

Public Document Pack

Council

2 March 2023

**MINUTES OF THE MEETING OF THE COUNCIL,
HELD ON THURSDAY, 2ND MARCH, 2023 AT 7.30 PM
IN THE PRINCES THEATRE, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Harris (Chairman), V Guglielmi (Vice-Chairman), Alexander, Allen, Amos, Bray, Bush, Calver, Casey, Cawthron, Chapman BEM, Chittock, Clifton, Codling, Coley, Davidson, Davis, Fairley, Fowler, Griffiths, I Henderson, J Henderson, P Honeywood, S Honeywood, Knowles, Land, McWilliams, Morrison, Newton, Placey, Porter, Scott, Skeels, Steady, G Stephenson, M Stephenson, Stock OBE, Talbot, Turner, White, Wiggins and Winfield
In Attendance:	Ian Davidson (Chief Executive)(except item 109), Lisa Hastings (Deputy Chief Executive & Monitoring Officer)(except item 109), Lee Heley (Corporate Director (Place & Economy)), Gary Guiver (Director (Planning)), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer)(except item 109), Anastasia Simpson (Assistant Director (Partnerships)), Keith Simmons (Head of Democratic Services and Elections), Ian Ford (Committee Services Manager), Katie Wilkins (Human Resources and Business Manager), Amy Lester (Garden Community Planning Manager), Madeline Adger (Leadership Support Manager) and Keith Durran (Committee Services Officer)

90. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Baker, Barry, G V Guglielmi and Miles.

Councillor Baker had been unable to attend due to personal/family reasons.

Councillor G V Guglielmi had been unable to attend as he was recuperating from a surgical procedure.

Councillor Barry had been unable to attend as he had tested positive for Covid-19.

Councillor Miles had been unable to attend due to an ongoing health related matter.

91. MINUTES OF THE LAST MEETING OF THE COUNCIL

It was moved by Councillor Stock OBE, seconded by Councillor P B Honeywood and:-

RESOLVED that the minutes of the budget and council tax setting meeting of the Council held on Tuesday 14 February 2023 be approved as a correct record and be signed by the Chairman.

92. DECLARATIONS OF INTEREST

There were no declarations of interest made by Members at this time though Councillor Allen indicated that he would declare an interest if there was any discussion during the

course of the meeting that specifically focussed on the parish of Frinton and Walton as he was a member of Frinton and Walton Town Council.

93. ANNOUNCEMENTS BY THE CHAIRMAN OF THE COUNCIL

The Chairman of the Council (Councillor Harris) referred to the fact that this was the last full Council meeting during his term of office and that this was also the last time that Members would be all together before the May District Council elections. He was conscious also that some Members would not be standing for re-election and that some Members may not be re-elected. He therefore wanted to take this opportunity to say 'thank you' to the following:-

- the Leader of the Council and the Deputy Leader of the Council – for asking him to stand for Chairman of the Council – he had been very surprised and delighted. It had been unexpected given that he was a first term Councillor.
- those Members who had had faith in him and had elected him Chairman. He hoped that he had done his best for everyone and that he had tried to be equal and fair to all Members.
- his Vice-Chairman (Councillor Val Guglielmi) – for all of her support and for standing in on those occasions when he could not make a civic engagement.
- TDC Officers and staff and, in particular, the Chief Executive and the Monitoring Officer for their advice and guidance, the Committee Services Manager for his advice notes and the Leadership Support Team (especially Emma Haward) for their support throughout his year in office.
- Mother Louise Oliver – for being his Chaplain and for her words of wisdom and personal support.

The Chairman stated that this had been the greatest honour and experience of his life to date and that the past 11 months had flown by. Much had happened of note including Queen Elizabeth II's Platinum Jubilee celebrations; the lighting of the Clacton Beacon; the death of Queen Elizabeth II and the proclamation of King Charles III.

He felt that his eyes had been opened as to the history of both Brightlingsea and Harwich, which he considered two jewels in Tendring's crown.

The Chairman was pleased to announce that, so far, over £3,000 had been raised for his chosen charities – the RNLI and veterans' groups in the District.

He had been proud to help to organise the first ever Veterans and Services Day, which had been an opportunity to thank veterans for their service and sacrifice. His special guests that day had been a number of World War II veterans from Clacton-on-Sea. He had been truly humbled and he very much hoped that this would become an annual event.

The Chairman paid tribute to the thousands of volunteers across the District whom he considered remarkable, unsung heroes without whom society could not function. He felt privileged to have been able to work alongside CVST, Clacton Lions, Rotary Club, mental health and cancer charitable groups, the Homes4Heroes veterans' charity and many more.

The Chairman invited Members and residents to attend the Town Hall on Monday 13 March 2023 at 10.00 a.m. for the Commonwealth Day flag raising followed by refreshments in the Parlour.

Finally, he informed Members that when he passed on his Chain of Office to his successor he would be joining the league of past Chairmen from where he would offer his support to the new Chairman and continue to support as many as possible of the charities and contacts that he had made during his year on office.

Members' responded to the Chairman's speech with a round of applause.

94. ANNOUNCEMENTS BY THE CHIEF EXECUTIVE

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

95. STATEMENTS BY THE LEADER OF THE COUNCIL

The Leader of the Council extended his grateful thanks to Councillors Allen and Bush for 'harrying' him and he apologised for taking so long to make the following announcement.

The Leader was pleased to announce that, after a scouring of the Council's budgets, Officers had come up with an allocation of £200 per Member to put towards the community celebrations of the Coronation of King Charles III on 6 June 2023.

He was aware that the Council would be entering its pre-election period on 13 March 2023 and he was anxious that no Member ran the risk of being accused of the offence of "treating voters". Therefore, Officers would be drawing up a strict set of criteria which would be circulated to Members by email. He urged Members to respond as soon as possible to that email and to submit their requests straight away.

The Leader then responded to questions put to him by Councillors Allen, Bush and Scott.

96. STATEMENTS BY MEMBERS OF THE CABINET

Action on Climate Change Update

The Environment and Public Space Portfolio Holder (Councillor Talbot) made the following statement:-

"Good evening, colleagues. tonight, barring emergencies, is the final Full Council Meeting of this four year cycle, and nobody knows at this stage who will be elected or re-elected to form the new administration from the 4th of May onwards. Therefore, I must treat this as my 'Swan Song' today, with what is my 13th statement.

I am pleased that data for 2021/22 shows that while Council carbon emissions rose as expected in coming out of the pandemic lockdowns, emissions from electricity, gas and fuel oil are lower than the pre-Covid 2019-20 year.

Clearly in this coming year, the new administration will put in train the process towards a new 'Climate Change Action Plan', to aid us as a Council, from 2024 onwards in our

progress towards Tendring's Net Zero carbon emissions target by the end of this decade.

Many have said that the Government should be more involved by directing what they perceive to be the best way forward to achieve the Government's National Target of Net Zero Carbon by 2050, with the cash to actually 'prime the pump' to get that work done.

I have attended a number of Climate Change webinars with Net Zero Carbon as their target, including those dealing with the provision of Electric Vehicle charging points, many of which voice the good work done in other authorities, but one thing most convey is the large initial cost of almost turning the clock back to the days before the internal combustion engine, or before wide spread travel became a way of life, or before the mass production of consumables such as household equipment that use electricity, the same electricity that uses the old infrastructure, into which we now seek to install home charging points for domestic electric vehicles.

Moving from the 'General' to the 'Particular' is the answer, prepared by Officers, to the question I received from Councillor Mike Bush, who was asking about 'Pay Back' benefits of the proposed pool covers, to which I had referred in my last Council report. We expect the payback period for pool covers to be around two years. This is due to high energy costs and the high level of energy to heat pools. We expect that 260 tonnes of carbon would be saved annually across the three pools with the covers in place. The tender to purchase the new pool covers closes next week and the Council will appoint contractors shortly after to start installation.

