CORPORATE DIRECTOR (OPERATIONS & DELIVERY)

January 2026

REPORT OF THE ASSISTANT DIRECTOR (HOUSING & ENVIRONMENT)

A. EXTENSION OF PORT HEALTH ARRANGEMENTS AT TENDRING PORTS

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
To request that the Leader of the Council and the Portfolio Holder for Environment agree to extend the delegation of functions agreement with East Suffolk Council for a further 12 months, and for it to provide, via Suffolk Coastal Port Health Authority (SCPHA), Port Health services on behalf of Tendring District Council in respect of imported food of both animal and non-animal origin in accordance with the existing legislative framework and HM Government's Border Target Operating Model.

EXECUTIVE SUMMARY
The District Council ("the Council") is the Port Health Authority for the Harwich International Port, Harwich Navy yard and Mistley Quay Imported food control at Tendring ports is already undertaken by Suffolk Coastal Port Health Authority (SCPHA) under the formal agreement signed by both parties on the 21st February 2024 The EU exit has resulted in a requirement for goods entering the UK from the EU to be subject to monitoring, checking and sampling as has previously been the case for goods entering the EU from the rest of the world. Hutchison Ports, as operator of Harwich International Port operate the Border Control Post that has been accredited by DEFRA (BCP code - GBHRW1P). This allows the opportunity for a much more significant food import service at Harwich involving goods from the EU and the rest of the world. The levels of monitoring, checking and sampling is determined by HM Government's Border Target Operating Model which has been in place since 2024. Quarterly meetings between both Councils take place to ensure the process is operating as agreed, and to highlight any concerns either party may feel needs to be addressed. As part of the formal agreement between both parties, Tendring District Council and East Suffolk Council, the agreement was for an initial period of two years from April 2024 to April 2026, with the proviso that it could be extended by a further 36 months, with a decision required at the end of each 12 month period from April 2026. Both parties have held discussions and have indicated that they would like to extend the

current agreement, and in accordance with the terms of the formal agreement, consultation with the leader of the Council to extend for a further 12 months is now necessary.

RECOMMENDATION(S)

It is recommended that leader of the Council:

1. Gives approval to continue with the agreement with East Suffolk Council, and for delegated functions to be carried out on behalf of Tendring District Council via Suffolk Coastal Port Health Authority (SCPHA) at the Border Control Post at Harwich International Port

2. Agree the fees and charges for imported food control services as set by East Suffolk Council for Suffolk Coastal Port Health Authority.

3. Agreement for the Corporate Director of Operations & Delivery to extend the agreement for a further twelve month period in April 2027 and April 2028, if both parties wish to extend and that all operations are being carried out in accordance with the contents of the agreement.

REASON(S) FOR THE RECOMMENDATION(S)

1. East Suffolk Council have a fully qualified and skilled workforce including both Port Health Officers and Official Veterinarians who undertake work on their behalf at the Port of Felixstowe as well as the Ports within the Tendring district.

2. The service provided by East Suffolk Council is fully operational and is being delivered in accordance with the legal agreement signed by both parties in February 2024.

3. The existing agreement provides comprehensive cover at all Ports and will not incur further cost pressures for TDC if an extension is approved.

ALTERNATIVE OPTIONS CONSIDERED

1. Carry out the work at our Ports using our Environmental Health Service. There is a national shortage of qualified Environmental Health Practitioners, and currently, there is insufficient resource within the existing Environmental Health Service to undertake our statutory functions at the Port. If the existing agreement was terminated, Tendring would not be in a position to comply with its statutory duty at any of the Ports within the district and would have to look to enter into another agreement with an external provider to undertake the work on our behalf.

   Given the highly skilled nature of the work being undertaken, and the necessity for all officers who complete the work needing to be fully qualified, it is extremely unlikely that another service to undertake the work on Tendring's behalf being identified.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

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

- **Championing our local environment** – The Border Control Post has been designed and constructed in such a way as to enhance the visual aspect of the area, whilst providing first class facilities in which officers can protect Public Health nationally. It ensures all imported food coming into the country has passed stringent checks for safety and that it meets UK standards. Instils confidence with the public and highlights the statutory work being carried out.

