing, typically at 4%, compared to a contractor's commercial rate of around 8%. Up front funding of the vehicle fleet means that the Council would save the additional costs of borrowing that would be passed on by the contractor. Monthly invoices are reduced by a pro-rata amount over the life of the contract to reflect the fact that a large proportion of the contract value has been paid up front. The vehicles would still be procured by the contractor and on paper they would be the owner, however, as assets those vehicles would belong to the Council with various options as to how they are sold or passed on at the end of the contract term.

It is likely that the final specification will include both an option for the contractor to fully fund the vehicles and an option for up front funding by the Council.

### **Future Funding**

The future funding regime contains a certain degree of uncertainty. As mentioned previously, the authority currently receives recycling credits from Essex County Council for all dry recycling materials, however with the introduction of extended producer responsibility (EPR) where collection authorities will receive the funding from the producers associated with the collection and processing of their packaging material it is envisaged that were our service to be underperforming and not meeting effective and efficient criteria, the funding received could be lower than currently received. Essex County Council (ECC) have indicated that currently they do not intend to remove the recycling credit funding stream.

The above are all likely to have a significant financial impact on the Council, all of which will be set out in the report that is presented to Cabinet on completion of the tender exercise. It is important to note that no budgetary provision has been made at this point within the Council's financial forecast.

## **EQUALITY IMPLICATIONS**

## **A.3 APPENDIX**

An equality impact assessment will be undertaken as part of the development of the specification.

### **SOCIAL VALUE CONSIDERATIONS**

The Public Services (Social Value) Act 2012 requires public authorities to “have regard to economic, social and environmental well-being in connection with public service contracts; and for connected purposes.” The Council wishes to work collaboratively on social value with suppliers, partners, and the community to benefit Tendring.

As part of this procurement exercise, TDC are adopting the national Themes, Outcomes and Measure (‘TOMs’) method of classifying and evaluating Social Value. The measures selected have been adapted to compliment the District’s context and priorities as outlined within TDC’s Corporate Plan 2024-2028 (Our Vision) and focus on areas such as protecting the local environment and creating opportunities within Tendring.

Social Value commitments will form part of the resultant Contract following this procurement exercise and therefore, there is a requirement for the fulfilment of Social Value commitments and reporting of progress throughout the contract term by the successful Bidder.

The Council has made a commitment to using the ECC TOM’s as part of the 6<sup>th</sup> November 2023 decision to continue the service level agreement with ECC on a Shared Procurement Service and a joint TOMs approach to Social Value for procurement purposes.

### **IMPLICATIONS FOR THE COUNCIL’S AIM TO BE NET ZERO BY 2030**

The waste services are the largest contributor to the Councils carbon emissions from fleet vehicles that are included as Scope 3 emissions in the Councils emissions reporting. Consequently, the Council will be exploring with potential contractors the options available to reduce those emissions within an affordable financial envelope. The rural nature of the district and the current purchase cost and mileage range mean that a full electric fleet is unlikely to be possible.

Subject to the outcome of the tender process the Council may need to consider carbon offsetting options.

### **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.**

<b>Crime and Disorder</b>	None
<b>Health Inequalities</b>	None
Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance)	None
<b>Area or Ward affected</b>	All wards within the district will be affected

## A.3 APPENDIX

### **PART 3 – SUPPORTING INFORMATION**

#### **BACKGROUND**

The Council's waste and recycling and street cleaning contracts both expire in 2026:

The current street sweeping contract commenced on 1st January 2012 on a 7 year contract with an option to extend for a further 7 years, which was undertaken, and consequently is set to expire on 31st December 2025.

Likewise, the kerbside waste and recycling contract commenced on 1st February 2012 and is set to expire on 31st January 2026.

Both contracts were awarded to Veolia Environmental Services and operate out of the TDC owned Fowler Road depot.

Given the time required for the scoping out of options, procurement and formal decision making work commenced earlier in 2023 on preparing for the future services.

A Waste Contract Project Board has been set up that is comprised of officers and the Portfolio Holders for Environment and Assets.

A member working group has been set up by Cllr Bush as the Environment Portfolio Holder. This group has membership from almost all political groups and has now met on two occasions. This group will meet again as part of a consultative approach to the decisions that must be made through the project.

The Project Board agreed to the commissioning of the East of England Local Government Association to provide the Council with some independent advice in respect of the current services and the options for future services. Using experts from their talent bank they have now completed the first phases of their work and produced an initial options appraisal and a follow on business case that is attached to this report as Appendix A.

The Business Case and Options Appraisal considered five potential delivery models:

1. Retender Waste/Recycling and Street Cleansing Services as a single contract
2. In-house delivery, excluding as a LATCo
3. Tendered Waste/Recycling Services, in-house Street Cleansing Services
4. Outsourcing (peer to peer Joint Venture (JV) with Norse)
5. Shared service (discounted by Officers based on initial conversations with neighbouring authorities)

Strictly speaking, no 'do nothing' option was considered – although as currently these services are the subject of two contracts, they are delivered with understood cost efficiencies by one commercial provider. As such, Option 1 (retender existing services as a single contract) is most comparable to the current arrangement.

The option Evaluation Matrix was designed to enable the Council to assess the merits of each option. It does not present a definitive ranked assessment of the options. Rather, it presents a quantitative view of the relative merits to help indicate the potential 'fit' of each option, reflecting the breadth of the Council's requirements/expectations.

## **A.3 APPENDIX**

The Evaluation Matrix strongly indicates that Option 1 (Re-tender both services as a single contract) would be most advantageous to the Council as the preferred option for future delivery of the in-scope services; it is the recommended option

The outline business case includes the emerging contract principles, and an explanation of the procurement stages.