Installing LED lights, (Light emitting diodes) will save only 0.3 tonnes a year within a typical council building and have a 6 to 7 year payback period. We also have the chance to install sensors, so lights only come on when people are in the building. The tender for LED lights in leisure centres closes in a fortnight, with work starting thereafter.

I have deliberately not spoken about new projects; these will be for the post 4th May administration to decide their own priorities."

97. ANNUAL STATE OF THE TENDRING DISTRICT STATEMENT BY THE LEADER OF THE COUNCIL

The Council received the Annual State of the Tendring District Statement from the Leader of the Council as follows:-

"Chairman, Councillors and members of the public, I am delighted to present to you this year's State of Tendring address. This statement is intended to give you an overview of some of the Council's achievements over the past year, and as we come to the end of our four-year municipal cycle, it is also an opportunity to reflect on the journey we have been on as well as to consider the challenges that lay ahead.

As a Councillor, each of us represents our community and the interests of our residents; being an elected member is both rewarding and a privileged form of public service. It is undeniably a great honour to have the trust of our residents placed into our hands, and we are all in a position to make a difference to the quality of other people's daily lives and prospects. Being an effective Councillor requires both commitment and hard work and I keep going back to the heart of the Council's priorities and Community

Leadership. We lead the way in Tendring with innovative solutions, relentless positivity and a 'can-do' attitude, as we aim to improve the lives of the people who live here. Alongside this, we continue to work with our many partners, nationally, regionally and locally.

We recognise the issues facing our communities at the current time with the cost of living and we support our families and community groups through the Tendring Community Fund and with many other sources of support.

Chairman, it was once said that a week is a long time in politics, so it should come as no surprise that so much has happened over the past four years, during which time, amongst many other events we have had four Prime Ministers, we left the EU, we had the small matter of the Covid-19 outbreak to deal with and just a year ago Russia invaded Ukraine bringing war into Europe and all the consequences thereof.

But despite those huge and unprecedented problems Tendring District Council has shown that we can rise to these challenges, through sound financial management, embracing new ways of working, the ability to adapt and change our plans in often-rapid circumstances and our work with partners. All of this we do to support the residents of Tendring.

So here are but a few examples of the great work we have undertaken:

Levelling up funding for Clacton Town Centre

The Government has recently granted Tendring District Council £20 million to level up Clacton Town Centre. This really is a tremendous success for this Council and for the District. It is an absolute game changer, and we should be feeling very proud right now.

With this considerable sum of money, we can make significant infrastructure changes for the benefit of everyone – whether they live or work in the area, visit, or own a business. It was also pleasing to hear that the Government considered our bid for a Clacton Civic Quarter as a strong application.

Tendring/Colchester Borders

Work on the Tendring Colchester Borders Garden Community project continues to progress through strong partnership with Colchester City Council and Essex County Council. The Councils have been giving careful consideration to the many comments from residents and other interested parties during last year's public consultation, which will help shape the plans going forward. This year we expect to see the plans progress in more detail for further consultation and examination by a Government Planning Inspector, which will pave the way for the first planning applications. This 'once in a lifetime' development will deliver the highest standards of new eco-friendly housing, a range of opportunities for employment and education and an innovative new rapid transit system as well as the A120/A133 link road. In addition, it will deliver a network of green spaces and environmental features, which, in line with the overarching Garden

Community Principles, will bring the best aspects of the town and the country together for future generations.

Freeport East

Freeport East momentum continued over the last year, with the limited company which will drive this hub for global trade and regeneration forward, formally being incorporated in December; and I am proud to represent this Council as a founding member of the Board. Further to this, Freeport East was formally designated by the Government in January, taking a huge step forward in the drive to create 13,500 new jobs in the region and create an amazing opportunity for transformational change in our District. This project, Chairman, is quite simply the most exciting initiative in the East of England in the past half century, and I want to thank the members of my Freeport East Working Party, who have provided sound advice and critical challenge throughout the last year.

Starlings Site in Dovercourt

Work in Dovercourt is progressing to create a new car park, events space and public toilets, using the former Starlings garage and Queens Head Hotel, which burnt down a number of years ago, to create a new public space. This is a further example of our commitment to improving public spaces, but it is also an example of our dogged determination to prevail in the face of problems and cost increases and other unforeseen delays; these projects don't always go as smoothly as we might like but at Tendring we have a great track record of finding solutions to the most intractable problems and delivering in the face of adversity. So, yes, I acknowledge that this project has taken way longer than we hoped it would, but it is still going to be a triumph for this Council and for this District!

Businesses

This Council is extremely proud of our local businesses and appreciates their contribution to the local economy. In October last year, the Council ran themed business networking events under the Tendring4Growth banner, a skills fair, and an awards night to celebrate some of the amazing businesses in the Tendring District. Over 200 nominations were received for the awards, which ranged from Young Entrepreneur to Friends of the Environment. Feedback from those who participated was extremely positive, making the fortnight a huge success, which has led to the Council expanding Tendring4Growth to run a series of smaller events planned throughout 2023.

As the Leader of this Council, it has always been my mantra that I will do whatever I can to support any business that wants to come to any part of Tendring, subject obviously to the applicable regulatory and legislative requirements such as planning. It's a simple statement of positivity but it goes a long way to send out the right message to prospective employers.

The new multi-million-pound commercial workspace development in Jaywick Sands is also progressing at pace.

Chairman, the Government launched the **UK Shared Prosperity Fund** at the end of last year and allocated the Council £1,188,232 over three years to support three key themes: community and place, supporting local business, and people and skills. The Council is currently allocating money to six projects, which include; sports grants, improvements to the beachfront and funding for a project to help those most affected by the cost of living. Future projects will include recruiting a Town Centre Manager, providing more business support, grants for events, high street grants and other initiatives to enhance the local area and economy. There will also be an opportunity for partners to bid for grants to fund initiatives that align with those three main themes.

Airshow / Leisure

The **2022 Clacton Airshow** saw a return to a more traditional pre-Covid flights and events schedule; an estimated 250,000 visitors watched displays from the Red Arrows and participated in activities planned for the two days. We look forward to working with our key partners to celebrate the Clacton Airshow's 30th event in 2023. Our latest *Economic Impact of Tourism Report* highlights a strong return of visitors to the Tendring District with a 56% rise in overnight visitors following COVID-19.

A top cycle event also drew crowds into Clacton with 'Round Five' of a professional cycle race from the Sportsbreak.com Tour series.

We have installed new state of the art **gym equipment** at all three of the Council's Sports Facilities using top-notch equipment. But we recognise that fitness and the role it plays in health and wellbeing does not necessarily have to be based in a building and so we are doing a lot in the community to give people opportunities to take part in different activities, what I would call 'accidental activity'.

The **Princes Theatre Pantomime "Cinderella"** celebrated a return to viewer confidence, celebrating its most successful year to date. Over 14,300 people watched Cinderella find her Prince Charming. The shows included sell out School events that enabled children and young people to visit the Theatre and watch a live performance. We are thrilled that the Theatre received a record number of 5* reviews on Google and Trip Advisor, and sales for Aladdin in December 2023 are already looking very positive!

As our **National Lottery Heritage Funded Clacton150** project comes to an end, we continue to celebrate the importance of our coastal heritage. The Council is completing the new woodland at Burrs Road, Clacton. Children from the local primary school worked alongside our Public Realm Open Spaces team to plant the new woodland *and a new woodland trail will be installed during the spring*. With support from Historic England, we will survey the Dovercourt Leading Lights ahead of a further funding bid to restore these nationally important scheduled monuments.