- **Working with partners to improve quality of life** – Working collaboratively with East Suffolk Council to protect public health & wellbeing is essential and guarantees compliance for of all food of animal and non-animal origin coming into the country is fit and that it meets UK food law.

- **Pride in our area and services to residents** – The Border Control Post and officers working there have set and continue to maintain high standards that are acknowledged as being first class nationally within the Environmental Health sector.

RELEVANT STRATEGY –. **AGREEMENT FOR THE DELEGATION OF FUNCTIONS - Relating to Imported Food at Harwich International Port (Attached at Appendix 1)**

ANY PREVIOUS DECISIONS – **Cabinet agreement on the 13th November 2020 that the continuation of the joint arrangements with East Suffolk Council and Suffolk Coastal Port Health Authority was essential, and that a new legal agreement is necessary following BREXIT**

21st February 2024 – Formal agreement between East Suffolk Council (ESC) and Tendring District Council (TDC) agreed and signed by both parties, formalising the delegation of functions being awarded to ESC to cover all ports on TDC's behalf

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)

- Tim what do we need here?

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	**YES**	**If Yes, indicate which by which criteria it is a Key Decision**	**x☐ Significant effect on two or more wards** **☐ Involves £100,000 expenditure/income** **☐ Is otherwise significant for the service budget**
		And when was the proposed decision published in the	**T R Clarke, Assistant Director of Housing & Environment presented a report to cabinet on**

		Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	**the 22nd February 2024 providing a background to the proposed agreement. Approval to commence was given.** **Decision was published on Modern.GOV on the 22nd February 2024 confirming the formal agreement between ESC and TDC**

Port Health control in the Port of Orwell Haven was formerly the responsibility of a Joint Board called the Harwich Port Health Authority (established by The Port Health Authorities (England) Order 1974). This Order was abolished by The Port Health Authorities (Tendring and Suffolk Coastal) Order 1981 – 1281 (Article 9). The Order constitutes two areas within the Port of Orwell Haven as port health districts and the District Councils of Tendring and Suffolk Coastal (now East Suffolk) each to be port health authority for one of those districts (Articles 2 and 4). The jurisdiction and powers of the District Councils as port health authorities are specified in Articles 3, 5 and 6. Article 7 provides for the transfer from the Joint Board to the District Councils of property held by the Board together with related liabilities and contracts and makes provision in respect of accounts and legal proceedings.

Article 6 of the Order sets out the functions of the Port Health Authority.

Currently, services related to the import of food through Harwich International Port, Harwich Navyard and Mistley Quay, Essex are carried out by East Suffolk Council, through their Port Health Authority – Suffolk Coastal Port Health Authority (SCPHA), in accordance with:

- Public Health Act 1936 (as amended)
- Public Health Act 1961
- Public Health (Control of Disease) Act 1984
- Water Industry Act 1991 – Section 84 in relation to any private supply, or
- any waterworks.
- The Public Health (Ships) Regulations 1979 as amended by The Public
- Health (Ships) (Amendment) (England) Regulations 2007 (as amended).
- The Food Safety (Ships and Aircraft) (England and Scotland) Order 2003
- Food Safety Act 1990 and any Regulations or Orders made thereunder
- with particular reference to: he General Food Regulations 2004
- Food and Environment Protection Act 1985, as amended by the
- Pesticides (Fees and Enforcement) Act 1989.
- Prevention of Damage by Pests Act 1949
- European Union (Withdrawal) Act 2018, and all regulations made under
- Section 8(1) insofar as they relate to the Port Health Authority.
- The Official Feed and Food Controls (England) Regulations 2009 (as amended)
- The Contaminants in Food (England) Regulations 2013
- The Trade in Animals and Related Products Regulations 2011 (as amended)
- The Food Safety and Hygiene (England) Regulations 2013
- The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013
- The Natural Mineral Water, Spring Water and Bottled Drinking Water (England)