In respect of the kerbside waste and recycling collection service the Council must have regard to the Environment Act 2021 and the Government's announcement in November of a "Simpler Recycling" scheme, expected to be a requirement for waste collection authorities from 2026 onwards. Simpler Recycling will see a requirement for a wider range of recyclable materials, including glass, to be collected from kerbside and so the Council will seek to design the future service in order to comply with this.

Essex County Council (ECC) as the disposal authority are responsible for the disposal of residual waste, food waste and garden waste.

Tendring District Council, as the Collection authority are responsible for the collection of waste and recycling and the disposal of the dry recycling.

Within Essex, exists the Essex Waste Partnership. Excluding Southend and Thurrock who are both Unitary authorities the partnership comprises of all the waste collection authorities and together the partnership is delivering the Essex waste strategy, which is scheduled to be adopted by Tendring in September 2024.

The strategy is a high level strategy linked to national targets and objectives, including the ceasing of sending residual waste to landfill, whilst maximising waste minimisation, reuse and recycling.

Supporting the strategy exists the current waste disposal options provided by ECC. Food waste is currently sent to a processing plant in Dagenham and garden waste directed to processing facility in Birch, Colchester. Along with residual waste, which is currently directed to landfill in Colchester all these facilities are under medium term contracts with ECC. These contracts are outside the control of Tendring District Council but will impact future cost risks if the provider changes and waste is directed towards a different location. Whilst this risk is minimal for garden waste as the facility is used by various North Essex Councils any change in direction to tip would impact the cost of the contract and represents risk.

The weekly food waste service was introduced in 2012 and was funded by ECC who continue to fund the service associated with the ongoing collection costs. This funding is received via the Inter Authority Agreement (IAA).

With regards to the garden waste service, ECC support the authority by waiving the gate fee for tipping the waste at their contracted facility. The Council does not receive any recycling credits for garden waste or for food waste and both of these waste streams are outside of the EPR scope of payments.

### **Contract Principles**

## **A.3 APPENDIX**

The Waste Project Board, at its meeting on 27 February 2024, have endorsed for recommendation on to Cabinet for approval a set of broad service principles:

- A single contract for all services in scope
- Expected procurement method is Competitive Procedure with Negotiation (*following advice from Sharpe Pritchard following the agreement of these broad principles the **Competitive Dialogue** method will be used*)
- Outcomes based contract for all recurring work. Schedule of rates for irregular / ad-hoc work
- Street cleaning work to be based on the standard Environmental Protection Act 1990 standards applied on a local zoning system.
- Waste collection must comply with the Environment Act 2021 requirements.
- Aspiration to improve recycling rate
- Future contractor expected to largely self-monitor and report on its delivery and performance
- Future contractor to act as a single point of contact for the management and resolution of resident and business customer issues
- Contractor to take full advantage of ICT in its operations and is proactive in engaging in the delivery of the Council's digital aspirations
- The current spending of £4m on waste & recycling collection and £2.1m on street cleansing to be the starting point financial envelope
- Preferred contract term to be discussed with the market
- The Council is willing in principle to finance the purchase of waste vehicles but with full responsibility for their management to rest with the contractor
- Current depot at Fowler Road to be offered at a peppercorn rent

### **Market Engagement**

A prior information notice was issued in March 2024 that saw six written responses received. During May 2024 officers met with four of those potential bidders to ask further, more detailed questions. A summary of the responses to the market engagement process is set out in a table in the Outcome of Consultation & Engagement section of this report.

### **Key Themes**

A significant amount of work has been undertaken over the last year or so that can be summarised as:

- Waste & Recycling team officers pulling together data on the current service including litter bin locations, contract variations and other information that is required as part of the service specification document
- Advice sought from EELGA that has led to the writing of the Outline Business Case
- The formation of the Waste Contract Board and the Member Working Group
- The appointment of Sharpe Pritchard as legal advisors for the contract procurement
- The appointment of WRM Sustainability Ltd as specialist contract specification writers
- Partnership working with ECC Procurement to undertake the market engagement exercise

## **A.3 APPENDIX**

This work has led to the adoption of the contract principles as set out above in this section of the report. Key themes have also emerged that Cabinet are asked to note and endorse:

- Although the specification will be written with the aim of keeping the costs as close to the current financial envelope as possible, with the addition of additional kerbside recycling collections and the move to an output based street sweeping specification the new contract is likely to cost more than the existing arrangements. A budget will need to be found to fund an increase in costs, some of which may be covered by new burdens funding.
- It is likely that the Council will need to fund, up front, the purchase of the contractor's vehicle fleet. Overall this is expected to reduce the cost.
- It is likely that the Council will need to enter into a risk or gain share approach to the costs associated with processing the recyclable material that is collected.

### **Specification**

A core specification has been drafted and with the support and advice of the team at WRM this will be further shaped and developed to include the latest industry best practice. Once the specification includes all of the information required and in broad terms it is clear what the Council is seeking it will be presented to the Leader of the Council, the Portfolio Holder for Environment and the Portfolio Holder for Assets for their approval. They will be approving aspects such as:

- the zoning and response times for the street sweeping elements
- Working times for the street cleaning elements
- the broad method and frequency for waste and recycling collection
- Recyclable material risk / gain share options
- Vehicle fleet funding options

The more granular detail of the specification will be approved by the Corporate Director for Operations and Delivery in consultation with the portfolio holder for environment.