Jaywick Sands Healthy Homes Initiative

The Jaywick Sands renaissance, includes working with the Community and partners, Jaywick Sands continues to get positive engagement on issues, which have far-

reaching national interest. Coastal Flooding and developing sustainable and safe communities does not only affect Jaywick Sands but is a national issue. The leadership and commitment that this Council has demonstrated has resulted in national organisations wanting to explore solutions to the challenges posed in an area like Jaywick Sands as some of these solutions may have wide-ranging impacts across the rest of the country. Where others fear to tread, Tendring District Council continues to lead.

During the year, the Council was awarded funding from the local NHS / North East Essex Health Alliance towards a project to improve housing conditions for those who privately rent their home in Jaywick Sands. Following on from a housing stock condition survey, the funding will pay for a dedicated Environmental Health team who will be based in the village with the first officers starting their new roles in March 2023. Whilst looking at housing issues the funding will also fund additional work to promote responsible waste disposal and recycling in the area and improve areas of open space creating a better neighbourhood for residents.

Landlord Fines upheld on appeal.

As a Council there are also times when to support residents, we have no choice but to take Enforcement action and tackle more difficult matters. Our Private Sector Housing Team attended a second tribunal hearing last year in respect of civil penalties that were issued to a landlord following breaches of housing management regulations. The House in Multiple Occupation was closed down by the team in 2019 and penalties were issued to the landlord. Following appeals, the Council's decision was upheld and a penalty issued for £23,000. This case demonstrates our continued commitment to enforcement and taking action against landlords who fail to comply with legal standards.

Accreditation / Achievements

Returning to more positive matters, do not just take our word that we are achieving success; there are plenty of examples of national recognition. The Council has achieved four Green Flags for Parks and Gardens, including Clacton Seafront Gardens, Weeley Crematorium, Cliff Park in Dovercourt and Crescent Gardens in Frinton. Tendring has also been awarded two Blue Flags for its beaches.

Six Tendring car parks have received top safety accreditation awards and achieved The Safer Parking Award Scheme, Park Mark.

The Council has also been awarded Gold accreditation in recognition for its work supporting the Armed Forces as part of the Ministry of Defence Employer's Recognition Scheme. This scheme publicly recognises employer's efforts to support defence personnel issues, such as employing reservists and veterans. These awards celebrate our initiative, hard work and dedication to improving services.

We also held our first in person Tendring Stars event for staff following the pandemic, recognising the professional and in many circumstances, the exceptional contributions of our staff right across the Council. We also had three very energetic Officers who

bounced their way through the event demonstrating a number of new exercise classes available in the Council Leisure facilities. Chairman, I saw them repeat the feat at your Pride of Tendring Awards.

Hard work, enthusiasm and the fantastic contribution to public services made by apprentices across Tendring and North Essex was celebrated at a special event held at the Town Hall during National Apprenticeship Week 2023. Celebrating its 40th birthday, each of the Career Track apprentices attending were awarded with certificates for their dedication towards achieving various qualifications.

Our Community Leadership work continues to expand and fits into three key strands namely Health, Education and Community Safety.

The creation of the Tendring Education Strategic Board has brought together Headteachers, Education professionals from Essex County Council and Tendring Officers to prioritise key issues for young people and schools. A number of focus areas have been identified including school attendance, speech and language, emotional wellbeing and skills. All of this work aims to support our young people to reach their full potential and provide as many opportunities as possible.

We are proud to have worked closely with health colleagues and to have been able to support the opening of the Clacton Hospital Diagnostics Hub. A fantastic service for residents to have access to local health care facilities, which when it is fully operational, will provide around 180,000 diagnostic tests per year. This will also save a number of car journeys to and from Colchester, also reducing our carbon footprint. We cannot take the full credit for this project but we have used our influence and brought a number of partners together to make this great facility for Tendring residents.

Over the past 12 months, Anti-Social Behaviour has reduced by 31.1% in the District. This is due to the joint working with Police colleagues, regular patrols and targeting hot spots for Anti-Social Behaviour and HATE crime. Additional engagement has also been undertaken with local businesses and the public to be a visible deterrent.

We continue to focus on support for the most vulnerable in our society, especially through the 'cost of living crisis'. As I mentioned before, we know that this year has been particularly difficult for many residents and we continue to provide hardship grants, alongside support through the Tendring Community Fund and we are working closely with our community partners including CVST, CAT and many other community hubs and organisations.

Whilst achieving all of this there have been numerous budget challenges and the Council is having to consider different ways of working and this work will continue. I draw your attention to the budget speech and reports at our meeting on 14th February and we will need to continue to develop a robust financial framework to deliver the savings to support an on-going financially sustainable position into the next administration and over the next few years.

Therefore, Chairman, to conclude:

We continue to face many challenges in Tendring, and notwithstanding the forthcoming elections, I urge Members to carry on contributing positively to address the issues and problems that the Council faces. There will be some really difficult decisions to make; it is likely that we will have to look at different ways of delivering services and that will not be easy.

I am more convinced than ever that success, however you chose to define it, for this Council, for this District and for our residents in particular, can only be achieved by us engaging positively and working constructively with our partners; in the public sector, the private sector and the voluntary sector, and also with each other across the Council chamber. And working collaboratively, with other people and other organisations is never easy. It requires humility, a willingness to compromise and the ability to understand someone else's point of view, and let's face it, these are not the attributes always associated with elected politicians!

But we are incredibly lucky here at Tendring to have a truly exceptional Chief Executive who has put together, through a combination of nurturing management and astute recruitment a team of directors and senior officers that is second to none and quite frankly the best team of local government officers on any council in the land. But even our officers are still just human beings at the end of the day, and we as Members need to ensure we play our part in helping to maintain a culture and an environment where the best talent in local government wants to come and work here, and those that are already here are motivated and inspired to go that extra mile and be ever more amazing.

Chairman, we face uncertain times nationally and internationally with the continuing war in Ukraine and the ongoing financial situation: none of us can know what the future holds or how it will affect us. So, we must continue to support our residents through whatever challenges emerge, working together, pro bono omnium."

Members showed their appreciation for the Leader's Statement with a round of applause.

Councillors Allen, I J Henderson and M E Stephenson addressed the Council during the debate on the Leader of the Council's Statement. Councillor Stock OBE responded to the points made by those Members.

98. PETITIONS TO COUNCIL

No Petitions had been submitted in accordance with the Scheme approved by the Council on this occasion.

99. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.1

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

One question had been received, on notice, from a member of the public on this occasion.

Question

Jeremy Rendle asked the Leader of the Council (Councillor Stock OBE) in relation to Seawick Road and Seaview Road, St Osyth:-

“Does the Council agree with the proposition (in which case, please outline the next steps to be taken by the Council in relation to the two roads), or disagree with the proposition (in which case, please provide a full and reasoned statement outlining the Council’s position on the applicability of s.230(7)?”

Background to Question:

“Seawick Road and Seaview Road in St Osyth are in a dangerous state and are in need of urgent repair. I acknowledge that they are 'Private Roads' and that they remain unadopted by TDC.

Section 230(7) of the Highways Act 1980 provides as follows:

“Without prejudice to the foregoing provisions of this section or to any other enactment for the time being in force relating to private street works, the street works authority and also, in the cases mentioned below, the district council may, in any street that is not a highway maintainable at the public expense, execute such repairs as are in their opinion urgently required to prevent or remove danger to persons or vehicles in the street.

The cases in which the district council may act under this subsection are those in which the street concerned [is situated in a non-metropolitan district and] is a footpath, bridleway or any such road as is mentioned in section 42(2)(c) above (urban roads).”

For completeness, s.42(2)(c) of the same Act does not preclude roads such as Seawick Road and Seaview Road.