Regulations 2007
- The Kava-kava in Food (England) Regulations 2002
- The Food Irradiation (England) Regulations 2009 (as amended)
- The Novel Foods (England) Regulations 2018
- The Food Information Regulations 2014
- The Spirit Drinks Regulations 2008
- The Olive Oil (Marketing Standards) Regulations 2014
- The Organic Products Regulations 2009 (as amended)
- The Plastic Kitchenware (Conditions on Imports from China) (England) Regulations 2011.
- The Materials and Articles in Contact with Food (England) Regulations 2012
- The Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order 2009 made under Section 30(2) of the Fisheries Act 1981
- The Specified Products from China (Restriction on First Placing on the Market (England) Regulations 2008
- The Genetically Modified Organisms (Traceability and Labelling) (England) Regulations 2004

The remaining statutory responsibilities are carried out in-house by the Environmental Health team.

Port Health Authorities are responsible for monitoring all food imports but will not physically check all food imports. Although detailed import checks may be carried out on any food products from non-EU countries ('third countries'), the actual checks carried out are determined on a risk basis. For products that have been declared as high risk at an EU/UK level, special health controls are in place, and checks must be carried out at import stage.

SCPHA have been undertaking work for TDC at the Ports since April 2024 under the new agreement for the delivery of the Port Health functions agreed in February 2024. Fees and Charges apply to the Port Health functions and these have been set by Tendring District Council but retained by SCPHA with a management fee, similar to a service recharge or management costs. The recharge to deliver the service on behalf of Tendring District Council has been set by SCPHA at £30,000 per annum.

SCPHA are very experienced in their field, running a large scale operation at the port of Felixstowe. They are well regarded in the port health arena with their officers providing specialist training to other authorities. Both TDC and SCPHA have worked in a successful partnership for many years in respect of the arrangements at Harwich Port.

The Council originally sought exemptions from procurement as it was looking towards a contract for services but for reasons set out in the Executive Summary, preference moved towards a delegation of functions agreement, which is an alternative model the Councils can use to deliver services through joint arrangements.

The legal agreement is therefore made pursuant to the Local Authority (Goods and Services) Act 1970, Sections 101 and 113 of the Local Government Act 1972, Section 9EA of the Local Government Act 2000 together with the Local Authorities (Arrangements for the discharge of functions) Regulations 2012 and all other enabling powers.

The current arrangement continues to build upon the previous partnership approach between the two authorities with more formalities due to the scale of the operation. However,

essentially the two Port Health Authorities are working together to deliver their statutory functions in the public interest with some specifically being delegated from Tendring to SCPHA, on a non-commercial basis. Executive functions can be delivered solely by the Council, through joint arrangements or delegated functions to another local authority.

The Councils Financial Procedure Rules set out a framework to ensure value for money is obtained through a robust procurement process. Even where the Public Contract Regulations do not apply, internal rules should still be observed. Where services sought are of a specialist nature it is possible to seek an exemption from the usual procurement process and this is one such situation. SCPHA are the closest Port Health Authority with the relevant experience to run a large scale operation. Given the pressures on port health authorities currently, whilst this is not a procurement exercise or now contract for services, it is important to acknowledge and record, it is very unlikely that another authority would be interested in taking on the functions at Harwich moving forward.

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

FINANCE AND OTHER RESOURCE IMPLICATIONS

Finance: East Suffolk Council charge an annual fee of £30,000 for the provision of the delegated functions and associated services covered by the agreement. A budget of £40,000 has been set and was agreed at Full Council on 13th February 2024.

This fee will increase annually in line with the Consumer Prices Index (CPI) and therefore there is a risk that the annual fee will increase. There is also a risk that this fee increase will not be to the level that East Suffolk Council expects and through the change control procedure included in the agreement may request an increase that is greater than CPI. Should this occur the relevant decisions will be required internally within the Council to agree variations and budget accordingly.

East Suffolk have set fees and charges for the services they provide and the majority of these fees will be recovered from importers as part of their normal day to day business operations. There may be circumstances where SCPHA are unable to recover fees from an importer and in such situations will seek reimbursement from the Council. These instances are expected to be rare but nonetheless there is a risk that additional costs above the £30,000 could be incurred, hence the budget for the service being set at £40,000.