The core principles of the specification are set out in Table 4 below and build upon the Contract Principles agreed by the Waste Contract Board and Cabinet are asked to approve these:

**Table 4 – Core specification principles**

**General principles applicable to both aspects of the service**

- One single contract for both street cleaning and waste & recycling collection services
- Output based specification with emphasis on quality, especially for street cleaning with a move away from a frequency based cleaning schedule
- Performance standards / performance management framework built-in with ability to hold contractor to account
- Contractor to provide customer contact centre and handle all queries / complaints (garden waste payments to continue being made via TDC)
- TDC to be provided with access to live vehicle data in order to facilitate more effective performance monitoring
- Eight year initial term with an optional eight year extension period

## **A.3 APPENDIX**

- Annual formal review mechanism built in to more readily facilitate changes / efficiency improvements. Quarterly performance review meetings via a Waste Contract Board
- Option for TDC to fund the up-front purchase of the vehicle fleet to be included
- Chargeable bulky item collection service to be included, administered by the contractor
- Fowler Road depot made available to the contractor on a lease at no charge, as currently

### **Waste & Recycling Collection service**

- Fortnightly residual waste collection from wheeled bins (weekly for those on black sack service)
- Recycling collection to be compliant with Environmental Act 2021 requirements – contractors to propose collection options but most likely twin stream alternate weekly
- Weekly food waste collection for all residents
- Chargeable garden waste collection service available to all residents as part of the core contact
- Recyclable material risk / gain share options to be included for consideration

### **Street cleaning service**

- Output based service
- District split into zones with some having quicker rectification response times where the standard of cleanliness falls below that specified
- Some form of Hit team or response teams to be included, as is currently

Members of the administration have indicated their desire for the Council to continue with a fortnightly residual waste collection from wheeled bins (weekly for black sacks) as opposed to moving, for example, to a three weekly schedule. This leaves those submitting bids to run the service to determine the most effective means by which to collect recyclable material in order to comply with the Environment Act 2021.

### **PREVIOUS RELEVANT DECISIONS**

MARKET ENGAGEMENT IN RESPECT OF POTENTIAL FUTURE WASTE AND RECYCLING AND STREET CLEANING ARRANGEMENTS – Leader of the Council, Cllr Stephenson, 6 March 2024

Shared Procurement Service - SERVICE LEVEL PARTNERSHIP AGREEMENT - PROVISION OF PROCUREMENT SERVICES BY ESSEX COUNTY COUNCIL & SOCIAL VALUE MEASUREMENT – Portfolio Holder for Assets, 6 November 2023

Appointment of Messrs Sharpe Pritchard LLP – Monitoring Officer, 9 May 2024

Appointment of WRM Sustainability Ltd – Corporate Director (Operational Services), 22 May 2024

Appointment of EELGA - Corporate Director (Operational Services), 11 December 2023



## **A.3 APPENDIX**

<b>BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL</b>

<b>APPENDICES</b>
<b>Appendix A – EELGA Waste Services Options Appraisal and Outline Business Case</b>

<b>REPORT CONTACT OFFICER(S)</b>	
<b>Name</b>	<b>Tim Clarke</b>
<b>Job Title</b>	<b>Assistant Director – Housing &amp; Environment</b>
<b>Email/Telephone</b>	<b>01255 686745</b>

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## RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE

17 DECEMBER 2024

### REPORT OF DIRECTOR (FINANCE & IT)

#### A.4 EXTERNAL AUDITOR'S COMBINED ANNUAL REPORT INCLUDING THEIR VALUE FOR MONEY COMMENTARY ON THE COUNCIL'S USE OF RESOURCES

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

To present the External Auditor's Combined Annual Report for the years ended 31 March 2021, 31 March 2022 and 31 March 2023.

##### **SCOPE - THE AIMS AND OBJECTIVES OF THE REPORT**

To enable the Committee to consider the value for money commentary provided by the Council's External Auditor.

##### **INVITEES**

None

##### **BACKGROUND**

As requested by the Committee at its last meeting, a report from the Council's External Auditor is attached which sets out the most up to date and independent value for money commentary on the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources.

The attached report was formally considered by the Council's Audit Committee on 9 December 2024.

It is worth highlighting that a similar report is expected from the Council's new External Auditors early in 2025.

##### **RELEVANT CORPORATE PLAN THEME/ANNUAL CABINET PRIORITY**

Careful planning to ensure financial stability underpins the Council's capacity and ability to deliver against its objectives and priorities. Both the capital and revenue budgets of the authority are prepared and monitored with the aim of supporting these key objectives. The outturn position, associated Statement of Accounts and External Audit reports and commentary reflects this approach and supports the success of the Council's financial planning processes.

##### **DESIRED OUTCOME OF THE CONSIDERATION OF THIS ITEM**

To enable the Committee to consider the attached independent view on the Council's use of resources and to support the focus of any subsequent Committee activities or other work programme items.

## DETAILED INFORMATION

The attached report sets out a detailed commentary on a range of value for money issues along with providing a summary of the key issues arising from the work of the External Auditor for the years ended 31 March 2021, 31 March 2022 and 31 March 2023. In terms of this latter point (pages 5 and 6 of the attached), this refers to the work the Auditors undertook as part of their statutory financial statements work, which was considered by the Audit Committee as part of the activities associated with the publication of the Council' Statement of Accounts for 2020/21, 2021/22 and 2022/23.

In terms of the value for money element of the work undertaken by the Council's External Auditor, the Code of Audit Practice requires auditors to carry out full scope audit of Value for Money (VFM) arrangements for 2023/24 onwards. However, as set out within the External Auditor's Combined Annual Report attached, a reduced scope has been carried out to date as permitted for preceding years. From 2024/25 onwards, auditors will be required to issue their annual auditor's report containing the VFM commentary each year by 30 November. This has been designed to ensure that, even where the financial audit opinion is disclaimed, the audit still provides useful information to audit committees and other stakeholders about the financial management and financial sustainability of local bodies.