PROPOSITION: TDC has a statutory power to carry out the urgent repairs required in Seawick Road and Seaview Road.”

Councillor Stock OBE replied to that question as follows:-

“Thank you, Mr Rendle, for your very interesting question. I did look up the legislation and I did read it but I am sure that everyone will be delighted to know that the response that I am about to give has been run by our Officers for technical and legal accuracy. Firstly, I need to clarify one point in the background to your question: Essex County Council is the adoption authority for roads and not the District Council, we are not the Highway Authority.

In direct response yes, the District Council does possess a statutory power as set out in the Highways Act 1980. However, it is just one of a vast range of discretionary powers that district councils have and the crucial distinction that needs to be made clear is that it is not a statutory duty.

The District Council can only make decisions within its Budget and Policy Framework, whilst taking into account various considerations. I appreciate the frustration that is felt, not just in Tendring but right across the entire nation at the state of unadopted roads, and also the state of adopted roads, even including the strategic highway network of

motorways and major A roads with increasing numbers of potholes and deteriorating surfaces. But for the avoidance of doubt this Council cannot fix those problems.

Not least because we must never take decisions in isolation and unfortunately, this situation with unadopted roads is mirrored right across every part of Tendring. If the District Council decided to repair one road, why would that one take priority over another one? How would this impact our financial position and the ability to deliver important statutory services and other important discretionary functions, which our wider residents and community of the District benefit from?

The Highways Authority is the primary authority in such matters, and it may be required to pay for any costs incurred through their highways budgets, which the District Council does not possess. There used to be an arrangement with Essex County Council to take such actions, but this ceased well over a decade ago when funding was withdrawn.

Ultimately, and this may be a harsh reality, it is the owners of private roads who are responsible for maintaining them, or alternatively, it falls to the property owners immediately abutting the road (known as "Frontagers") to ensure that access to, and egress from, their property is safe and appropriate. The Frontagers may also be liable for the costs of making up to adoptable standard, if undertaken by a local authority. Thank you."

100. REPORT OF THE LEADER OF THE COUNCIL - URGENT CABINET OR PORTFOLIO HOLDER DECISIONS

There was no such report of the Leader of the Council for Members to consider on this occasion.

101. MINUTES OF COMMITTEES

It was moved by Councillor Stock OBE and:-

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

- (a) Community Leadership Overview & Scrutiny of Tuesday 13 December 2022;
- (b) Resources and Services Overview & Scrutiny of Wednesday 11 January 2023;
- (c) Planning Policy & Local Plan of Monday 23 January 2023;
- (d) Audit of Thursday 26 January 2023;
- (e) Resources and Services Overview & Scrutiny of Wednesday 1 February 2023; and
- (f) Standards of Wednesday 8 February 2023.

102. REFERENCE FROM THE TENDRING COLCHESTER BORDERS GARDEN COMMUNITY JOINT COMMITTEE - A.1 - DEVELOPMENT PLAN DOCUMENT: SUBMISSION VERSION PLAN - REGULATION 19

Council had before it a Reference Report and Appendices (A.1), which enabled it to consider the recommendations of the Tendring Colchester Borders Garden Community Joint Committee in relation to the Submission Version of the Development Plan Document, associated Sustainability Appraisal and other related evidence.

The Reference Report contained the following joint advice of Tendring District Council's and Colchester City Council's respective Monitoring Officers:-

"The recommendations from the Joint Committee being presented to the Full Councils at Tendring and Colchester, are with the intention of seeking decisions being taken by the Full Councils prior to the upcoming Local Elections, to enable the Regulation 19 consultations to commence shortly thereafter. A delay in determination until after the election period is likely to pose a high risk to the timetable for the overall Garden Community project and the delivery of the first phase of homes and associated infrastructure in accordance with the Housing Infrastructure Funding agreement with Homes England (subject to variation).

Section 1 Local Plan requires that planning permissions are not to be granted until the DPD has been completed and adopted, a delay to its adoption would have a knock-on effect to delivery on the ground. If agreed, the proposal is to consult on the DPD for six weeks later in 2023 following the Local Elections. The updated version of the Local Development Scheme (LDS), recommends a new timetable for the DPD. This takes into account the need to consult for a period of six weeks on the DPD, and charts a realistic timetable for independent Government Examination in Autumn/Winter 2023, with adoption of the DPD anticipated early in 2024.

Due to Pre-election Periods and post elections administration to form Councils, it is unlikely that decisions could be made by the Joint Committee until June/July 2023 and Full Councils in September. However, Officers would not be presenting the Submission Version Plan for consideration and public consultation if it did not meet the tests of soundness, based on evidence and taking into account the outcome previous stakeholder engagement under Regulation 18, and supported by a Sustainability Appraisal. Summary of the Regulation 18 consultation is included within the report to the Joint Committee highlighting the three main issues related to Green Buffers and Land South of the A133, Salary Brook and Crockleford Heath and Bromley Road. Technical evidence has been completed and changes incorporated into the Submission Version Plan on all three of these key issues.

It is important to remember that this stage of the process is plan making, setting policy direction and not the determination of planning applications, which will follow once the DPD is adopted as required by Section 1 of the Local Plans. There will be detailed s.106 planning agreements negotiated and in place, prior to planning permissions being granted. There may be details which members would wish to seek further assurances on, which relate to the later stages of the process, including planning obligations, commitments and delivery.

Essex County Council entered into a formal contract (Grant Determination Agreement) with Homes England for the Housing Infrastructure Fund. Tendring District Council and Colchester City Council signed a Memorandum of Understanding setting out how they will work together with Essex County Council towards their intended objective of unlocking development at Tendring Colchester Borders Garden Community (TCBGC). This included demonstrating the Local Planning Authorities' agreement with the content

of the Housing Delivery Statement and the Recovery and Recycling Strategy. Paragraph 2.3 is relevant for the purpose of this report, which states:

“The Parties will work together to ensure that TCBGC’s dependence on the HIF infrastructure is effectively and comprehensively articulated where evidence is available to demonstrate that dependence including through the preparation of Development Plan Documents, Supplementary Planning Documents, and other relevant documents.”

Therefore, Members should reflect the importance of the HIF for delivery of the Garden Community and do not seek, unnecessarily to put this funding at risk through its decision- making.

In setting up the Joint Committee, Tendring District Council, Colchester City Council and Essex County Council delegated certain functions, for the purpose of this report, to exercise the Council’s respective functions relating to overseeing the preparation of the joint TCBGC DPD and ensuring it:

- (a) is in accordance with the Local Development Schemes;*
- (b) includes policies designed to secure that the development and the use of land in the garden community area contribute to the mitigation of, and adaption, to climate change;*
- (c) meets the “tests of soundness” as set out in legislation, national and planning policy and advice contained within guidance issued by the Secretary of State;*
- (d) has regard to the adopted Section 1 of CBC & TDC’s Local Plan;*
- (e) has regard to the resources likely to be available for implementing the proposals in the document;*
- (f) other such matters the Secretary of State prescribes; and*
- (g) complies with the Council’s Statement of Community Involvement.*

The Joint Committee has carried out these functions and if approved, has satisfied itself to exercise a further delegated function and make recommendations to TDC and CBC in relation to the approval of the TCBGC DPD for the purpose of its submission to the Secretary of State for independent examination under Section 20 of the 2004 Act, and consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Full Council is therefore being requested to approve the Submission Version of the DPD, for Regulation 19 consultation and submitted to the Secretary of State’s Planning Inspectorate, for an examination process similar to that of the Section 1 and 2 of the Local Plan stages.