Within existing budget? Yes, all work carried out under the agreement is currently within the budget set aside for these purposes.

Other resources (e.g. external parties): East Suffolk Council provide, via Suffolk Coastal Port Health Authority (SCPHA), Port Health services on behalf of Tendring District Council in respect of imported food of both animal and non-animal origin in accordance with the existing legislative framework and HM Government's Border Target Operating Model.

TDC Capacity: The agreement has no impact on the Environmental Health Service at Tendring. The Environmental Health Manager and Food & Safety Manager undertake quarterly meetings with Port Health Officers at the Border Control Post and also attend an annual in Felixstowe with officers from East Suffolk Council.

Planning Policy Framework: N/A

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

USE OF RESOURCES AND VALUE FOR MONEY

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

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	A total of £30,000 for the provision of the delegated functions and associated services covered by the agreement was previously agreed. A budget of £40,000 per year has been set to cover the cost of the work being undertaken on our behalf by ESC, with provision to pay additional costs should the need arise. A variation is required to be agreed by both parties before additional monies can be released. Any financial implications resulting from the action planning to deliver the priorities and commitments within this agreement will be undertaken in accordance with the constitution and the existing formal agreement between both parties.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	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, and by informing section 151 officers accordingly of any review, amendments, or further cost pressures associated with the agreement.
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.	The Environmental Health Service has 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 any decision making processes and reviews going forwards.

MILESTONES AND DELIVERY

- A budget of £40,000 was set and was agreed at Full Council on 13th February 2024, for the continuation of the joint arrangements with East Suffolk Council and Suffolk Coastal Port Health Authority, and that a new legal agreement is necessary following

BREXIT

- The new formal agreement commenced on the 1st April 2024 for an initial two year period, when approval to extend the agreement by an additional 12 months will be required for each of the following 3 years up until 1st April 2029.

ASSOCIATED RISKS AND MITIGATION

- **Financial –** There is the potential for extra costs should there be a change in legislation or necessary changes in the delivery of services due to unforeseen circumstances.

- **Service Delivery (inc. any existing projects at risk)? –** No further resource is needed placing other projects or Service delivery at risk. Any further resource will be for East Suffolk Council to procure.

- **Safety –** No safety concerns or risk involved with extending the agreement

- **Reputation –** There are no concerns regarding the continuation of the agreement, whilst having fully qualified officers present at all of our Ports further enhances TDC's reputation in safeguarded public health

EQUALITY IMPLICATIONS

There are no implications that indicate that the contents within the agreement will have a disproportionately adverse impact on any people with a particular characteristic.

SOCIAL VALUE CONSIDERATIONS

Social value considerations are included as part of the agreement ensuring Public Health is protected at all times.

IMPLICATIONS RELATED TO DEVOLUTION AND/OR LOCAL GOVERNMENT REORGANISATION

As set out within earlier reports, the Council's financial position will need to be considered within an interim period before new / successor Unitary Councils are established from the current expected date of 1 April 2028.

The costs associated with this agreement need to be reviewed accordingly whilst acknowledging the future consideration / harmonisation of financial forecasting and planning across partners as part of the various stages and activities associated with the implementation of a new unitary council from as early as 1 April 2028. Although there are no direct implications for 2026/27, this underlying approach will be implemented for the remaining two years of the agreement to ensure value for money and not compromise any future stages of the LGR process.

The existing agreement is strong and provides a platform to ensure TDC meets the targets associated with its statutory duty at the BCP and all other Ports in the district, whilst having in place a robust agreement that will continue as part of any new unitary authority.

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

There are no adverse implications associated with the Council's aim to be NET ZERO by 2050.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

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

Crime and Disorder	**Having a presence at the BCP ensures the passage of Food of animal (FOAO) and non-animal origin (PNAO) is prevented from entering the country at Harwich**
Health Inequalities	**The agreement will ensure all FOAO and PNAO is of the appropriate quality and standard and that no individual is consuming products that will have a detrimental impact on their health and well being**
Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance)	**None**
Area or Ward affected	**No wards are affected by the agreement including those in which the BCP and Ports are situated**

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The introduction of Post EU exit import checks on food and fresh produce arriving in Britain was originally due to be introduced in 2021 via the government's post EU exit border strategy. After delays in implementation the Border Target Operating Model published in August 2023 set out that import checks were due to be introduced in three stages over the course of a year from October 2023. This timescale was further delayed to commence on 31 January 2024.