The External Auditor's detailed value for money commentary is set out on pages 7 to 17 of the attached and it highlights a number of important areas of the Council's work and demonstrates a strong and continually improving picture across the various value for money themes.

This is a very welcome position and hopefully provides Members with assurances, especially around the two key themes of financial sustainability and governance, given no such independent commentary has been provided in recent years due to the external audit delays.

Although highlighted on page 17 of the attached report, it is worth highlighting the following statement by the External Auditor:

"Our VFM work for 2020/21 to 2022/23 has not identified any significant weaknesses in the Authority's arrangements. However, we have identified opportunities for the Authority to improve their arrangements and have made a recommendation accordingly."

In respect of the recommendation referred to in the above statement, this is also set out on page 17 of the attached report along with confirmation that the associated matter was addressed in 2023.

## RECOMMENDATION

**That the Committee considers the External Auditor's Combined Annual Report and determines whether it has any comments or recommendations it wishes to put forward to the relevant Portfolio Holder, or Cabinet or the Audit Committee.**

## PREVIOUS RELEVANT DECISIONS

None

## BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

## APPENDICES

**Attachment 1** External Auditor's Audit Annual Report (Covering 2020/21, 2021/22 and 2022/23)

<b>REPORT CONTACT OFFICER(S)</b>	
<b>Name</b>	Richard Barrett
<b>Job Title</b>	Director (Finance & IT)
<b>Email/Telephone</b>	<a href="mailto:rbarrett@tendingdc.gov.uk">rbarrett@tendingdc.gov.uk</a> / 01255 686521

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# Tendring District Council

Auditor's Annual Report: Years ended  
31 March 2021

31 March 2022

31 March 2023

Report to the Audit Committee



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# Welcome

## Executive Summary

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- ▶ Purpose and responsibilities
- ▶ Financial statements
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  - Value for Money detail
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This Auditor's Annual Report provides a summary of the key issues arising from our audit of Tendring District Council (the 'Authority') for the years ended 31 March 2021, 31 March 2022 and 31 March 2023.

### Financial statements

We issued the following opinions on the Authority's financial statements on the following dates:

- Year ended 31 March 2020, qualified opinion on X December 2024.
- Year ended 31 March 2021, disclaimer opinion on X December 2024.
- Year ended 31 March 2022, disclaimer opinion on X December 2024.

Where an opinion is qualified, this means that we consider that the financial statements give a true and fair view of the financial position and its expenditure and income for the year, except for the area qualified.

Where we have issued a disclaimer of opinion it is due to the legislated backstop date. To clear the backlog of historical accounts and 'reset' the system, the Accounts and Audit (Amendment) Regulations 2024 require local bodies to publish audited financial statements for all outstanding years up to and including 2022/23 by 13 December 2024 ('the backstop date'). In addition, the National Audit Office has made changes to the Code of Audit Practice to require local auditors to comply with backstop dates by giving their opinions in time for audited accounts to be published.

### Value for money

The revised Code of Audit Practice 2024 that has been laid in Parliament and came into force on 14 November 2024. The revised Code allows auditors to issue a combined commentary on value for money arrangements for outstanding audits up to and including 2022/23 in a single report against a reduced set of criteria, focused on financial sustainability and governance arrangements.

We have not identified any significant weaknesses in respect of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources having regard to the specified criteria in the Code.

### Other reporting

We did not consider it necessary to use our auditor powers or report on other matters.

The contents of this report relate only to those matters which we are required to report under the NAO Code of Audit Practice (2024). This report has been prepared solely for the use of the Authority and should not be shown to any other person without our express permission in writing. In preparing this report we do not accept or assume responsibility for any other purpose or to any other person.



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# Purpose and responsibilities

## Executive summary

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### **Purpose of the Auditor's Annual Report**

This Auditor's Annual Report summarises the key issues arising from the work that we have carried out in respect of the years ended 31 March 2021, 31 March 2022 and 31 March 2023.

It is addressed to the Authority but is also intended to communicate the key findings we have identified to key external stakeholders and members of the public.

### **Responsibilities of the Authority**

It is the responsibility of the Authority to ensure that proper arrangements are in place for the conduct of its business and that public money is safeguarded and properly accounted for.

The Authority is also responsible for preparing and publishing its Statement of Accounts, which includes its financial statements, narrative report and annual governance statement.

### **Responsibilities of auditors**

Our responsibility is to plan and carry out an audit that meets the requirements of the National Audit Office's (NAO's) Code of Audit Practice 2024 (the 'Code'). The full requirements of our audit are listed in Appendix 1.

### **Additional reporting powers**

The Code also identifies additional reporting powers, which are also included in Appendix 1.

We can confirm that that no additional reporting powers have been used.





# Financial statements

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### Audit conclusion - year ended 31 March 2021

We issued a qualified audit opinion on the financial statements on X December 2024.

This means that we consider that the financial statements give a true and fair view of the financial position and its expenditure and income for the year except for the areas stated in the basis for qualification.

We reported findings whilst the audit was in progress, but substantively complete, to the 13 July 2023 Audit Committee and present an update on our findings on 9 December 2024.

### Significant deficiencies in controls - year ended 31 March 2021

We have identified the following significant control deficiencies during the audit of the financial statements:

- Other land & buildings (DRC method): The council could not provide the floor plans to substantiate the GIAs used in arriving at the value of the buildings. The existing floor plans were not retained by the Council post-valuation. The GIAs are key inputs and without any evidence, the value of the assets could be materially misstated.
- Accounting policy on infrastructure assets: The accounting policy does not specifically address the componentisation of infrastructure assets, information on how infrastructure assets are derecognized, or provide details on the useful life for each type of infrastructure asset. Instead, it broadly states that the useful life for infrastructure assets is 20 years and discusses the basis used for calculating depreciation without getting into specifics of individual infrastructure categories and it includes disclosures that apply generally to the PPE class. The council applied this blanket wide 20 years useful life to seafront defences, which was not based on expert advice but instead a judgement exercised by management without relevant substantive evidence.