Without a DPD in place for the Garden Community, the Councils are in a weaker position with regards to our respective Local Plans. The principle of development in this area has been established in Section 1 and the Councils are under an obligation to move to the next phase. Section 1 contained Policies SP8 and SP9 requiring DPDs to set out how the new Garden Community will be designed, developed and delivered in phases, in accordance with a set of principles.

The Developer and their partners are committed to the Garden Community and up to the examination, and prior to the Section 106 negotiations, it is our advice for the

Councils to seek a Memorandum of Understanding with the developer focusing on some principles for delivery and wider relations.”

Council had had circulated to it prior to the commencement of the meeting an Addendum to the Reference Report, which informed it –

- (a) of the formal recommendations made by the Tendring Colchester Borders Garden Community Joint Committee at its meeting held on 27 February 2023 in relation to the Submission Version of the Development Plan Document, associated Sustainability Appraisal and other related evidence; and
- (b) that a Memorandum of Understanding had been signed by Essex County Council, Colchester City Council, Tendring District Council and Latimer (Tendring Colchester Borders Garden Community) Development Limited in order to govern the relationship, collaboration and co-operation of the aforementioned Parties in relation to the delivery of the A120-A133 Link Road to support the development of the Tendring Colchester Borders Garden Community.

Members were informed that the Joint Committee’s decision on this matter was:-

“That the Tendring Colchester Borders Garden Community Joint Committee –

- 1) *notes the content of this report which presents the Submission Version of the Plan for the Tendring Colchester Borders Garden Community (otherwise known as the ‘Development Plan Document’ or DPD) (Appendix 1) and associated Sustainability Appraisal (Appendix 2) along with the Strategic Masterplan and other related evidence listed as background documents which together address the legal requirements of the planning system and the tests of soundness set out in the National Planning Policy Framework, having regard to the comments received in response to the 2022 Regulation 18 public consultation exercise;*
- 2) *recommends to the Full Council of both Tendring District Council and Colchester City Council that they agree for the above-mentioned Submission Version of the Plan, associated Sustainability Appraisal and other related evidence be published for six-weeks’ public consultation in line with Regulation 19 of the Town and Country Planning (Local Planning) (England) regulations 2012 (as amended) and Regulation 13 of the Environmental Assessment of Plans and Programme Regulations and thereafter submitted to the Secretary of State in line with Regulation 21 of the Town and Country Planning (Local Planning) (England) regulations 2012 to begin the process of independent examination;*
- 3) *that Full Council authority is sought for the Garden Community Planning Manager, in consultation with the TDC Director of Planning, the CCC Executive Director of Place and the Chairman and Vice-Chairman of the Tendring Colchester Borders Garden Community Joint Committee, to be given delegated authority to make any minor editorial changes to the text and maps in the Submission Version of the DPD and to make necessary updates and additions to the evidence base ahead of their publication for public consultation;*
- 4) *notes the proposed activity for the Regulation 19 ‘Submission Version Plan’ consultation;*

- 5) *notes the representations received following the cancellation of the Joint Committee meeting of the 13th December 2022;*
- 6) *welcomes the completion of a Memorandum of Understanding which is intended to govern the relationship, collaboration and co-operation between the Councils and Latimer in relation to the delivery of both phases, at the earliest opportunity, of the A120-A133 Link Road which will support the development of the Garden Community; and*
- 7) *recommends that officers from the Councils work with Latimer to explore the possibility of entering into an agreement which would detail how the parties would work collaboratively for the duration of the project, delivering the vision for the future of the garden community.”*

A copy of the aforementioned Memorandum of Understanding was attached as an Appendix to the Addendum.

Councillors Bush, Scott, Allen, I J Henderson, Stock OBE, Bray and Turner each addressed the Council during the debate on this item.

It was moved by Councillor Turner, seconded by Councillor Bray and unanimously:-

RESOLVED - that Full Council, having taken into account the information contained in this Addendum (and its Appendix) in making its decision on the Submission Version of the Development Plan Document, associated Sustainability Appraisal and other related evidence, in particular, the decision made by the Tendring & Colchester Borders Garden Community Joint Committee, agrees that –

- a) the Submission Version of the Plan for the Tendring Colchester Borders Garden Community (otherwise known as the ‘Development Plan Document’ or DPD) (Appendix 1) and associated Sustainability Appraisal (Appendix 2) along with the Strategic Masterplan and other related evidence listed as background documents which together address the legal requirements of the planning system and the tests of soundness set out in the National Planning Policy Framework, having regard to the comments received in response to the 2022 Regulation 18 public consultation exercise, be published for six weeks’ public consultation in line with Regulation 19 of the Town and Country Planning (Local Planning) (England) regulations 2012 (as amended) and Regulation 13 of the Environmental Assessment of Plans and Programme Regulations and thereafter submitted to the Secretary of State in line with Regulation 21 of the Town and Country Planning (Local Planning) (England) regulations 2012 to begin the process of independent examination;
- b) the Garden Community Planning Manager, in consultation with Tendring District Council’s Director of Planning, Colchester City Council’s Executive Director of Place and the Chairman and the Vice-Chairman of the Tendring Colchester Borders Garden Community Joint Committee, be authorised to make any minor editorial changes to the text and maps in the Submission Version of the DPD and to make necessary updates and additions to the evidence base ahead of their publication for public consultation;
- c) welcomes the completion of a Memorandum of Understanding which is intended to govern the relationship, collaboration and co-operation between the Councils and

Latimer in relation to the delivery of both phases, at the earliest opportunity, of the A120-A133 Link Road which will support the development of the Garden Community; and

- d) endorses the recommendation that Officers from the Councils work with Latimer to explore the possibility of entering into an agreement which would detail how the parties would work collaboratively for the duration of the project, delivering the vision for the future of the garden community.

103. MOTION TO COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE 12 - RING-FENCING OF CAPITAL RECEIPTS ARISING FROM THE DISPOSAL OF SURPLUS LAND

Council had before it the following motion, notice of which had been given by Councillor Graham Steady pursuant to Council Procedure Rule 12:-

“That this Council resolves to recommend to Cabinet that -

- (a) *any future capital receipts arising from the disposal of surplus land be ring-fenced for investing back into the town or parish it is located in, and in the case of Brightlingsea this would include the proceeds from the future disposal of land in Dover Road identified in the report to Cabinet on 15 July 2022; and*
- (b) *the relevant Town / Parish Council be consulted on any such investment proposals.”*

Councillor Steady formally moved the motion and Councillor Chapman BEM formally seconded the motion.

Councillor Steady then gave his reasons why he felt that it would be appropriate for the motion to be dealt with at this meeting, namely that:-

- the Council was coming to the end of its current four year cycle;
- the process of land disposal had already begun in Brightlingsea. Early link ups to policy had already been announced;
- there were opportunities in the pipeline to raise match funding for joint schemes between Brightlingsea Town Council (BTC) and Tendring District Council (TDC). BTC working with TDC Officers could reduce housing waiting lists. Therefore, dealing with the motion at this meeting would ‘tidy things up’ and create a platform for the new post-election Executive to build on and reduce the timescale for the delivery of schemes; and
- the extra funding from land disposals could fund a significant number of extra small schemes right across the District in every town and parish council area.

Councillor Chapman BEM then gave her reasons why she felt that it would be appropriate for the motion to be dealt with at this meeting, namely that:-

- now would be a better time to debate this motion as the present Members had the experience and knowledge gained from previous discussions of land disposals. Following the election there could be a significant number of new Councillors who might not fully understand the argument being made on this matter; and

- this would be an ideal time to demonstrate to residents that two Councils can work together to build out projects.