The Border Control Post (BCP) at Harwich Port by Hutchison Ports is facility that checks are undertaken on the goods that are imported through Harwich. Imports have increased post BREXIT and Hutchison continue to maximise the use of the new BCP and evidence highlights that there has been an increase in goods arriving from the rest of the world as well as from the EU.

Since the November 2020 Cabinet decision and the agreement to adopt the Formal Agreement of Delegate Functions to East Suffolk in February 2024, officers from SCPHA have been working to ensure all products of animal and non animal origin are assessed at the Port based on the level of risk posed to public health. Due to the increased range of border controls the agreement was designed to reflect the level of work that was delegated from TDC to SCPHA. The agreement takes the form of a delegation of functions with TDC delegating it's statutory functions in respect of imported food control to SCPHA. TDC is not delegating other port health functions to SCPHA such as ship sanitation inspections or food safety on board ships. These functions are undertaken by the Food & Safety Team at Tendring District Council.

Under the agreement there is a cost of £30,000 to reflect the increase in the volume of work and the associated management of that undertaken by SCPHA. As part of the formalised agreement, TDC adopted SCPHA's fees and charges for imported food control and SCPHA levy those charges directly to importers. The agreement allows for SCPHA to recover

charges from TDC in some circumstances although the likelihood of this occurring is considered to be low. TDC continue to provide legal resource should any legal action in respect of a consignment of goods be required. The likelihood of this occurring is also considered to be low.

TDC entered into the formal agreement with SCPHA in April 2024 with the option to extend it for a further 12 month period from April 2026 should both parties wish. There is now a requirement to either extend the agreement or look to change how services are delivered at the Port. Both partes have expressed an interest to extend the agreement, so approval is sought for the Leader of the Council and the Portfolio Holder for Environment and ICT to agree to extend the agreement by a further 12 months commencing in April 2026.

The existing agreement is operating as designed and officers hold quarterly meetings with officers from SCPHA at the Border Control Post in Harwich. Operational matters are discussed, and it provides the opportunity for both parties to identify areas where there may be potential concerns. A further annual meeting is held with the senior management of East Suffolk at their offices located at the Port of Felixstowe. Currently, there are no issues that highlight a need to amend the existing agreement nor are there any additional cost pressures that need to be shared.

If approval is to extend the agreement is forthcoming, further approval is sought to delegate the extension of the agreement by a further 12 months to the Corporate Director of Operations & Delivery from April 2027, and again in April 2028 should the current operation continue as agreed as part of the initial formal agreement in February 2024.

PREVIOUS RELEVANT DECISIONS

- Cabinet agreement on the 13th November 2020 that the continuation of the joint arrangements with East Suffolk Council and Suffolk Coastal Port Health Authority is necessary, and that a new legal agreement is necessary following BREXIT

- 21st February 2024 – Formal agreement between East Suffolk Council (ESC) and Tendring District Council (TDC) agreed and signed by both parties, formalising delegation of functions being awarded to ESC to cover all ports on TDC's behalf following the BREXIT

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

HM Government Border Target Operating Model - Final_Border_Target_Operating_Model.pdf (publishing.service.gov.uk)

Cabinet decision No. 90, 13th November 2020

Report of the Assistant Director of Housing & Environment – 22nd February 2024 – Future Port Health Arrangements at Tendring Ports

APPENDICES

- **Appendix 1: For agreement for the Delegation of Functions between Tendring District Council & East Suffolk Council**

- **Appendix 2: Report of the Assistant Director of Housing & Environment, 22nd February 2024 - Future Port Health Arrangements at Tendring Ports**

REPORT CONTACT OFFICER(S)	
Name	**Grant Fenton-Jones**
Job Title	**Environmental Health Manager**
Email/Telephone	**gfenton-jones@tendringdc.gov.uk** **01255 686783**