# Financial statements

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### Audit differences

The audit identified no material misstatements.

There were 5 unadjusted audit differences identified by our audit which would not have an impact the net operating expenditure for the year. Management did not adjust the financial statements for these items as the impact was not material.

### Disclaimed audits

For the years ended 31 March 2022 and 31 March 2023, we issued a disclaimer of opinion on the financial statements on X December 2024.

These were disclaimed because we were not able to complete our work prior to the backstop date.

### Significant difficulties in undertaking the audit

Where auditors have reported under ISA(UK) 260 on delays to the audit opinion or significant difficulties encountered when undertaking their work, these should be reflected in the Auditor's Annual Report unless the auditor judges that public disclosure would not be appropriate. While noting that the audit has taken longer to deliver than anticipated due to ongoing issues within the audit sector, we have not experienced any such difficulties.





# Value for Money

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### Scope

We are required to review and report on the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources. Where we identify significant weaknesses in these arrangements, we are required to report this in the auditor's report included in the financial statements and to make recommendations for improvement.

### Specified criteria

The NAO has issued guidance for auditors to report against two specified reporting criteria:

- Financial sustainability - planning and managing resources to ensure the Authority can continue to deliver its services
- Governance - informed decisions and properly managing risks

The Code also includes a number of further areas for review within each criteria to allow the auditor to assess those arrangements.

This scope covers audits for the years 2020/21 to 2022/23 inclusive and represents a reduction in scope compared to the 2020 Code previously in force.

### Risk assessment

Our risk assessment identified three risks of significant weakness, as follows:

- In the prior year (2019-20), we identified some significant amount of carry forward each year from the planned projects of revenue and capital items, which indicates an issue of deliverability of planned projects. There is a

risk that reserves are not being held at the optimum level, given that a number of them have not moved notably in recent years. (2021).

- Data security breaches: There is a practice of auto-forwarding of Councillors' emails to personal email accounts. There is a risk that the Council may breach Data Protection laws should this practice continue. (2021, 2022, 2023)
- Over-reliance on central government grants could impact the flexibility of delivering services and capital projects





# Value for Money (2020 Code)

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### Scope

At the time of planning the audit for the year ended 31 March 2021 our VFM risk assessment was performed having regard to the Code of Audit Practice (2020) originally in place.

Whereas the approved revisions to the Code of Audit Practice (2024) bring about a reduction in the scope for local authority audits for the years ending 31 March 2021, 31 March 2022 and 31 March 2023, the work we have performed exceeds the requirements of the revised Code, only for the year ended 31 March 2021.

Our commentary therefore includes a section on the sub-criteria Improving economy, efficiency and effectiveness, as this fell under the original scope.

Note that the Code of Audit Practice (2020) also includes specific arrangements within Financial Sustainability and Governance that are similarly scoped out in the Code of Audit Practice (2024). These are as follows:

#### Financial Sustainability

- The consistency of financial plans with other plans such as workforce, capital, investment, and other operational planning which may include working with other local public bodies as part of a wider system

#### Governance

- How the body approaches and carries out its annual budget setting process
- How the body monitors and ensures appropriate standards, such as meeting legislative/regulatory requirements and

standards in terms of officer or member behaviour

Our work for the year ended 31 March 2021, 31 March 2022 and 31 March 2023, included reviewing arrangements in place against these areas. Where relevant, this has been referred to in our commentary.

Please note that these additional procedures were only performed for the year ended 31 March 2021.





# Value for Money

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### Audit conclusion

We have not identified any significant weaknesses in the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources.

For all of the years covered by this report, we had no matters to report by exception in the audit report on the financial statements. We also have no matters to report in our closing audit certificate, on completion of our work on the Authority's value for money arrangements.



# Financial Sustainability

## Planning and managing resources

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### Auditor's commentary on arrangements

#### Areas reviewed

- *How significant financial pressures relevant to short and medium-term plans are identified and built into plans*
- *Plans to bridge funding gaps and to identify achievable savings*
- *How financial plans support the sustainable delivery of services in accordance with strategic priorities*
- *Identification and management of risks to financial resilience e.g. unplanned changes in demand, including challenge of assumptions underlying its plans.*

The primary means by which the Authority supports financial sustainability is the Long-Term Financial Plan. The Council has updated this plan on an ongoing basis throughout the 3 financial years under review. The planning includes identifying and capturing significant risks such as changes to government funding, and the identification of savings which required some challenging decisions.

For the periods under review, the budget has been finalised in February of each year, with reports in all cases being taken to the Cabinet and Full Council. In practice much of the consultation takes place earlier in the year.