The Leader of the Council (Councillor Stock OBE) then responded and put forward reasons why it would be more appropriate for the motion to stand referred to the Cabinet. These included:-

- pointing out that, in his opinion, the current wording of the Motion meant that places in the District with a large number of Council owned assets would benefit at the expense of those without;
- the disposal of assets was an Executive function, as acknowledged in the motion itself, so this motion really had to go before the Cabinet in order for it to form a recommendation and return the motion to Full Council at a later date. No land would be sold off in the interim so there was nothing to fear on that score;
- pointing out that, in his opinion, even if the motion was considered and then unanimously approved at this meeting it would have 'zero effect'. He felt that it was a pointless exercise as it could not change what Cabinet could or could not do.

Having consulted both the Council's Monitoring Officer and the Section 151 Officer, the Chairman of the Council (Councillor Harris) then made his ruling on whether the motion should be dealt with at the meeting or stand referred. He decided that the motion would stand referred to the Cabinet on the grounds that this motion clearly concerned an Executive function.

Councillor Steady then explained the purpose of the Motion in accordance with the provisions of Council Procedure Rule 12.4.2. That explanation included:-

- that the motion aimed to build on previous successes in Brightlingsea and to bring about a meaningful, fiscal devolution from TDC to BTC as a pre-cursor to fiscal devolution from central Government to local Government;
- it would enable TDC to get 'ahead of the game' and enable the flexibility required to deliver these schemes;
- adapting such an ethos would challenge everything and provide a different way of delivering services and facilities similar to the land swap at Vista Road, Clacton-on-Sea which had been an integral part of the refurbishment of the Clacton Leisure Centre's new all-weather football pitch funded by the Football Foundation and a contribution from Essex County Council; and
- that this was a wonderful opportunity to 'dare to be different'.

Councillor Chapman BEM then further explained the purpose of the Motion in accordance with the provisions of Council Procedure Rule 12.4.2. That explanation included:-

- many parish/town councils had small projects that were waiting to be progressed or completed – this would be a good way of achieving positive outcomes;
- it would demonstrate how parish/town councils and district/borough councils could work together within guidelines – it could enable match funding opportunities to complete such projects for the benefit and pacification of local communities; and
- there was a worry that the money raised from land disposals would go into a central pot and 'disappear'.

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

No reports from an overview and scrutiny committee had been submitted for Council's consideration and determination at this meeting.

Members were aware that the Reference Report referred to under Agenda Item 18 incorporated the recommendations made by the Resources and Services Overview and Scrutiny Committee in relation to the review of the Council's Cyber Security arrangements.

105. REFERENCE FROM THE CABINET - A.2 - ANNUAL CAPITAL AND TREASURY STRATEGY FOR 2023/24 (INCLUDING PRUDENTIAL AND TREASURY INDICATORS)

Council considered a Reference Report (A.2), which enable it to review and approve the Annual Capital and Treasury Strategy for 2023/24 (including the Prudential and Treasury indicators).

Members were informed that, on 17 February 2023 (Minute 126 referred), the Cabinet had considered a report of the Corporate Finance and Governance Portfolio Holder in relation to the Annual Capital and Treasury Strategy for 2023/24 (including the Prudential and Treasury Indicators).

At that meeting it had been:

“RESOLVED that Cabinet –

- a) agrees the Annual Capital and Treasury Strategy for 2023/24 (including Prudential And Treasury Indicators) and that it be submitted to Council for approval; and*
- b) undertakes the necessary consultation with the Resources and Services Overview and Scrutiny Committee as early as practicable in 2023/24.”*

A copy of the published Corporate Finance and Governance Portfolio Holder's report to the Cabinet meeting held on 17 February 2023, together with the Annual Capital and Treasury Strategy 2023/24, were attached as appendices to the reference report (A.2).

It was moved by Councillor Stock OBE and:-

RESOLVED that the Council -

- (a) approves the Annual Capital and Treasury Strategy for 2023/24 (including Prudential and Treasury Indicators); and
- (b) notes and welcomes that the necessary consultation with the Resources and Services Overview and Scrutiny Committee will occur as early as practicable in 2023/24.

106. JOINT REPORT OF THE MONITORING OFFICER AND THE CABINET - A.3 - PROPOSED AMENDMENTS TO THE COUNCIL'S CONSTITUTION (COUNCIL PROCEDURE RULES)

In accordance with the provisions of Article 15.02 (a) and (c) of the Council's Constitution, full Council was requested to approve the recommended changes to the Constitution (Council Procedure Rules) put forward by the Monitoring Officer and the Cabinet in their joint report (A.3), following a review undertaken by the Corporate Finance and Governance Portfolio Holder, through a Working Party constituted for that purpose.

It was reported that Cabinet, at its meeting held on 16 December 2022 (Minute 83 referred) had considered the outcome of the annual review of the Council's Constitution that had been undertaken by the Review of the Constitution Portfolio Holder Working Party.

At that meeting, Cabinet had deferred consideration of the proposed changes to Council Procedure Rules (CPR) 12 and 14 pending their re-consideration by the Review of the Constitution Portfolio Holder Working Party (CRWP).

Accordingly, the CRWP had met on 23 January 2023 to further discuss those proposed changes to CPRs 12 and 14. In addition, the CRWP had considered, at the request of Councillor Baker, a matter pertaining to CPR 11.2 as well as the outcome of the recent consultation exercise with Members on the procedure for the Planning Committee's site visits.

Following that meeting, on 17 February 2023, Cabinet had considered a report of the Corporate Finance and Governance Portfolio Holder, which had requested it to approve the recommended changes to the Constitution, put forward by the CRWP, for referral onto Full Council.

A summary of the proposed changes compared to the existing CPRs 11, 12 and 14 was included in the background section of the joint report and in each case, the content had been revised to provide greater clarity, ensure effectiveness and efficient up to date working practices for both Members and Officers.

Having considered the outcome of the further review of the Constitution (Council Procedure Rules) and the Cabinet's recommendations arising therefrom, and in order to enable those recommendations to be approved and adopted:-

It was moved by Councillor Stock OBE and:-

RESOLVED that -

- (a) the Council's Constitution be amended to reflect the proposed changes as set out in the Appendix attached hereto the joint report of the Monitoring Officer and the Cabinet (A.3);
- (b) the implementation of the new Council Procedure Rule 12 be reviewed after six months' operation;
- (c) the proposal that the Planning Committee continues its current practice of undertaking a site visit in respect of all planning applications that are submitted to it for its consideration be supported;

- (d) the Monitoring Officer be requested to amend the Council's procedure for Planning Committee Site Visits, as set out in the Members' Planning Code and Protocol (in Part 6 of the Constitution) to appropriately reflect the matters raised by the Review of the Constitution Portfolio Holder Working Party; and
- (e) the Monitoring Officer be further requested to submit the Site Visit Procedure, as amended, to Full Council for its approval and adoption, following consultation, as appropriate and necessary, with the Planning Committee and the Standards Committee.

107. REFERENCE FROM THE CABINET - A.4 - CYBER SECURITY FOR THE COUNCIL

Further to the decisions of Council on 22 November 2022 (Minute 55 referred), Members received recommendations arising from the Overview and Scrutiny enquiry into cyber security together with the outcome of the consideration of those recommendations by Cabinet at its meeting held on 17 February 2023 (Minute 122 referred).

It was reported that, in accordance with the decision of Council on 22 November 2022 (referred to above), the Resources and Services Overview and Scrutiny Committee had extended its work programme enquiry into cyber security in order to include reviewing the different proposals of Members' access to emails, in line with the Council's Risk Management Framework. That enquiry had been undertaken by a Task and Finish Group comprised of Councillors Clifton (Chairman), Amos, Coley, Griffiths and Wiggins. The Task and Finish Group had met four times and had submitted its report to the Resources and Services Overview and Scrutiny Committee at a meeting of that Committee held on 1 February 2023.