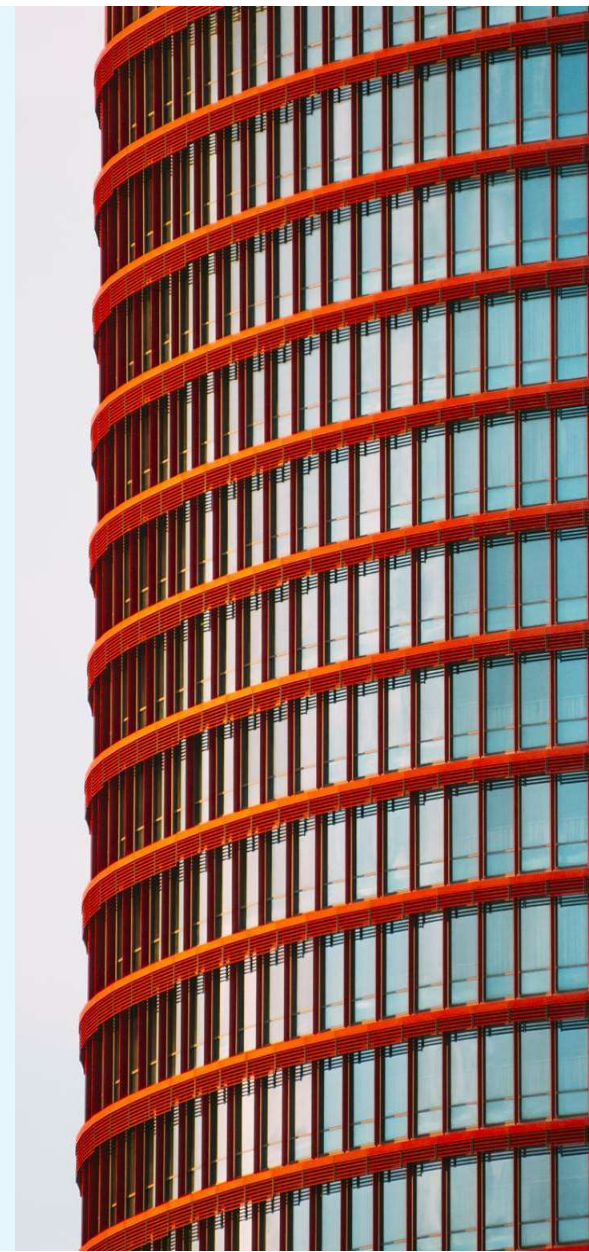
The Council sets out a budget considering financial forecasts and reserves. We note evidence of a risk assessment of the forecast, a long-term financial forecast, an analysis of forecast sensitivities, and four quarterly in-year financial performance reports against the budget. Reports compare financial outturns between years, highlighting and explaining any variances. Significant cost pressures are updated quarterly to ensure effective monitoring and management.

The Council's General Fund budget had a forecast surplus of £0.393 million for 2020-21, a forecast deficit of £1.049 million and the forecast budget deficit was £0.431 million for 2022-23. The main cost pressures in the 2021/22 budget, amounting to £0.647 million, included maintaining open spaces, supporting the digitalisation programme, transport, fleet maintenance, a reduction in Government grant funding, recovery from Covid-19, and inflation.

The medium to long-term response is the utilisation of the Forecasting Risk Fund, of around £1.5 million across the 3 years under review, with over £3m estimated to be held in this reserve by the end of 2022/23. The Council has continued to a forecast budget deficit for the financial periods 2023-24 and 2024-25.

The financial pressures are evident in the performance report. The Corporate Finance and Governance report presented to Cabinet for quarter 2 of 2022/23 highlighted several emerging issues impacting the Council's financial position. These include inflation, supply chain disruption, energy cost increases, and commodity price increases. The report and the financial strategy document are updated regularly, identifying significant risks such as uncertainty in Government funding, identifying savings, robustly challenging the budget, and monitoring. As of the end of September 2022, the estimated additional costs in 2022/23 totalled £3.389m.

The Council considers that the long-term financial position is sustainable and that the required savings are achievable. Savings plans were relaxed in 2021/22 from £0.3 million to around £0.2 million, but a savings target of £0.450 million per year was set for 2022/23.





# Financial Sustainability

## Planning and managing resources

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The Council has an asset strategy for managing, reviewing, acquiring, and disposing of its assets to use properties effectively for delivering services.

The council takes into account the capital programmes during the budgeting process. An example of this is are the coastal defences projects.

The Council's coast protection responsibilities are significant, with remedial works required to address related risks. With a 60km coastline, the Council maintains sea defence structures along 18.5km. Funding is allocated for coastal protection, but more is needed to ensure safety and protection structures are in place before catastrophic cliff failure threatens towns in the district. Annual inspections of coast protection structures are carried out, and the Council responds swiftly to public reports of faults. Each year, sections of the sea defences are improved as part of a rolling programme of special maintenance schemes. In the long term, continuous expenditure is likely to mitigate tidal surges on the North Sea. The Council's current actions show awareness and effective medium-term action.

The Council has allocated funding to a large capital scheme of coastal protection and is seeking more funding. The capital scheme looks to ahead to the medium-term to ensure safety precautions and protection structures are already in place before catastrophic cliff failure threatens the towns in the district. This pre-empt the risk of unforeseen expenditure and ensures funding is available if unforeseen expenditure still arises.

The Beach recharge reserve was not utilised for several years (2018-19 to 2021-22), however, subsequent to the 2020-21 financial year, the utilisation thereof was approved in a Council meeting on 27th April 2021. It has since been utilised in the

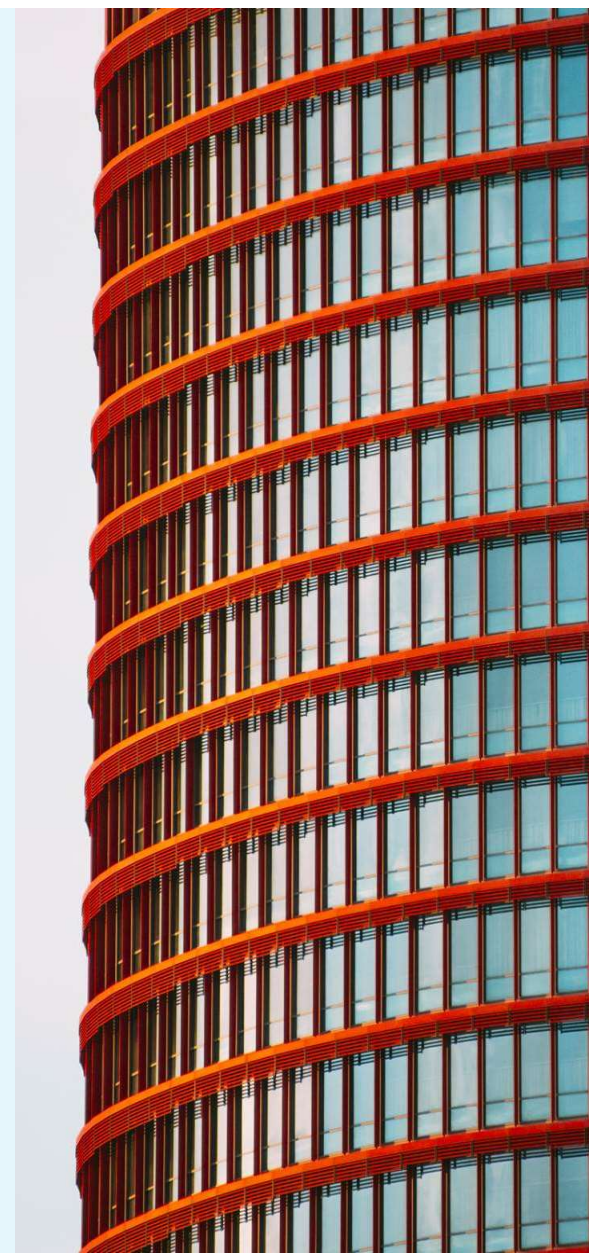
2022-23 financial year.

The Council frequently reviews its HRA Business Plan to take into account any changing circumstances. The review of the business plan and the HRA budget is frequently communicated to management for contributions and approval in Cabinet and full Council meetings.

### **Conclusion**

We have not identified any significant weaknesses in the Financial Sustainability arrangements for 2020/21, 2021/22 and 2022/23.

Additionally, the prior year recommendations are being implemented as evidenced by the implementation of the beach recharge reserve.



# Governance

## Informed decisions and properly managing risks

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### Auditor's commentary on arrangements

#### Areas reviewed

- *Risks are assessed and monitored to gain assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud*
- *Effective systems and processes are in place to ensure budgetary control, to communicate relevant, accurate and timely management information, support statutory financial reporting requirements and ensure corrective action is taken where needed, including in relation to significant partnerships*
- *The Authority makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency*

These functions are primarily performed through the Audit Committee. Throughout the period, key elements of this remit include:

- Review of updates from internal and external audit, including plans, progress reports and the results of work
- Review of corporate risk register and associated policies
- Key financial indicators
- Capital and Treasury management strategy
- Fraud and corruption arrangements

There is a risk management framework in place using a grading matrix of likelihood and consequence to evaluate and treat risks. This produces a risk score on the risk register, allowing the Council to prioritise risks effectively.

As per the risk register, risks assessed include catastrophic IT network failure, ineffective cybersecurity, and failure to deliver effective

counter-fraud activities. The Internal Audit team produces annual, detailed reviews of high-risk areas, allowing them to focus on the different ways risks arise in various transactions within the Council's services. A specific working group meets regularly to discuss IT system updates and the effects and expectations on information governance from partnerships with external bodies.

Internal audit reviewed the effectiveness of the Council's risk management controls and concluded that there is a sound system of internal controls, though some minor areas of weakness were noted. An adequate assurance level was given by internal audit.

There is a systematic programme of internal audit work. The Internal Audit team performed audits on the internal controls and produces reports which detail reviews of high-risk areas for consideration by the Audit Committee.

For all three years, the Authority's head of internal audit opinion "Generally Substantial and Adequate, with two (2) improvement required in some areas for 2020-21, three (3) for 2021-22 and two (2) for 2022-23". The actions thereof are tracked by the Internal Audit function with an adequate arrangements in place for escalation if required.

The Council's Anti-Fraud and Corruption Strategy that is reported annually to the Audit Committee. The Fraud and Compliance team has been established to undertake counter-fraud roles. The Anti-fraud and Corruption strategy has been reviewed and amended appropriately annually over the 3 years under review. It is published for the public to access, which enables the public to assist in compliance, reporting benefit fraud. There is a system in place for referrals and investigation, and internal audit provides advice and recommendations to improve the control environment and mitigate exposure to fraud risks.









# Governance

## Informed decisions and properly managing risks

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However, with the data protection laws in place, there is a risk that the Council could potentially be in breach of the Data Protection Act 2018 as the practice of auto-forwarding of Councillors' emails practice continued between the periods 2020-21 to 2022-23 and only fully implemented after May 2023.

### Recommendations

Our recommendation is for the Council to strengthen and expediate the implementation of solutions identified to prevent possible breaches of GDPR laws. Any breaches could have a financial penalty attached and an impact of the reputation of the Council.

### Conclusion

We have not identified any significant weaknesses in the Governance arrangements for 2020/21, 2021/22 and 2022/23 years.

However, we do provide a recommendation in relation to strengthening the implementation of arrangements that relate to risks assessed and monitored to gain assurance over the effective operation of internal controls.





# Governance - 2020/21

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*The Authority monitors and ensures appropriate standards, such as meeting legislative/regulatory requirements and standards in terms of officer or member behaviour (such as gifts and hospitality or declarations/conflicts of interests).*

The Council's Standards Committee had regular meetings throughout the 2020-21 financial period. The discussions had at the Standards Committee show that the Council treat complaints and the upholding of the Code of Conduct seriously, regularly reviewing the Code and the procedures by which inhabitants of the Tendring District can make complaints, so that the Code is up to date and comprehensive, and the experiences of Tendring inhabitants are heard and recorded.