The Resources and Services Overview and Scrutiny Committee, pursuant to the decision of Council on 22 November 2022, had then submitted its recommendations arising from the cyber security enquiry to Cabinet on 17 February 2023 and also to this meeting of Council. That Committee had resolved –

“That Cabinet –

- a) requests, that as soon as is possible, the Human Resources and Council Tax Committee with appropriate officers looks at the salaries being offered for the advertised and unfilled senior IT posts, including cyber security senior technical positions;*
- b) endorses that by 31 March 2023 a Portfolio Holder Cyber Security Working Group be established to periodically review the Council's cyber security performance against the Cyber Assessment Framework (CAF) and/or emerging mandatory security improvements and requirements;*
- c) requests that by 31 July 2023 the Council's Information Retention Policy be reviewed/ revised with due regard to UK Data Protection Act 2018 data 'minimisation' 'accuracy' and 'storage limitation' and applied throughout the organisation;*

- d) *requests that by 31 May 2023 individual (non-generic) account access technologies be costed for accessing TDC terminals in locations such as leisure centres where numerous users sharing a terminal due to a retail environment operational need;*
- e) *requests that, commencing no later than May 2023 following the election of the new Council, Cyber Security and Information Governance training for all Members after every election and for staff in their inductions be introduced with periodic refresher training for both which will be made mandatory;*
- f) *requests the Council's Monitoring Officer to review existing Member guidance and explore Member training opportunities as to what constitutes party political activities in the context of using a TDC email account;*
- g) *endorses that as soon as possible the new Cyber Incident Response Plan (CIRP) be adopted.*

That Cabinet recommends to Full Council that –

- h) *post-May 2023 local elections under the newly elected Council that Members' practice of auto-forwarding of emails be ceased;*
- i) *subject to the associated funding of £8,000 being identified, that the preferred Option 2 i.e. the provision of a standard council-managed mobile Smartphone in addition to a council-managed laptop be provided to those Members that want one to access emails and to be contactable when mobile; or*
- j) *as an alternative to i above, that should it not prove possible to fund the Smartphone costs centrally, then each Member requesting a standard council-managed mobile Smartphone be asked to fund the cost from their Allowances (circa two hundred pounds per annum)."*

Cabinet had had before it at its meeting held on 17 February 2023 the following comments submitted by the Portfolio Holder for Corporate Finance & Governance:-

"I would like to thank the Committee for the work it has undertaken in setting up the task and finish group chaired by Councillor Clifton, who looked at the various aspects and complexities of cyber security in a relatively short period of time.

In respect of the recommendations a) to g), they reflect a pragmatic and reasonable approach to supporting the Council's cyber security arrangements, so I am therefore supportive of taking the various activities forward in 2023/24.

Recommendations h) to j) of the Resources and Services Overview and Scrutiny Committee will be presented for consideration at Full Council on 2 March 2023 [Note: as set out above].

In respect of recommendation h), this reflects the position I have mentioned on a number of occasions over recent months. I appreciate the frustration that many Members have previously expressed, but I believe that the risk of continuing with the forwarding of emails to personal emails account is too great for various reasons, not least because of UK Data Protection legislation compliance, but also recognising freedom of information issues that have been highlighted by the ICO. Not only that, but

the world of cyber security will keep evolving and there will be adverse consequences if we continued with current practices. We therefore need to remain alert to both current and future risks.

Furthermore, if a breach was to take place the Council would be potentially liable to hefty fines by the ICO.

I note that the following 4 options relating to how Members can access their Tendring District Council emails that were considered by the task and finish group:

- 1. Use of council managed laptops only*
- 2. All members be provided with a Council managed smart phone*
- 3. Introduce a 'Bring Your Own Device' Service Framework*
- 4. A Member web 'portal' app*

Whilst acknowledging the Committee's practical recommendation of the provision of Council managed smartphones, in striking a pragmatic balance along with recognising how Members are increasingly reliant upon flexible access to their emails to effectively undertake their role as a Councillor, I would be supportive of exploring Option 4 above in more detail as a possible alternative. Although the provision of a mobile phone would provide a practical solution, I understand the frustration of some members where they are juggling more than one email account to reflect their 'political' roles with that of a being a ward Councillor along with trying to undertaking that role efficiently. The responsibilities of Portfolio Holders giving direction and making decisions within their individual areas has also been taken into account.

In recognition of the above, I am therefore proposing that Officers also explore in more detail the option of a Members' 'portal' as a flexible way for Members' to continue to use their own devices to access their Tendring District email account.

Following the Council's consideration of the associated report at their meeting on 22 November 2022, the following resolution was agreed:

'the implementation of any and all changes required be planned for no later than 1st April 2023 in readiness for the commencement of the new Council, following the elections in 2023 and that the new Councillors be given the training'.

My proposed approach will have an impact on the above, which is addressed in my recommendations."

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

"RESOLVED that –

- a) the Resources and Services Overview and Scrutiny Committee be thanked for the work they have undertaken and specifically the Members who participated in the associated task and finish group, chaired by Councillor Clifton;*

- b) the Committee's recommendations a) to g) are agreed and Officers be requested to undertake the associated activities as soon as practicable in 2023/24 in consultation with the Portfolio Holder for Corporate Finance and Governance;*
- c) in respect of the Committee's recommendations h) to i), it is recommended to Full Council that:*
- i) although it is recognised that the provision of mobile phones would provide a practical solution to enable Members to access their Tending email accounts, Officers be requested to also explore the alternative option of a Members' 'portal' before a final decision can be considered;*
 - ii) subject to ci) above, a further report be presented to Cabinet as early as practicable in 2023/24 that sets out the outcome from the proposed review of the Members' 'portal' option and recommendations are presented back to a future meeting of Full Council;*
 - iii) subject to ci) and cii) above, Full Council continues to acknowledge that the ongoing risk to the Council, in acting as Data Controller, could potentially be in breach of the Data Protection Act 2018 remains, whilst the auto-forwarding of Councillor emails practice continues; and*
 - iv) whilst the work in ci) and cii) is ongoing, all Members elected in May 2023 are advised of this and the Council's Information Governance requirements through their induction programme."*

A copy of the published reference report (and its appendices) from the Resources and Services Overview & Scrutiny Committee to the Cabinet meeting held on 17 February 2023, were attached as appendices to the reference report from Cabinet (A.4).

It was moved by Councillor Stock OBE that –

- (a) although it is recognised that the provision of mobile phones would provide a practical solution to enable Members to access their Tending email accounts, Officers be requested to also explore the alternative option of a Members' 'portal' before a final decision can be considered;
- (b) subject to (a) above, a further report be presented to Cabinet as early as practicable in 2023/24 that sets out the outcome from the proposed review of the Members' 'portal' option and that Cabinet's recommendations arising therefrom are submitted to a future meeting of Full Council;
- (c) subject to (a) and (b) above, Full Council continues to acknowledge the ongoing risk to the Council that, in acting as Data Controller, it could potentially be in breach of the Data Protection Act 2018 and that risk will remain whilst the auto-forwarding of Councillors' emails practice continues; and
- (d) whilst the above work in (a) and (b) is ongoing, all Members elected in May 2023 be advised of this and of the Council's Information Governance requirements through their Members' induction programme.