The Council had a dedicated Legal Team that is involved in a variety of Council issues to provide guidance on legislative compliance. The Legal Team keeps the Assistant Director (Governance) informed of their findings and involved in their discussions. The findings of the Legal Team are presented to the Cabinet and Council committees in formal reports frequently, ensuring there is up to date communication across the management of the Council regarding legislative compliance.

The Council produced regular reports for the Management Team on Health and Safety monitoring that show that across the periods the reports cover, regular checks and assessments of a wide range of potential risks are performed. Incidents are recorded and reviewed regularly, and even once incidents are concluded on, findings are communicated in the reports to management.

There was a corporate framework in place to ensure standards are monitored and maintained, regarding internal and external behaviour (with the community).

The Council's primary regulator is the Local Government & Social Care Ombudsman. Investigations in complaints raised against the Council did not raise any areas of serious concern. Findings of maladministration are reported to the Cabinet for decisions on a response and preventative actions going forward.

The Standards Committee oversaw the conduct of members, monitored and reviewed the operation of the Code of Conduct for Members, considered alleged breaches of the Code and monitored Members' declarations to ensure compliance with both the statutory and local registration requirements.

### **Conclusion**

From our work performed we have not identified any significant weaknesses in arrangements for this specific key line of enquiry for the 2020/21 year.





# Improving economy, efficiency and effectiveness - 2020/21

## Using information to improve services

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### Auditor's commentary on arrangements (2020-21)

#### Areas reviewed

- *Financial and performance information has been used to assess performance to identify areas for improvement.*
- *Services provided are evaluated to assess performance and identify areas for improvement*
- *The Authority delivers its role within significant partnerships, engages with stakeholders it has identified and assesses whether it is meeting its objectives*
- *Where the Authority commissions or procures services, how it assesses whether it is realising the expected benefits*

The Corporate Investment Plan was reported to Cabinet in March 2022. The Corporate Investment Plan reviewed existing projects and their proposed funding, to set priorities for 2021/22 and seek approval for finalised budget figures. Additional capacity was set out in a associated decision. The decision detailed above shows the Council responding to capacity needs with financial resources.

Additional Procurement capacity was set out in Cabinet report in September 2021.

There is a plan that has been approved to take into account climate change and sustainability. The plan continues to be reviewed and included in the priority actions of the Council in the years since 2020/21.

The Back to Business action plan was agreed by Cabinet at its 19 February 2021 meeting and included within its priority actions for 2021/22 which forms the background against which performance is being formally reported via the revised monitoring arrangements.

Clearly defined Terms of Reference are agreed between partners and the Authority. Action plans are agreed as appropriate for each project and reviewed on a regular basis. Action plan delivery is monitored regularly together with feedback to Community Leadership Committee, Portfolio Holder and external partners.

A Community Asset Map has been produced via the North East Essex Alliance, this provides a useful tool to identify where to focus resources to strengthen and build more resilient communities.

Stage 2 of the Local Plan was formally adopted by the full Council in January 2022 after several rounds of review, reports and recommendations by various inspectors and committees. This enabled the Garden Communities project to develop into the partnership with Essex County Council, Colchester City Council and Braintree District Council.

Matrix management arrangements in place between the Authority and Essex County Council with clear workload management in relation to the Family Solutions through a partnership with Essex County Council.

The Council's procurement process is transparent and accessible. We have seen that in the process of procuring third parties, the progress and aims of each case are communicated across the decision-making boards of the Council for oversight and contributions.

The Council themselves have highlighted a risk that they are looking to mitigate through their procurement arrangement with Essex County Council: that service providers go into administration during the term in which they provide services to the Council.

The Council has identified the risk correctly so and currently looking to collaborate with Essex County Council to address this risk.





# Recommendations

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Our VFM work for 2020/21 to 2022/23 has not identified any significant weaknesses in the Authority’s arrangements. However, we have identified opportunities for the Authority to improve their arrangements and have made a recommendation accordingly. These are detailed in the table below.

	Weakness Identified in arrangements	Year affected	Significant weakness noted?	Recommendation	Management response
1	Governance  How the body monitors and assesses risk and how the body gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud.	2020-21  2021-22  2022-23	No	The Council should expediate the implementation of solutions identified to prevent any risk of being in breach of GDPR laws.	Management response is that the arrangements to address the risk, have all been implemented post-May 2023 local elections under the newly elected Council.

# APPENDIX 1 - Additional Reporting Powers

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Our responsibility is to plan and carry out an audit that meets the requirements of the National Audit Office's (NAO's) Code of Audit Practice - 2024 (the 'Code').

Under the Code, we are required to review and report on the following:

- To be satisfied that the accounts comply with the requirements of the enactments that apply to them
- To be satisfied that proper practices have been observed in the preparation of the statement of accounts and that the statement presents a true and fair view
- To be satisfied that the audited body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- To express an opinion on the accounts
- To certify completion of the audit
- To consider whether to issue a report in the public interest
- To consider whether to make a written recommendation to the audited body, copied to the Secretary of State

The Code also defines a number of additional powers and duties

- To give electors the opportunity to inspect and raise questions about the accounts and consider and decide upon objections received in relation to the accounts

- To apply to the court for a declaration that an item of account is contrary to law
- To consider whether to issue an advisory notice or to make an application for judicial review
- To comply with the Code of Audit Practice prepared by the Comptroller and Auditor General and approved by Parliament
- To have regard to any statutory guidance to auditors issued by the Comptroller and Auditor General





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The matters raised in our report prepared in connection with the audit are those we believe should be brought to your attention. They do not purport to be a complete record of all matters arising. This report is prepared solely for the use of the company and may not be quoted nor copied without our prior written consent. No responsibility to any third party is accepted.

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