Councillor Clifton moved and Councillor Allen seconded that Councillor Stock's motion be amended to read as follows:-

"That Council having considered the outcome of the enquiry into cyber security undertaken through the Resources and Services Overview and Scrutiny Committee determines to adopt the following as recommended by the Resources and Services Overview and Scrutiny Committee –

- a) it is recognised that the provision of mobile phones would provide a practical solution to enable Members to access their TDC email accounts and that under the newly elected Council from May 2023, the practice of auto-forwarding of TDC Member Emails to non TDC accounts be ceased and that:
 - i) subject to the associated funding of £8,000 being identified, a standard council-managed Smartphone in addition to a council-managed laptop be provided to those Members that want one to access emails and to be contactable when mobile;
 - ii) should it not prove possible to fund the Smartphone costs centrally, then each Member requesting a standard council-managed mobile Smartphone be asked to fund the costs from their allowances (circa two hundred pounds per annum);
- b) subject to a), Full Council continues to acknowledge the ongoing risk to the Council that, in acting as Data Controller, it could potentially be in breach of the Data Protection Act 2018 and that risk will remain whilst the auto-forwarding of Councillors' emails practice continues."

Councillors Coley, Knowles, Amos, Placey, M E Stephenson, Scott and Stock OBE all addressed the Council during the debate on Councillor Clifton's amendment.

Councillor Stock OBE concurred with Councillor Clifton's amendment and agreed to incorporate it within the original motion pursuant to the provisions of Council Procedure Rule 16.6 (Alteration of Motion).

Councillor Stock's motion, as now amended, on being put to the vote was declared **CARRIED**.

108. REPORT OF THE CHIEF EXECUTIVE - A.5 - TERM OF OFFICE FOR THE MEMBERS OF THE INDEPENDENT REMUNERATION PANEL

Council considered an extension to the term of office for the members of the Council's Independent Remuneration Panel (IRP) following Council's decision on 24 January 2023.

Members were aware that the term of office for the existing Independent Remuneration Panel lasted until Annual Council in May 2023 and that following a reference report from the Standards Committee, Council had approved on 22 November 2022 (minute 52 referred):-

- (a) *that alternative arrangements for the Independent Remuneration Panel are explored further in order to maximise options available with other Councils within Essex and to give consideration to the outcome prior to any future recruitment; and*

- (b) *that the term of office for those Independent Persons, who express an interest in doing so, be extended for a further year without an application process, in order to allow the review within recommendation (a) above to be undertaken.*

Council was reminded that the reason for only extending the Independent Person part of the role was on the basis that, in January 2023, it had been anticipated, the Independent Remuneration Panel would present to Full Council, a Scheme of Members' Allowances for the period 2023/24 until 2027/28. Therefore, should Council approve such a Scheme, joint working could be explored until the recommendations of the IRP would be required.

However, at its meeting in January 2023, the Council had received the Report of the Head of Democratic Services and Elections following the Review of the Scheme of Members' Allowances by the IRP. It had been moved by Councillor Stock OBE and seconded by Councillor M E Stephenson that, inter alia, –

- (a) *the report of the Independent Remuneration Panel (set out in the Appendix to this report), following that Panel's review of the appropriate uplift to be applied to Basic and Special Responsibility Allowances in the scheme for 2022/23 and the Scheme of Allowances for Councillors for 2023/24 (and until 2027/28) be welcomed and duly noted;*
- (b) *that the recommendations from the Independent Remuneration Panel set out on pages 10-13 of the Appendix be agreed in full;*

...

Members were further reminded that one of the recommendations from the IRP (No. (6)) had stated:

"That there be an expectation that no Councillor be eligible to claim more than two separate Special Responsibility Allowances; Reason: The Allowances Scheme needs to set remuneration at an appropriate level and the undertaking of different roles by an individual Councillor should be recompensed appropriately. It is important to preserve the capacity of Councillors to undertake their Ward related activities with resident casework. Under this expectation, a Councillor otherwise eligible for more than two Special Responsibility Allowances should not normally take that/those further Allowances. However, if they make the specific case and lodge this with the Council's Chief Executive (who may seek the views of the Independent Remuneration Panel), that/those further Allowances may be paid with the approval of the Chief Executive".

Councillor I J Henderson had opined that the procedure for determining a Councillor's request to receive a third or subsequent Special Responsibility Allowance should be altered, because he felt that this placed an undue, and potentially politically controversial, burden on the Chief Executive and he therefore had suggested the following alternative:-

"...However, if they make the specific case and lodge this with the Council's Chief Executive (who will then seek the views of the Independent Remuneration Panel) that/those further Allowances may be paid with the approval of the Full Council, who will have had regard to the views of the IRP in making its decision".

Councillor Stock OBE and Councillor M E Stephenson had both concurred with Councillor Henderson's suggestion and had agreed to incorporate it within their original motion pursuant to the provisions of Council Procedure Rule 16.6(b) (Alteration of Motion).

Councillor Stock's motion, as now amended, following the vote was declared **CARRIED** (Minute 77).

Council was advised that, currently, post May 2023, the Council would be unable to action the approval of any additional allowances, because the Chief Executive would not have an IRP to consult with following the expiry of their term of office. Therefore, in order to be able to comply with Council's intentions, if such a situation arose, an extension to the term of office for those Independent Remuneration Panel members, who expressed an interest in doing so, was necessary. The proposal was therefore to extend for a further year without an application process, in order to allow the joint working review to be undertaken.

It was moved by Councillor Stock OBE, seconded by Councillor I J Henderson and:-

RESOLVED that Council approves that the term of office for those Independent Remuneration Panel members, who express an interest in doing so, be extended for a further year without an application process.

109. REPORT OF THE ASSISTANT DIRECTOR (PARTNERSHIPS) - A.6 - PAY POLICY STATEMENT 2023/24

The Chief Executive, the Deputy Chief Executive & Monitoring Officer and the Assistant Director (Finance and IT) & Section 151 Officer each declared an Interest in this item and withdrew from the meeting during the consideration thereof and the voting thereon.

Council was reminded that the Localism Act 2011 Section 38 (1) required the Council to prepare a Pay Policy Statement each year. The Pay Policy Statement articulated the Council's approach to a range of issues relating to the pay of its workforce, particularly its senior staff (*or 'Chief Officers'*) and its lowest paid employees.

The matters that were required to be included in the statutory Pay Policy Statement were as follows:

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

It was reported that the Pay Policy Statement 2023/24 had been designed to give an overview of the Council's framework regarding pay and rewards for staff within the Council. This framework was based on the principle of fairness and that rewards should

be proportional to the weight of each role and each individual's performance. The framework also aimed to ensure the ability of the Council to recruit talented individuals whilst ensuring value for money for the residents of Tendring.

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

Council was informed that there was limited change reported in the 2023/24 Statement with the exception of the application of the agreed 2022/23 pay award. There were particularly significant changes at the bottom end of the pay spine following agreement between National Employers and National Unions of an increase of £1,925 on all NJC pay points 1 and above (*a percentage increase of between 10.5% and 4.04% across the pay spine*).

Furthermore, as part of the 2022/23 pay award, the NJC had agreed that, from 1 April 2023, Spinal Column Point (SCP) 1 would be permanently deleted from the NJC pay spine. Therefore, any employees currently placed on SCP 1 would be assimilated across to SCP 2 from this date.

Members were advised that the Human Resources & Council Tax Committee had considered the Pay Policy Statement 2023/24 at its meeting held on 23 February 2023 (Minute 28 referred) and had resolved:-

"That this Committee recommends to Full Council that the Pay Policy Statement 2023/24, as set out in Appendix A to item A.2 of the Report of the Assistant Director (Partnerships), be adopted."

In order to comply with the requirements of the Localism Act 2011, Section 38(1) that the Council must adopt and publish an annual Pay Policy Statement:-

It was moved by Councillor Chapman BEM and:-

RESOLVED that the Pay Policy Statement 2023/24, as set out in the Appendix to item A.6 of the Report of the Assistant Director (Partnerships), be adopted.

110. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 11.2

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

No such questions on notice had been submitted by Members for this meeting.

111. URGENT MATTERS FOR DEBATE

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

The Meeting was declared closed at 9.49 p.m.

Chairman

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